

CHAPTER 32

AN ACT creating and providing for the purposes and powers of the Tobacco Settlement Financing Corporation, supplementing Title 52 of the Revised Statutes.

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

C.52:18B-1 Short title.

1. This act shall be known and may be cited as the "Tobacco Settlement Financing Corporation Act."

C.52:18B-2 Purpose of act.

2. The purpose of this act is to authorize, create and establish a corporation empowered to acquire from the State all or a portion of the State's tobacco receipts; to authorize the sale by the State of all or a portion of the State's tobacco receipts to the corporation; to authorize the transfer to and the receipt by the corporation of such tobacco receipts; to authorize the corporation to issue securities of the corporation for the purposes authorized in this act, payable solely from and secured solely by such portion of the State's tobacco receipts as the corporation may designate and pledge to secure the securities, together with the investment income thereon and any reserve funds created by the corporation from any portion of the proceeds of such securities; to authorize the corporation to hold and invest such portion of the net proceeds of the sale of the securities pending direction by the State and such portion of the State's tobacco receipts sold to the corporation which are not pledged to secure securities of the corporation; and to authorize the corporation to manage such portion of the net proceeds of the sale of the securities pending direction by the State and all or a portion of the State's tobacco receipts sold to the corporation for the purposes and in the manner authorized in this act.

C.52:18B-3 "Tobacco Settlement Financing Corporation."

3. a. There is hereby established in, but not of, the Department of Treasury a public body corporate and politic, with corporate succession, to be known as the "Tobacco Settlement Financing Corporation." The corporation is hereby constituted as an instrumentality of the State exercising public and essential governmental functions, and the exercise by the corporation of the powers conferred by this act shall be deemed and held to be an essential governmental function of the State. Notwithstanding the existence of common management, the corporation shall be treated and accounted for as a separate legal entity with its separate corporate purposes as set forth in this act. The assets, liabilities and funds of the corporation shall be neither consolidated nor commingled with those of the State or of any entity capable of being a debtor in a case commenced under the federal bankruptcy code.

b. The corporation shall have and be governed by three members who shall be the Commissioner of Health and Senior Services of the State and the State Treasurer, who shall be members *ex officio*, and one public member appointed by the Governor (who shall have knowledge in the area of health care or the provision of health care) who shall serve at the pleasure of the Governor; provided however, the Governor may appoint the head of a principal department of the State to replace the Commissioner of Health and Senior Services of the State as a member. The State Treasurer shall serve as the chairperson of the corporation. The corporation shall elect from among its members a vice chairman. The powers of the corporation shall be vested in the members thereof in office from time to time and a majority of the total authorized membership of the corporation shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the corporation at any meeting thereof by the affirmative vote of a majority of the members present. No vacancy in the membership of the corporation shall impair the right of a quorum of the members to exercise all the powers and perform all the duties of the corporation.

c. Each member before entering upon his or her duties shall take and subscribe an oath to perform the duties of his or her office faithfully, impartially and justly to the best of his or her ability. A record of such oaths shall be filed in the office of the Secretary of State.

d. The State Treasurer shall be the president of the corporation, the Deputy State Treasurer shall be the vice president of the corporation and the State Comptroller shall be the treasurer of the corporation. The president of the corporation shall appoint the secretary of the corporation. The staff of the office of the State Treasurer shall also serve as staff of the corporation. State

officers, agencies, and departments may render services to the corporation within their respective functions, as requested by the corporation.

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

f. The members of the corporation shall serve without compensation, but the corporation shall reimburse its members for actual expenses necessarily incurred in the discharge of their duties. Notwithstanding the provisions of any other laws, no officer or employee of the State shall be deemed to have forfeited or shall forfeit his or her office or employment or any benefits or emoluments thereof by reason of his or her acceptance of the office of ex officio member or officer of the corporation or his or her services therein.

g. Each ex officio member of the corporation may designate an officer or employee of his or her department to represent him or her at meetings of the corporation, and each such designee may lawfully vote and otherwise act on behalf of the member for whom he or she constitutes the designee. Any such designation shall be in writing delivered to the secretary of the corporation and shall continue in effect until revoked or amended by writing delivered to the secretary of the corporation.

h. The corporation may be dissolved by act of the Legislature on condition that the corporation has no debts or obligations outstanding or that provision has been made for the payment or retirement of such debts or obligations. Upon any such dissolution of the corporation, all property, funds and assets thereof shall be vested in the State.

i. The corporation shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants and cause a copy thereof to be filed with the Secretary of State and the State Comptroller.

j. No member, officer, employee or agent of the corporation shall have an interest, either directly or indirectly, in any business organization engaged in any business, contract or transaction with the corporation or in any contract of any other person engaged in any business with the corporation, or in the purchase, sale, lease or transfer of any property to or from the corporation.

