

CHAPTER 221

AN ACT concerning the Casino Reinvestment Development Authority and urban revitalization, amending and supplementing P.L.1984, c.218 (C.5:12-144.1 et seq.) and amending P.L.1991, c.376.

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

C.5:12-173.9 Short title.

1. Sections 1 through 13 of P.L.2001, c.221 (C.5:12-173.9 et seq.) shall be known and may be referred to as the "Casino Reinvestment Development Authority Urban Revitalization Act."

C.5:12-173.10 Findings, declaration relative to CRDA urban revitalization program.

2. The Legislature finds and declares that:

a. Legalized casino gambling was approved by New Jersey's voters in 1976 as a "unique tool of urban redevelopment" to facilitate the revitalization of Atlantic City and other distressed municipalities throughout the State;

b. The Legislature created the Casino Reinvestment Development Authority (the "CRDA") to oversee the investment of casino gambling revenues for development projects in Atlantic City and other areas throughout the State;

c. During the past 25 years, the development of Atlantic City's multi-billion dollar casino industry and the CRDA's investment of hundreds of millions of dollars in housing, commercial and nonprofit projects have greatly benefited the people of New Jersey and have served as a model for many other states and countries that wished to emulate Atlantic City's successful record of casino development and economic growth;

d. It is altogether fitting and proper on the occasion of the 25th year of legalized casino gaming in Atlantic City to establish a new program to facilitate the next phase of Atlantic City's development into a regional, national and international "destination resort" and at the same time, to insure that substantial commitments are made to projects to revitalize urban areas and promote continued economic growth throughout the State.

C.5:12-173.11 Definitions relative to CRDA urban revitalization program.

3. As used in this act:

"Authority" means the Casino Reinvestment Development Authority established pursuant to P.L.1984, c.218 (C.5:12-153 et seq.);

"Baseline luxury tax revenue amount" or "baseline luxury tax" means the annual amount of luxury tax receipts received pursuant to P.L.1947, c.71 (C.40:48-8.15 et seq.) from the taxation of retail sales or sales at retail originating from transactions at an entertainment-retail district project for the last full calendar year preceding the year in which the district project opens under the incentive program;

"Casino hotel room fee fund" or "room fund" means the fund established by the State Treasurer pursuant to section 8 of P.L.2001, c.221 (C.5:12-173.16) into which shall be deposited the proceeds of the hotel room use fees as specified pursuant to section 6 of P.L.2001, c.221 (C.5:12-173.14);

"Casino reinvestment development authority urban revitalization incentive program" or "incentive program" means the program established pursuant to section 4 of P.L.2001, c.221 (C.5:12-173.12) and administered by the authority to facilitate the development of entertainment-retail districts for the city of Atlantic City and to promote urban revitalization throughout the State;

"Commissioner" means the Commissioner of Community Affairs;

"Department" means the Department of Community Affairs;

"District project grant" or "grant" means an amount rebated to the authority pursuant to sections 7 or 8 of P.L.2001, c.221 (C.5:12-173.15 or 5:12-173.16) for disbursement to a casino licensee that is approved by the authority for a district project or for retention by the authority for an approved district project sponsored by the authority;

"Entertainment-retail district" or "district" means one of six areas within Atlantic City, designated by the authority under the incentive program;

"Entertainment-retail district project" or "district project" means a project or projects to be developed by the authority or any casino licensed to operate in Atlantic City prior to January 1,

2001, including, but not necessarily limited to, a minimum of 150,000 square feet of public space, retail stores, entertainment venues and restaurants, and may include, in addition, casino hotels and public parking facilities approved by the authority under the incentive program, and may also include: the purchasing, leasing, condemning, or otherwise acquiring of land or other property, or an interest therein, approved by the authority pursuant to a project grant agreement or as an authority sponsored project, or as necessary for a right-of-way or other easement to or from the land or property, or the relocating and moving of persons displaced by the acquisition of the land or property; the rehabilitation and redevelopment of land or property, approved pursuant to a project grant agreement or as an authority sponsored project, including demolition, clearance, removal, relocation, renovation, alteration, construction, reconstruction, installation or repair of a building, street, highway, alley, utility, service or other structure or improvement; the acquisition, construction, reconstruction, rehabilitation, or installation of parking and other improvements approved pursuant to a project grant agreement or as an authority sponsored project; and the costs associated therewith including the costs of an administrative appraisal, economic and environmental analyses or engineering, planning, design, architectural, surveying or other professional services approved pursuant to a project grant agreement or as part of an authority sponsored project;

"Entertainment-retail district project fund" or "project fund" means the fund established by the State Treasurer pursuant to section 7 of P.L.2001, c.221 (C.5:12-173.15) into which shall be deposited an amount equivalent to the amount of receipts received from the taxation of retail sales from a district project and from the taxation of construction materials used for building a district project, as specified pursuant to section 5 of P.L.2001, c.221 (C.5:12-173.13);

"Incremental luxury tax revenue amount" or "incremental luxury tax" means the amount by which the annual luxury tax receipts received pursuant to P.L.1947, c.71 (C.40:48-8.15 et seq.) from the taxation of retail sales or sales at retail originating from transactions at a district project in the year in which the district project opens under the incentive program, and in each year thereafter, exceed the baseline luxury tax, as determined by the State Treasurer; and

"Project grant agreement" means an agreement entered into between the authority and a casino licensee, pursuant to section 4 of P.L.2001, c.221 (C.5:12-173.12), that sets forth the terms and conditions of approval for a district project and of eligibility for district project grants, as determined by the authority.

C.5:12-173.12 Urban revitalization incentive program.

4. a. There is established the incentive program that shall be administered by the authority. The purpose of the incentive program is to facilitate the development of entertainment-retail districts for the city of Atlantic City and to promote revitalization of other urban areas in the State. The provisions of section 30 of P.L.1984, c.218 (C.5:12-178) shall not apply to the incentive program established pursuant to this section. In order to implement the incentive program, the authority is authorized to accept applications from casino licensees on or before September 1,2001 for approval of a district project and to designate by resolution up to six districts on or before September 30,2001 and to enter into project grant agreements with casino licensees to develop district projects within each district or to approve a district project sponsored by the authority. The authority may disburse district project grants in accordance with sections 7 and 8 of P.L.2001, c.221 (C.5:12-173.15 and 5:12-173.16) to casino licensees with approved district projects or to the authority for an authority sponsored district project under the incentive program, if the authority determines that:

(1) construction of the district project will commence no later than June 30, 2002 or as otherwise provided pursuant to the project grant agreement with the authority, or pursuant to the district project plan approved by the authority for an authority sponsored district project;

(2) a proposed district project plan submitted pursuant to section 10 of P.L.2001, 221 (C.5:12-173.18) is economically sound and will assist in the overall development of the city of Atlantic City and will benefit the people of New Jersey by increasing employment opportunities and strengthening New Jersey's economy;

(3) the disbursement of grants to a casino licensee is a material factor in the licensee's decision to go forward with a district project; and

(4) the casino licensee has agreed to invest a minimum of \$20 million in its investment alternative tax obligations under section 3 of P.L.1984, c.218 (C.5:12-144.1), such obligation to be made in \$10 million increments to one or more entertainment-retail projects, or housing and community development projects, approved by the authority and the department, in an urban area outside of Atlantic City, and designated by the commissioner as eligible for, and in need of the project, pursuant to section 11 of P.L.2001, c.221 (C.5:12-173.19).

b. Notwithstanding any provision to the contrary in P.L.2001, c.221 (C.5:12-173.9 et al.), the authority and the commissioner jointly may, in their discretion, also designate two entertainment-retail projects, one in North Jersey and one in South Jersey, as eligible for funds under the incentive program.

C.5:12-173.13 Deposit of sales and use tax revenues.

5. a. Notwithstanding the provisions of any law, rule or regulation to the contrary, all revenues received pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) from the taxation of construction materials used for building a district project approved by the authority pursuant to a project grant agreement or for building a district project sponsored by the authority, and from the taxation of retail sales of tangible personal property and services originating from and delivered from business locations in a district project approved by the authority pursuant to a project grant agreement or from business locations in a district project sponsored by the authority, shall be deposited immediately upon collection by the Department of the Treasury in the project fund. Contractors purchasing materials and supplies for use in constructing a district project shall complete a form or certification prescribed by the Director of the Division of Taxation in the Department of the Treasury. The contractor shall identify the district project, materials, supplies, purchase price and New Jersey sales or use tax paid and provide such other information and receipts as the director may require. The forms or certificates shall be filed with the authority as documentation for a report, which the authority shall provide to the Division of Revenue and the Division of Taxation for revenue certification purposes. Approved casino licensees shall also provide to the authority, on a form prescribed by the Director of the Division of Taxation, the sales tax collected from sales made by vendors in a district project for each quarter. The authority shall provide a report to the Division of Revenue and Division of Taxation in the Department of the Treasury for revenue certification purposes.

b. The revenues required to be deposited in the project fund under subsection a. of this section shall be used for the purposes of the project fund and for the uses prescribed in section 7 of P.L.2001, c.221 (C.5:12-173.15).

C.5:12-173.14 Deposit of hotel room use fee revenues.

6. a. Notwithstanding the provisions of any law, rule or regulation to the contrary, all revenues received from hotel room use fees pursuant to P.L.1991, c.376 (C.40:48-8.45 et seq.), which originate from and are delivered from the casino-hotel facilities of the casino licensee with an approved district project, or of any casino licensee that has the same holding company as the casino licensee with the approved district project, pursuant to a project grant agreement, and in the case of a district project sponsored by the authority, all revenues received from the hotel room use fees which originate from and are delivered from hotel facilities located within the authority sponsored district project and designated as part of the approved district project, and if applicable, from additional hotel rooms that are approved by the authority as part of the district project, shall be paid immediately upon collection to the Department of the Treasury which shall deposit the revenues into the room fund.

b. The revenues required to be deposited in the room fund under subsection a. of this section shall be used for the purposes of the room fund and for the uses prescribed in section 8 of P.L.2001, c.221 (C.5:12-173.16).

C.5:12-173.15 Project fund created.

7. a. There is created a dedicated, nonlapsing project fund to be held by the State Treasurer, which shall be the repository for all moneys required to be deposited therein under section 5 of

P.L.2001, c.221 (C.5:12-173.13) and any moneys appropriated or otherwise made available to the project fund.

b. All moneys deposited in the project fund shall be held and disbursed, subject to the requirements of section 11 of P.L.2001, c.221 (C.5:12-173.19), in the form of district project grants as follows:

(1) an amount from the project fund equivalent to the total revenues received pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) from the taxation of construction materials used for building a district project approved by the authority pursuant to a project grant agreement, or for building a district project sponsored by the authority, shall be rebated in the form of a one-time grant to the authority for disbursement to the casino licensee with an approved district project or to the authority for an authority sponsored district project;

(2) an amount from the project fund equivalent to the total revenues received pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) from the taxation of retail sales of tangible property and services originating from and delivered from business locations in a district project approved by the authority pursuant to a project grant agreement or from business locations in a district project sponsored by the authority, shall be rebated in the form of annual grants to the authority for disbursement to the casino licensee with an approved district project, or to the authority for an authority sponsored district project, with each annual grant not to exceed \$2.5 million per district project and payable annually until December 31, 2022, or until the date on which the combined total of grants disbursed under this section and under section 8 of P.L.2001, c.221 (C.5:12-173.16) equals the approved cost of the district project, as determined by the authority, whichever is earlier;

(3) the balance of the revenues in the project fund shall be deposited in the General Fund if the authority, in consultation with the State Treasurer, determines that the revenues are no longer needed for the purposes of the project fund or for the uses prescribed in P.L.2001, c.221 (C.5:12-173.9 et al.).

c. The State Treasurer may invest and reinvest any moneys in the project fund, or any portion thereof, in legal obligations of the United States or of the State or any political subdivision thereof. Any income from, interest on, or increment to moneys so invested or reinvested shall be included in the project fund.