C.52:18B-4 Definitions relative to the Tobacco Settlement Financing Corporation.

4. As used in this act, unless the context clearly requires a different meaning:

"Ancillary facility" means any revolving credit agreement, agreement establishing a line of credit or letter of credit, reimbursement agreement, interest rate exchange or similar agreement, currency exchange agreement, interest rate floor or cap, options, puts or calls to hedge payment, currency, rate, spread or similar exposure, or similar agreements, float agreements, forward agreements, insurance contract, surety bond, commitment to purchase or sell securities, purchase or sale agreement, or commitments or other contracts or agreements and other security agreements approved by the corporation, including without limitation any arrangement referred to in subsection j., k., l. or m. of section 6 of this act;

"Benefitted parties" means person, firms or corporations that enter into ancillary facilities with the corporation according to the provisions of this act;

"Code" means the United States Internal Revenue Code of 1986, as amended, and any successor provision of law;

"Costs of issuance" means any item of expense directly or indirectly payable or reimbursable by the corporation and related to the authorization, sale or issuance of securities, including without limitation underwriting fees, and fees and expenses of consultants and fiduciaries;

"Corporation" means the Tobacco Settlement Financing Corporation established by section 3 of this act;

"Encumbered tobacco revenues" means that portion of the TSRs that is pledged by the corporation to the repayment of any securities pursuant to the terms of the applicable corporation resolution, trust agreement or trust indenture;

"Financing costs" means all capitalized interest, operating and debt service reserves, costs of issuance, fees for credit and liquidity enhancements and other costs as the corporation determines to be desirable in issuing, securing and marketing the securities;

"Interest rate exchange or similar agreement" means a written contract with a counterparty to provide for an exchange of payments based upon fixed and/or variable interest rates;

"Master settlement agreement" means the master settlement agreement, dated November 23, 1998, among the attorneys general of 46 states, including the State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the United States Virgin Islands, American Samoa and the Territory of the Northern Mariana Islands, on the one hand, and certain tobacco manufacturers, on the other hand;

"Net proceeds" means the amount of proceeds remaining following each sale of securities which are not required by the corporation to establish and fund reserve or escrow funds or termination or settlement payments under ancillary facilities and to provide the financing costs and other expenses and fees directly related to the authorization and issuance of securities;

"Operating expenses" means the reasonable operating expenses of the corporation, including without limitation the cost of preparation of accounting and other reports, costs of maintenance of the ratings on the securities, insurance premiums and costs of annual meetings or other required activities of the corporation, and fees and expenses incurred for consultants and fiduciaries;

"Outstanding" means, when used with respect to securities, all securities other than securities that shall have been paid in full at maturity or that may be deemed not outstanding pursuant to the applicable corporation resolution, trust indenture or trust agreement authorizing the issuance of such securities and when used with respect to ancillary facilities, all ancillary facilities other than ancillary facilities that have been paid in full or that may be deemed not outstanding under such ancillary facilities;

"Qualifying statute" means "qualifying statute" as defined in the master settlement agreement; currently P.L.1999, c.148 (C.52:4D-1 et seq.);

"Residual interests" means: the unencumbered tobacco revenues; the net proceeds not previously paid to the State; the income of the corporation that is in excess of the corporation's requirements to pay its operating expenses, debt service, sinking fund requirements, reserve fund or escrow fund requirements and any other contractual obligations to the owners of the securities or benefitted parties, or that may be incurred in connection with the issuance of the securities or the execution of ancillary facilities; and such contractual rights, if any, as shall be provided to the State in accordance with the terms of any sale agreements;

"Sale agreement" means any agreement authorized pursuant to section 5 of this act in which the State provides for the sale of TSRs to the corporation;

"Securities" means any securities, including without limitation any bonds, notes and other evidence of indebtedness, issued by the corporation pursuant to section 7 of this act;

"State" means the State of New Jersey;

"State representative" means the State acting by and through the State Treasurer;

"State's tobacco receipts" means a) all tobacco settlement payments that are received by the State that are required to be made, pursuant to the terms of the master settlement agreement, by tobacco manufacturers to the State, and b) the State's rights to receive such tobacco settlement payments;

"TSRs" means the portion (which may include any or all) of the State's tobacco receipts sold to the corporation pursuant to this act and any sale agreement; and

"Unencumbered tobacco revenues" means that portion of the TSRs that are not subject to the pledge of the applicable corporate resolution, trust agreement or trust indenture by the corporation to the repayment of any securities issued pursuant to the terms of such applicable corporation resolution, trust agreement or trust indenture.