C.5:12-173.16 Room fund created.

8. a. There is created a dedicated, nonlapsing room fund to be held by the State Treasurer, which shall be the repository for all moneys required to be deposited therein under section 6 of P.L.2001, c.221 (C.5:12-173.14) and any moneys appropriated or otherwise made available to the room fund.

b. All moneys deposited in the room fund shall be held and disbursed, subject to the requirements of section 11 of P.L.2001, c.221 (C.5:12-173.19), in the form of district projects grants as follows:

(1) an amount from the room fund equivalent to the incremental luxury tax for a district project approved by the authority pursuant to a project grant agreement or for a district project sponsored by the authority, shall be rebated in the form of annual grants from the room fund to the authority for disbursement to the casino licensee with an approved district project, or to the authority for an authority sponsored district project, and shall be payable annually until December 31, 2022, or until the date on which the combined total of grants disbursed under this section and under section 7 of P.L.2001, c.221 (C.5:12-173.15) equals the approved cost of the district project, as determined by the authority, whichever is earlier;

(2) the balance of the revenues in the room fund shall be deposited in the special fund established pursuant to section 3 of P.L.1991, c.376 (C.40:48-8.47) if the authority, in consultation with the State Treasurer, determines that the revenues are no longer needed for the purposes of the room fund or for the uses prescribed in P.L.2001, c.221 (C.5:12-173.9 et al.).

c. The State Treasurer may invest and reinvest any moneys in the room fund, or any portion thereof, in legal obligations of the United States or of the State or any political subdivision thereof. Any income from, interest on, or increment to moneys so invested or reinvested shall be included in the room fund.

C.5:12-173.17 Separate accounts within project, room funds.

9. a. The State Treasurer shall maintain separate accounts in the project fund and room fund for each casino licensee approved by the authority for a district project, and for the authority in the event the authority sponsors a district project, and shall credit to each account an amount of the moneys deposited in each fund equal to the appropriate share of revenues collected from the taxation of construction materials and retail sales and services, as provided in section 7 of P.L.2001, c.221 (C.5:12-173.15), and from hotel room fees, as provided in section 8 of P.L.2001, c.221 (C.5:12-173.16), or that amount of moneys appropriated to the funds or otherwise made available to the funds, and required to be credited to the casino licensee's or the authority's project fund account or room fund account.

b. The Director of the Division of Taxation in consultation with the State Treasurer shall promulgate such rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as are necessary to govern the administration of the project fund and room fund for the purposes of P.L.2001, c.221 (C.5:12-173.9 et al.). In addition, the Director of the Division of Taxation and the Director of the Division of Revenue are authorized to prescribe forms and procedures and to require any person to provide any information necessary to enforce and administer the provisions of this act.

c. The amount necessary to provide for tax collection, administrative and enforcement costs incurred by the Division of Taxation and the Division of Revenue, to meet the requirements of P.L.2001, c.221 (C.5:12-173.9 et al.) shall be annually appropriated from the project fund and the room fund, subject to the approval of the Director of the Division of Budget and Accounting in the Department of the Treasury.

C.5:12-173.18 Proposed district project plan.

10. a. A casino licensee or the authority, as appropriate, shall submit a proposed district project plan for approval by the authority under the incentive program.

b. A proposed district project plan submitted under subsection a. of this section shall include, but not necessarily be limited to:

- (1) A description of the proposed district project;
- (2) An estimate of the total project costs and an estimate of the annual amounts of district project grants anticipated under the incentive program for the casino licensee or the authority;
- (3) A statement of any other revenue sources to be used to finance the development of a district project;
- (4) A statement of the time needed to complete a district project; and
- (5) A statement of the impact that the proposed district project is expected to have on the city of Atlantic City.

C.5:12-173.19 Proposal for entertainment-retail project, community and housing development project.

11. a. A casino licensee shall submit a proposal to the authority and to the department for an entertainment- retail project or community and housing development project in an urban area outside of Atlantic City, consistent with the requirements of paragraph (4) of subsection a. of section 4 of P.L.2001, c.221 (C.5:12-173.12), that will further the development and revitalization of an urban area designated by the department as eligible for, and in need of, the proposed project. The department shall evaluate the proposal and determine whether the proposed project meets the department's project criteria, and the authority shall evaluate the proposal and determine whether the proposal project meets the authority's project criteria for approval of urban development projects outside of the city of Atlantic City under the incentive program. The authority and the commissioner jointly may, in their discretion, also designate two entertainment-retail projects, one in North Jersey and one in South Jersey, as eligible for funds under the incentive program.

b. The commissioner and the authority are authorized to approve the proposed project submitted under subsection a. of this section if the commissioner and the authority determine that the project meets the criteria established by the department and the authority, respectively. Upon approval by the commissioner, the State Treasurer shall annually, upon receipt of a written

statement from the department certifying the satisfactory status of the project, rebate the district project grants to the authority for disbursement to casino licensees under the incentive program.

c. The authority and the commissioner shall give preference to those proposed projects that best leverage non-authority funds for the total construction project cost.

C.5:12-173.20 Authority sponsored project.

12. Notwithstanding any provision to the contrary in P.L.2001, c.221 (C.5:12-173.9 et al.), in the event that fewer than six district projects are proposed by casino licensees, and approved by the authority, the authority may sponsor a district project which meets the criteria of paragraphs (1) and (2) of subsection a. of section 4 of P.L.2001, c.221 (C.5:12-173.12), and in that event, paragraphs (3) and (4) of subsection a. of section 4 of P.L.2001, c.221 (C.5:12-173.12) are not applicable to the authority and the grants otherwise payable to a casino licensee pursuant to paragraphs (1) and (2) of subsection b. of section 7 and paragraph (1) of subsection b. of section 8 of P.L.2001, c.221 (C.5:12-173.15 and 5:12-173.16) shall be payable to the authority.

C.5:12-173.21 Termination of investment alternative tax for licensed facility.

13. a. Notwithstanding the provisions of any other law to the contrary, if a district project of a casino licensee is approved by the authority under the incentive program established by section 4 of P.L.2001, c.221 (C.5:12-173.12), the investment alternative tax imposed by subsection a. of section 3 of P.L.1984, c.218 (C.5:12-144.1), and any credits which may by law be applied against that tax, shall end for the casino licensee's licensed facility, as determined by the authority, 35 years after any investment alternative tax obligation is first incurred in connection with the licensed facility operated by the licensee.

b. During the additional five years of a casino licensee's investment alternative tax obligations required pursuant to subsection a. of this section, the total of the proceeds of all bonds purchased by a licensee from or through the authority and all approved investments in eligible projects by a licensee shall be devoted to the financing of projects in the following areas and amounts: a) 25% for the city of Atlantic City; b) 25% for South Jersey and c) 50% for North Jersey.

14. Section 3 of P.L.1984, c.218 (C.5:12-144.1) is amended to read as follows:

C.5:12-144.1 Imposition of investment alternative tax.

3. a. (1) Commencing with the first annual tax return of a licensee for any calendar year beginning after December 31, 1983, there is imposed an investment alternative tax on the gross revenues as defined in section 24 of P.L.1977, c.110 (C.5:12-24) of the licensee in the amount of 2.5% of those gross revenues. The tax imposed with respect to each calendar year shall be due and payable on the last day of April next following the end of the calendar year. The State Treasurer shall have a lien against the property constituting the casino of a licensee for the amount of any tax not paid when due. No tax shall be imposed, however, on the gross revenues received by a licensee during the first 12 months of the operation of any casino that commences operation after January 1, 1984, but prior to the effective date of this act, P.L.1996, c.118 (C.5:12-173.3a et al.).

(2) A licensee shall pay to the State Treasurer on or before the 15th day of the first, fourth, seventh, and 10th months of each year as partial payment of the investment alternative tax imposed pursuant to paragraph (1) of this subsection an amount equal to 1.25% of the estimated gross revenues for the three-month period immediately preceding the first day of those months. The moneys received shall be placed in an escrow account and shall be held until the licensee directs that the moneys be transferred to the Casino Reinvestment Development Authority for the purchase of bonds issued by or offered through the Casino Reinvestment Development Authority or pursuant to a contract for such a purchase, be made available to the licensee for a direct investment approved by the authority, or be transferred to the Casino Revenue Fund as partial payment of the investment alternative tax imposed pursuant to paragraph (1) of this subsection. Any interest derived from the moneys in the escrow account shall be paid or made

available to the Casino Revenue Fund. If a licensee fails to pay the amount due or underpays by an unjustifiable amount, the Casino Control Commission shall impose a fine of 5% of the amount due or of the underpayment, as the case may be, for each month or portion thereof the licensee is in default of payment, up to 25% of the amount in default. Any fine imposed shall be paid to the Casino Reinvestment Development Authority and shall be used for the purposes of this 1984 amendatory and supplementary act.

b. Each licensee shall be entitled to an investment tax credit against the tax imposed by subsection a. of this section, provided the licensee shall pay over the moneys required pursuant to section 5 of P.L.1993, c.159 (C.5:12-173.5): (1) for the first 10 years of a licensee's tax obligation, in an amount equal to twice the purchase price of bonds issued by the Casino Reinvestment Development Authority pursuant to sections 14 and 15 of this 1984 amendatory and supplementary act, purchased by the licensee, or twice the amount of the investments authorized in lieu thereof, and (2) for the remainder of a licensee's tax obligation, in an amount equal to twice the purchase price of bonds issued by the Casino Reinvestment Development Authority pursuant to sections 14 and 15 of this 1984 amendatory and supplementary act, purchased by the licensee, or twice the amount of the investments authorized in lieu thereof, and twice the amount of investments made by a licensee in other approved eligible investments made pursuant to section 25 of this act. The Casino Reinvestment Development Authority shall have the power to enter into a contract or contracts with a licensee pursuant to which the Casino Reinvestment Development Authority agrees to issue and sell bonds to the licensee, and the licensee agrees to purchase the bonds issued by or offered through the Casino Reinvestment Development Authority, in annual purchase price amounts as will constitute a credit against at least 50% of the tax to become due in any future year or years. The contract may contain those terms and conditions relating to the terms of the bonds and to the issuance and sale of the bonds to the licensee as the Casino Reinvestment Development Authority shall deem necessary or desirable. The contract shall not be deemed to be in violation of section 104 of P.L.1977, c.110 (C.5:12-104). After the first 10 years of a licensee's investment alternative tax obligation, a licensee will have the option of entering into a contract with the Casino Reinvestment Development Authority to have its tax credit comprised of direct investments in approved eligible projects. These direct investments shall not comprise more than 50% of a licensee's eligible tax credit in any one year.

The entering of a contract pursuant to this section shall be sufficient to entitle a licensee to an investment tax credit for the appropriate tax year.

c. A contract entered into between a licensee and the Casino Reinvestment Development Authority may provide for a deferral of payment for and delivery of bonds required to be purchased and for a deferral from making approved eligible investments in any year, but no deferral shall occur more than two years consecutively. A deferral of payment for any bonds required to be purchased by a licensee and a deferral from making approved eligible investments may be granted by the Casino Reinvestment Development Authority only upon a determination by the Casino Control Commission that purchase of these bonds or making approved eligible investments would cause extreme financial hardship to the licensee and a determination by the Casino Reinvestment Development Authority that the deferral of the payment would not violate any covenant or agreement or impair any financial obligation of the Casino Reinvestment Development Authority. The contract may establish a late payment charge to be paid in the event of deferral or other late payment at a rate as shall be agreed to by the Casino Reinvestment Development Authority. If a deferral of purchase or investment is granted, the licensee shall be deemed to have made the purchase or investment at the time required by the contract, except that if the purchase is not made at the time to which the purchase or investment was deferred, then the licensee shall be deemed not to have made the purchase or investment. The Casino Control Commission shall adopt regulations establishing a uniform definition of extreme financial hardship applicable to all these contracts. If a licensee petitions the Casino Reinvestment Development Authority for a deferral, the Casino Reinvestment Development Authority shall give notice of that petition to the Casino Control Commission and to the Division of Gaming Enforcement within three days of the filing of the petition. The Casino Control Commission shall render a decision within 60 days of notice as to whether the licensee has established extreme