C.52:18B-5 Sale, purchase of tobacco receipts.

5. a. The State representative may sell to the corporation, and the corporation may purchase, for cash or other consideration and in one or more installments, all or a portion of the State's tobacco receipts pursuant to the terms of one or more sale agreements. Any such sale agreement

shall provide, among other matters, that the purchase price payable by the corporation to the State for such TSRs shall consist of the net proceeds and the residual interests, if any. Any such sale shall be pursuant to one or more sale agreements that may contain such terms and conditions deemed appropriate by the State representative to carry out and effectuate the purposes of this section, including without limitation covenants binding the State in favor of the corporation and its assignees, including without limitation the owners of its securities and benefitted parties, such as a requirement that the State enforce the provisions of the master settlement agreement that require payment of the TSRs, a requirement that the State enforce the provisions of the qualifying statute, a provision authorizing inclusion of the State's pledge and agreement, as set forth in section 10 of this act, in any agreement with owners of the securities or any benefitted parties, and covenants with respect to the application and use of the proceeds of the sale of the State's tobacco receipts to preserve the tax-exemption of the interest on any securities, if issued as tax-exempt. The State representative in any sale agreement may agree to, and the corporation may provide for, the assignment of the corporation's right, title and interest under such sale agreement for the benefit and security of the owners of securities and benefitted parties.

b. Any sale of TSRs to the corporation pursuant to a sale agreement shall be treated as a true sale and absolute transfer of the property so transferred and not as a pledge or other security interest for any borrowing. The characterization of such a sale as an absolute transfer by the participants shall not be negated or adversely affected by the fact that only a portion of the State's tobacco receipts is transferred, nor by the acquisition or retention by the State of a residual interest, nor by the participation by any State official as a member or officer of the corporation, nor by the commingling of amounts arising with respect to the TSRs with other amounts, nor by whether the State is responsible for collecting the TSRs or otherwise enforcing the master settlement agreement or retains legal title to such portion of the State's tobacco receipts for the purposes of these collection activities, nor by any characterization of the corporation or its obligations for purposes of accounting, taxation or securities regulation, nor by any other factor whatsoever.

c. On and after the effective date of each sale of TSRs, the State shall have no right, title or interest in or to the TSRs sold, and the TSRs so sold shall be property of the corporation and not of the State, and shall be owned, received, held and disbursed by the corporation and not the State. On or before the effective date of any such sale, the State through the Attorney General shall notify the escrow agent under the master settlement agreement that such TSRs have been sold to the corporation and irrevocably instruct such escrow agent that, subsequent to such date, such TSRs are to be paid directly to the corporation or the trustee under the applicable corporation resolution, trust agreement or trust indenture for the benefit of the owners of the securities and benefitted parties until such securities and ancillary facilities are no longer outstanding. Thereafter, any officer or agent of the State who shall receive any such TSRs shall hold the same in trust for the corporation or such trustee, as applicable, and shall promptly remit the same to the corporation or such trustee, as applicable.

d. The net proceeds and any earnings thereon shall never be pledged to, nor made available for, payment of the securities or ancillary facilities or any interest or redemption price thereon or any other debt or obligation of the corporation. The net proceeds, any earnings thereon and any residual interests shall be applied, transferred, or paid to, and upon the order of, the State, as directed by the State representative, and shall be used by the State for any bona fide governmental purposes as determined by the State, including without limitation for capital expenditures, debt service on outstanding bonds of the State, working capital expenditures or operating deficit needs of the State, endowments, or grants or aid to political subdivisions, including without limitation school districts, of the State. Pending such direction by the State representative, the corporation shall invest such moneys such that funds will be available at such times as the State representative shall deem necessary for the expenditure thereof. The State is authorized and may arrange for the availability of the net proceeds and residual interests from the corporation on such terms and conditions as the State representative deems appropriate and may include in the sale agreement provisions for interfund transactions with respect thereto between the State and the corporation. Notwithstanding any provisions of this subsection, the corporation shall not pay to the State during State fiscal year 2003 funds from any net proceeds,

earnings thereon or residual interests in excess of the amount appropriated from such funds pursuant to the State annual appropriation act for State fiscal year 2003.