financial hardship, after consultation with the Division of Gaming Enforcement. The Casino Reinvestment Development Authority shall render a decision as to the availability of the deferral within 10 days of the receipt by it of the decision of the Casino Control Commission and shall notify the Division of Gaming Enforcement and the Casino Control Commission of that decision. If a deferral is granted, the Casino Reinvestment Development Authority may determine whether the purchases or investments shall be made in a lump sum, made over a period of years, or whether the period of obligation shall be extended an additional period of time equivalent to the period of time deferred.

d. The license of any licensee which has defaulted in its obligation to make any purchase of bonds or investment in any approved eligible project under a contract entered into pursuant to subsection b. of this section for a period of 90 days may be suspended by the Casino Control Commission until that purchase is made or deferred in accordance with subsection b. of this section, or a fine or other penalty may be imposed upon the licensee by the commission. If the Casino Control Commission elects not to suspend the license of a licensee after the licensee has first defaulted in its obligation but instead imposes some lesser penalty and the licensee continues to be in default of its obligation after a period of 30 additional days and after any additional 30-day period, the commission may impose another fine or penalty upon the licensee, which may include suspension of that licensee's license. The fine shall be 5% of the amount of the obligation owed for each month or portion thereof a licensee is in default, up to 25% of that obligation; shall be paid to the Casino Reinvestment Development Authority; and shall be used for the purposes of this 1984 amendatory and supplementary act.

e. A contract entered into by a licensee and the Casino Reinvestment Development Authority pursuant to subsection b. of this section may provide that after the first 10 years of a licensee's investment alternative tax obligation imposed by subsection a. of this section, the Casino Reinvestment Development Authority may repurchase bonds previously sold to the licensee, which were issued after the 10th year of a licensee's investment alternative tax obligation, by the Casino Reinvestment Development Authority, if the Casino Reinvestment Development Authority determines that the repurchase will not violate any agreement or covenant or impair any financial obligation of the Casino Reinvestment Development Authority and that the licensee will reinvest the proceeds of the resale in an eligible project approved by the Casino Reinvestment Development Authority.

f. (1) During the 30 years a licensee is obligated to pay an investment alternative tax pursuant to subsection k. of this section, the total of (a) the proceeds of all bonds purchased by a licensee from or through the Casino Reinvestment Development Authority and (b) all approved investments in eligible projects by a licensee shall be devoted to the financing of projects in the following areas and amounts:

Areas	Yrs. 1-3	Yrs. 4-5	Yrs. 6-10	Yrs. 11-15	Yrs. 16-20	Yrs. 21-25	Yrs. 26-30
a) Atlantic City	100%	90%	80%	50%	30%	20%	
b) South Jersey		8%	12%	28%	43%	45%	
c) North Jersey		2%	8%	22%	27%	35%	35%
d) Atlantic City through the Atlantic City Fund							65%,

except that, with respect to the obligations for calendar years 1994 through 1998, the amount allocated for the financing of projects in North Jersey from each casino licensee's obligation shall be the amount allocated for calendar year 1993, and the difference between that amount and the amount to be allocated to North Jersey, on the basis of the above schedule, from each casino licensee's obligations for calendar years 1994 through 1998 shall be paid into or credited to the Atlantic City Fund established by section 44 of P.L.1995, c.18 (C.5:12-161.1) and be devoted to the financing of projects in Atlantic City through that fund. For the purposes of this paragraph, "South Jersey" means the counties of Atlantic, Burlington, Camden, Cape May,

Cumberland, Gloucester, Mercer, Ocean, and Salem; and "North Jersey" means the remaining 12 counties of the State. For the purposes of this 1984 amendatory and supplementary act, bond "proceeds" means all funds received from the sale of bonds and any funds generated or derived therefrom.

In the financing of projects outside Atlantic City, the Casino Reinvestment Development Authority shall give priority to the revitalization of the urban areas of this State in the ways specified in section 12 of this 1984 amendatory and supplementary act. Those areas shall include, but not be limited to, all municipalities qualifying for aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.).

Within nine months from the effective date of this 1984 amendatory and supplementary act, the Casino Reinvestment Development Authority shall determine the allocation of projected available moneys to municipalities in South Jersey for the first seven years of their receipt of funds, giving priority to the revitalization of the urban areas of the region. Municipalities receiving such an allocation shall present to the Casino Reinvestment Development Authority for its approval comprehensive plans or projects for which the allocations shall be used. Any such comprehensive plan or project may be submitted to the Casino Reinvestment Development Authority for a determination of eligibility at any time prior to the year for which the funds are allocated, and the Casino Reinvestment Development Authority shall make a determination of eligibility of the plan or project within a reasonable amount of time. If the Casino Reinvestment Development Authority makes a positive determination of eligibility for any comprehensive plan or project, or combination of comprehensive plans or projects, for any municipality whose total cost exceeds the amount allocated to that municipality for the first seven years of the receipt of funds by South Jersey municipalities, the Casino Reinvestment Development Authority shall make available sufficient funds in subsequent years necessary to complete those plans or projects, or to complete that portion of the plan or project originally agreed to be funded through the Casino Reinvestment Development Authority, from funds received by the Casino Reinvestment Development Authority in the years following the seventh year of the receipt of funds by South Jersey municipalities. If the comprehensive plan or project is determined by the Casino Reinvestment Development Authority not to be an eligible plan or project, the municipality may submit any other comprehensive plan or project for a determination of eligibility. If, however, the municipality fails to receive a positive determination of eligibility for any comprehensive plan or project, or combination of comprehensive plans or projects, sufficient to exhaust the total allocation to that municipality for any year prior to April 30 of the following year for which the allocation was made, the allocation to that municipality for that year shall cease, and the Casino Reinvestment Development Authority may apply those excess funds to any other comprehensive plan or project in any other municipality in the region whose comprehensive plan or project has received a positive determination of eligibility by the Casino Reinvestment Development Authority.

Within 36 months from the effective date of this 1984 amendatory and supplementary act, the Casino Reinvestment Development Authority shall determine the allocation of projected available moneys to municipalities in North Jersey for the first five years of their receipt of funds, giving priority to the revitalization of the urban areas of the region. Municipalities receiving such an allocation shall present to the Casino Reinvestment Development Authority for its approval comprehensive plans or projects for which the allocations shall be used. Any such comprehensive plan or project may be submitted to the Casino Reinvestment Development Authority for a determination of eligibility at any time prior to the year for which the funds are allocated, and the Casino Reinvestment Development Authority shall make a determination of eligibility of the plan or project within a reasonable amount of time. If the Casino Reinvestment Development Authority makes a positive determination of eligibility for any comprehensive plan or project, or combination of comprehensive plans or projects, for any municipality whose total cost exceeds the amount allocated to that municipality for the first five years of the receipt of funds by North Jersey municipalities, the Casino Reinvestment Development Authority shall make available sufficient funds in subsequent years necessary to complete those plans or projects, or to complete that portion of the plan or project originally agreed to be funded through the Casino Reinvestment Development Authority, from funds received by the Casino

Reinvestment Development Authority in the years following the fifth year of the receipt of funds by North Jersey municipalities. If the comprehensive plan or project is determined by the Casino Reinvestment Development Authority not to be an eligible plan or project, the municipality may submit any other comprehensive plan or project for a determination of eligibility. If, however, the municipality fails to receive a positive determination of eligibility for any comprehensive plan or project, or combination of comprehensive plans or projects, sufficient to exhaust the total allocation to that municipality for any year prior to April 30 of the following year for which the allocation was made, the allocation to that municipality for that year shall cease, and the Casino Reinvestment Development Authority may apply those excess funds to any other comprehensive plan or project in any other municipality in the region whose comprehensive plan or project has received a positive determination of eligibility by the Casino Reinvestment Development Authority.

(2) Commencing with the first year in which a licensee incurs a tax obligation pursuant to this section, and for the period of two years thereafter, 100% of the proceeds of all bonds purchased by a licensee from the Casino Reinvestment Development Authority which are devoted to the financing of projects in the city of Atlantic City pursuant to paragraph (1) of this subsection shall be used exclusively to finance the rehabilitation, development, or construction of, or to provide mortgage financing of, housing facilities in the city of Atlantic City for persons or families of low through middle income, as defined in this subsection. For the purposes of this subsection, the "rehabilitation, development, or construction of housing facilities" shall include expenses attributable to site preparation, infrastructure needs and housing-related community facilities and services, including supporting commercial development. Commencing with the fourth year in which a licensee incurs a tax obligation pursuant to this subsection, 50% of the proceeds of all bonds purchased by a licensee from the Casino Reinvestment Development Authority which are devoted to the financing of projects in the city of Atlantic City shall be used exclusively to finance the rehabilitation, development, or construction of housing facilities in the city of Atlantic City for persons or families of low through middle income. Commencing with the 11th year in which a licensee incurs a tax obligation pursuant to this section, 50% of the annual aggregate of the proceeds of bonds purchased by a licensee from the Casino Reinvestment Development Authority which are devoted to the financing of projects in the city of Atlantic City and investments in approved eligible projects commenced by a licensee in the city of Atlantic City shall be used exclusively to finance the rehabilitation, development, or construction of, or to provide mortgage financing of, housing facilities in the city of Atlantic City for persons or families of low through middle income.

(3) The Legislature finds that it is necessary to provide for a balanced community and develop a comprehensive housing program. The Casino Reinvestment Development Authority shall determine the need for housing in the city of Atlantic City, in consultation with the city of Atlantic City and specifically its zoning and planning boards. This shall include determining the types and classes of housing to be constructed and the number of units of each type and class of housing to be built. The Casino Reinvestment Development Authority shall give priority to the housing needs of the persons and their families residing in the city of Atlantic City in 1983 and continuing such residency through the effective date of this 1984 amendatory and supplementary act. The actual percentage of the proceeds of bonds and investments in approved eligible projects commenced by a licensee in the city of Atlantic City, which shall be used exclusively to finance the rehabilitation, development, or construction of, or to provide mortgage financing of, housing facilities in the city of Atlantic City for persons or families of low through middle income, shall be based upon the authority's determination of the need for housing in the city of Atlantic City conducted pursuant to this subsection. Once the housing needs of the persons residing in the city of Atlantic City in 1983 and continuing such residency through the effective date of this 1984 amendatory and supplementary act have been met, as determined by the Casino Reinvestment Development Authority pursuant to this subsection, any required percentages for such housing in the city of Atlantic City may, in its sole discretion, be waived by the Casino Reinvestment Development Authority. To aid the Casino Reinvestment Development Authority in making these determinations, the Casino Reinvestment Development Authority shall review the proposal for a housing redevelopment program and strategy for the

city of Atlantic City approved and adopted by the Casino Control Commission and shall give priority to same and any other plan or project which is consistent with the standards of this subsection and is acceptable to the Casino Reinvestment Development Authority, pursuant to section 25 of this 1984 amendatory and supplementary act. The Casino Reinvestment Development Authority may determine whether the funds used to finance housing facilities in the city of Atlantic City for persons or families of low, moderate, median range, and middle income are derived from the proceeds of bonds purchased by a licensee from the Casino Reinvestment Development Authority to be devoted to the financing of projects in the city of Atlantic City, investments in approved eligible projects commenced by a licensee in the city of Atlantic City, or a combination of both. Any investment made by a licensee in excess of 100% of its eligible investment tax credit during the first three years and in excess of 50% thereafter in either the purchase of bonds or direct investments in approved eligible projects for low, moderate, median range, and middle income family housing facilities in the city of Atlantic City may be carried forward and credited against the licensee's obligation to make a 100% investment during the first three years and 50% thereafter in low, moderate, median range, and middle income family housing in any future year, with the approval of the Casino Reinvestment Development Authority. For the purposes of this act, "low income families" means families whose income does not exceed 50% of the median income of the area, with adjustments for smaller and larger families. "Moderate income families" means families whose income does not exceed 80% and is not less than 50% of the median income for the area, with adjustments for smaller and larger families. "Median range income families" means families whose income does not exceed 120% and is not less than 80% of the median income for the area, with adjustments for smaller and larger families. "Middle income families" means families whose income does not exceed 150% and not less than 120% of the median income for the area, with adjustments for smaller and larger families. "Median income" means an income defined as median within the Standard Metropolitan Statistical Area for Atlantic City by the United States Department of Housing and Urban Development.

In order to achieve a balanced community, the authority shall ensure that the development of housing for families of low and moderate income shall proceed at the same time as housing for families of median range and middle income, until such time as there is no longer a need for such facilities in the city of Atlantic City, as determined by the Casino Reinvestment Development Authority.

(4) Notwithstanding any other law or section to the contrary, particularly this subsection regarding the waiver of the required percentages for housing in the city of Atlantic City, subsection i. of section 14, and sections 26, 27, 28, 29, and 31 of this 1984 amendatory and supplementary act, nothing shall be implemented or waived by the Casino Reinvestment Development Authority which would reduce, impair, or prevent the fulfillment of the priorities established and contained in this subsection of this 1984 amendatory and supplementary act.

g. If a person is a licensee with regard to more than one approved hotel pursuant to section 82 of P.L.1977, c.110 (C.5:12-82), the person shall separately account for the gross revenues, the investment alternative tax obligations, and the investments for a tax credit against the investment alternative tax for each approved hotel, and the tax obligations of the licensee under this section shall be determined separately for each approved hotel. The licensee may apportion investments between its approved hotels; provided that no amount of investment shall be credited more than once. If a licensee receives the prior approval of the Casino Reinvestment Development Authority, the licensee may make eligible investments in excess of the investments necessary to receive a tax credit against the investment alternative tax for a given calendar year, and the licensee may carry forward this excess investment and have it credited to its next investment alternative tax obligation. If the Casino Reinvestment Development Authority approves of such excess investment and approves the carry forward of this excess investment, and a licensee elects to purchase bonds of the Casino Reinvestment Development Authority or makes direct investments in approved eligible projects in excess of the investments necessary to receive a tax credit against the investment alternative tax for its current obligation, the licensee shall be entitled to a reduction of the amount of investments necessary in future years, which amount shall be determined annually by the Casino Reinvestment Development Authority, taking

into account a current market discount rate from the date of the purchase or investment to the date the purchase or investment would have been required to be made.

h. Each casino licensee shall prepare and file, in a form prescribed by the Casino Reinvestment Development Authority, an annual return reporting that financial information as shall be deemed necessary by the Casino Reinvestment Development Authority to carry out the provisions of this act. This return shall be filed with the Casino Reinvestment Development Authority and the Casino Control Commission on or before April 30 following the calendar year on which the return is based. The Casino Control Commission shall verify to the Casino Reinvestment Development Authority the information contained in the report, to the fullest extent possible. Nothing in this subsection shall be deemed to affect the due dates for making any investment or paying any tax under this section.

i. Any purchase by a licensee of bonds issued by or offered through the Casino Reinvestment Development Authority pursuant to sections 14 and 15 of this act and subsection b. of this section and all approved eligible investments made by a licensee pursuant to section 25 of this act and subsection b. of this section are to be considered investments and not taxes owed or grants to the State or any political subdivision thereof. As such, a licensee shall have the possibility of the return of principal and a return on the capital invested as with other investments. Investors in the bonds issued by or offered through the Casino Reinvestment Development Authority shall be provided with an opinion from a recognized financial rating agency or a financial advisory firm with national standing that each loan of bond proceeds by the Casino Reinvestment Development Authority has the minimum characteristics of an investment, in that a degree of assurance exists that interest and principal payments can be made and other terms of the proposed investment be maintained over the period of the investment, and that the loan of the bond proceeds would qualify for a bond rating of "C" or better. If an opinion cannot be obtained from a recognized financial rating agency or a financial advisory firm with national standing, an opinion shall be obtained from an expert financial analyst with national standing, selected and hired by the Casino Reinvestment Development Authority. In order to achieve a balanced portfolio, assure the viability of the authority and the projects, facilities and programs undertaken pursuant to this 1984 amendatory and supplementary act, no more than 25% of the total investments made by or through the Casino Reinvestment Development Authority with the proceeds of bonds generated in each year shall be investments which would qualify for a bond rating of "C," unless all holders of obligations in each year agree to waive the 25% limit for that year. Nothing herein shall be interpreted as limiting the Casino Reinvestment Development Authority from taking any steps it deems appropriate to protect the characteristics of its investment in projects or any other investments from not being real investments with a prospect for the return of principal and a return on the capital invested. Anything contained in this section shall not be considered a guarantee by the State or any political subdivision thereof of any return of principal or interest, but any purchase by a licensee of bonds or approved eligible investments made by a licensee pursuant to this act shall be at the risk of the licensee. A licensee or the licensees purchasing an issue of bonds issued by the Casino Reinvestment Development Authority in any given year may arrange, at their option, for those bonds or the investments, made by or through the Casino Reinvestment Development Authority with the proceeds of those bonds, to be insured. The cost of any such insurance purchased by a licensee or licensees shall be paid by the licensee or licensees desiring such insurance.

j. The Casino Reinvestment Development Authority shall promulgate rules and regulations deemed necessary to carry out the purposes of this section.

k. Except as provided in section 13 of P.L.2001, c.221 (C.5:12-173.21), the obligation of a licensee to pay an investment alternative tax pursuant to subsection a. of this section shall end for each licensed facility operated by the licensee 30 years after any investment alternative tax obligation is first incurred in connection with each licensed facility operated by the licensee, unless extended in connection with a deferral granted by the Casino Reinvestment Development Authority pursuant to subsection c. of this section.

15. Section 13 of P.L.1984, c.218 (C.5:12-161) is amended to read as follows:

C.5:12-161 Powers of authority.

13. The Casino Reinvestment Development Authority shall have the following powers:

- a. To adopt and have a common seal and to alter the same at pleasure;
- b. To sue or be sued;
- c. To acquire, hold, use and dispose of any eligible project in which it is making an investment;
- d. To acquire, rent, hold, use, and dispose of other personal property for the purposes of the Casino Reinvestment Development Authority;
- e. To acquire by purchase, gift, or otherwise, or lease as lessee, real property or easements or interests therein necessary or useful and convenient for the purposes of the Casino Reinvestment Development Authority which real property, easements or interests may be subject to mortgages, deeds of trust, or other liens or otherwise, and to hold and to use the same, and to dispose of the property so acquired no longer necessary for the purposes of the Casino Reinvestment Development Authority;
- f. To make and enforce bylaws or rules and regulations for the management and regulation of its business and affairs and for the use, maintenance, and operation of any facility, and to amend the same;
- g. To enter into any agreements or contracts, execute any instruments, and do and perform any acts or things necessary, convenient, or desirable for the purposes of the Casino Reinvestment Development Authority, including the entering into of agreements or contracts with any governmental unit to provide for the payment of principal of and interest on any obligation issued by that governmental unit, the maintenance of necessary reserves in connection with these obligations or the payments under any lease entered into in connection with any eligible project;
- h. To determine eligibility for investments in eligible projects in order to accomplish the purposes of the Casino Reinvestment Development Authority;
- i. To collect and invest any proceeds received under subsection b. of section 3 and section 14 of this act;
- j. To invest in obligations of local governmental units issued to finance eligible projects, provided that the investment shall only be effected through direct negotiation by the Casino Reinvestment Development Authority with the local governmental unit;
- k. To make agreements of any kind with any governmental unit or person for the use or operation of all or any part of any eligible project for consideration and for periods of time and upon other terms and conditions as the Casino Reinvestment Development Authority may fix and agree upon, which agreements may include a partnership, limited partnership, joint venture or association in which the Casino Reinvestment Development Authority is a general or limited partner or participant;
- l. To require and collect fees and charges as the Casino Reinvestment Development Authority shall determine to be reasonable in connection with the exercise of any power given to the Casino Reinvestment Development Authority under the act;
- m. To the extent permitted under a contract of the Casino Reinvestment Development Authority with purchasers of its bonds entered into pursuant to section 3 of this 1984 amendatory and supplementary act, to invest and reinvest any of its moneys not required for immediate use, including moneys received for the purchase of its bonds prior to the bonds being issued as it shall deem prudent. A pro rata share of $66 \frac{2}{3}$ % of all interest earned by the Casino Reinvestment Development Authority on any such investments shall be paid to the licensees who entered into a contract with the Casino Reinvestment Development Authority for the purchase of its bonds and who contributed to the moneys which were received by the Casino Reinvestment Development Authority and were invested pursuant to this subsection. All functions, powers and duties relating to the investment or reinvestment of these funds, including the purchase, sale or exchange of any investments or securities, may, upon the request of the Casino Reinvestment Development Authority, be exercised and performed by the Director of the Division of Investment, in accordance with written directions of the Casino Reinvestment Development Authority signed by an authorized officer, without regard to any other law relating to investments by the Director of the Division of Investment;

n. To the extent permitted under the contract of the Casino Reinvestment Development Authority with the holders of its bonds, to invest and reinvest any of its moneys not required for immediate use, including proceeds from the sale of any obligations, securities or other investments as it shall deem prudent. All functions, powers and duties relating to the investment or reinvestment of these funds, including the purchase, sale or exchange of any investments or securities, may upon the request of the Casino Reinvestment Development Authority be exercised and performed by the Director of the Division of Investment, in accordance with written directions of the Casino Reinvestment Development Authority signed by an authorized officer, without regard to any other law relating to investments by the Director of the Division of Investment;

o. To enter into all agreements or contracts with any governmental unit or person, execute any instruments, and do and perform any acts or things necessary, convenient or desirable for the purposes of the Casino Reinvestment Development Authority to carry out any power expressly given in this act;

p. To exercise the right of eminent domain in the city of Atlantic City;

q. To meet and hold hearings at places as it shall designate; and

r. To establish, develop, construct, acquire, own, operate, manage, promote, maintain, repair, reconstruct, restore, improve and otherwise effectuate, either directly or indirectly, through lessees, licensees or agents, projects consisting of facilities, at a site or sites within the State of New Jersey, that are related to, incidental to, necessary for or complementary to, the accomplishment of any of the purposes of the authority or of any project of the authority authorized in accordance with P.L.1984, c.218 (C.5:12-144.1 et seq.), as amended.

16. Section 3 of P.L.1991, c.376 (C.40:48-8.47) is amended to read as follows:

C.40:48-8.47 Proceeds from promotional fees.

3. Except as provided by P.L.2001, c.221 (C.5:12-173.9 et al.), proceeds from the fees collected in any eligible municipality pursuant to this act shall be paid into a special fund which shall be established and held by the convention center operating authority which is empowered to operate the convention center facilities in the eligible municipality. Amounts in the special fund shall be expended by the convention center operating authority solely for the purpose of promoting tourism, conventions, resorts and casino gaming, if any, in the eligible municipality. Pending this application, monies in the fund shall be invested in accordance with law applicable to the convention center operating authority and the income therefrom shall be credited to the fund.

17. This act shall take effect on the 60th day next following enactment.

Approved August 24, 2001.