C.52:18B-6 Powers of corporation.

6. The corporation also shall have the power to:
 - a. sue and be sued;
 - b. have a seal and alter the same at its pleasure;
 - c. make and alter bylaws for its organization and internal management and make rules and regulations governing the use of its property and facilities;
 - d. make and execute contracts including without limitation sale agreements, trust agreements, trust indentures, bond purchase agreements, tax regulatory agreements, continuing disclosure agreements, ancillary facilities and all other instruments necessary or convenient for the exercise of its powers and functions, and commence any action to protect or enforce any right conferred upon it by any law, contract or other agreement;
 - e. engage the services of financial advisors and experts, placement agents, underwriters, appraisers and such other advisors, consultants and fiduciaries as may be necessary to effectuate the purposes of this act;
 - f. pay its operating expenses and financing costs;
 - g. borrow money in its name and issue negotiable securities and provide for the rights of the owners thereof;
 - h. procure insurance against any loss in connection with its activities, properties and assets in such amount and from such insurers as it deems desirable;
 - i. invest any funds or other moneys under its custody and control in investments and securities that are legal investments under the laws of the State for funds of the State and, notwithstanding any law to the contrary, in any ancillary facility, in obligations the interest on which is exempt from federal income taxation under the code and in shares or participation interests in funds or trusts that invest solely in such obligations;
 - j. as security for the payment of the principal of and interest on any securities and for its obligations under any ancillary facility, pledge all or any part of the TSRs or other assets;
 - k. procure insurance, letters of credit or other credit enhancement with respect to any securities for the payment of tenders of securities, or for the payment upon maturity of short-term securities;
 1. (1) enter into any ancillary facility with any person under such terms and conditions as the corporation, with the approval of the State Treasurer, may determine;
 - (2) procure insurance, letters of credit or other credit enhancement with respect to any ancillary facility;
 - (3) provide security for the payment or performance of its obligations with respect to any ancillary facility from such sources and with the same effect as is authorized by this act with respect to security for securities; and
 - (4) modify, amend or replace any existing, or enter into a new, ancillary facility; and
 - m. do any and all things necessary or convenient to carry out its purposes and exercise the powers expressly given and granted in this act.

C.52:18B-7 Issuance of securities by corporation.

7. a. (1) The corporation shall have power and is hereby authorized from time to time to issue securities in such principal amount or amounts as the corporation shall determine to be necessary to provide sufficient funds for achieving its authorized purposes, consisting of the purchase of all or a portion of the State's tobacco receipts pursuant to section 5 of this act and the payment of or provision for financing costs.
- (2) The issuance of securities shall be authorized by a corporation resolution. No corporation resolution authorizing the issuance of securities (including securities issued to refund securities) pursuant to this act shall be adopted or otherwise made effective without the approval in writing of the State Treasurer. Securities (including securities issued to refund securities) may be issued without obtaining the consent of any department, division, commission, board, bureau or agency of the State, other than the approval as required by this subsection, and

without any other proceedings or the occurrence of any other conditions or other things other than those proceedings, conditions or things which are specifically required by this act. Every issue of securities shall be special revenue obligations payable from and secured by a pledge of encumbered tobacco revenues and other assets, including without limitation those proceeds of such securities deposited in a reserve fund for the benefit of the owners of the securities, earnings on funds of the corporation and such other funds as may become available, upon such terms and conditions as approved by the State Treasurer and as specified by the corporation in the corporation resolution pursuant to which the securities are issued or in a related trust agreement or trust indenture.

(3) The corporation shall issue securities to refund any securities by the issuance of new securities, whenever it deems such refunding expedient, whether the securities to be refunded have or have not matured, and to issue securities partly to refund securities then outstanding and partly for any of its other authorized purposes. The refunding securities may be exchanged for the securities to be refunded or sold and the proceeds applied to the purchase, redemption or payment of such securities.

b. Each issue of securities shall be dated, shall bear interest (which, under the code, may be includable in or excludable from the gross income of the owners for federal income tax purposes) at such fixed or variable rates, payable at or prior to maturity, and shall mature at such time or times, as may be determined by the corporation and may be made redeemable before maturity, at the option of the corporation, at such price or prices and under such terms and conditions as may be fixed by the corporation. The principal and interest of such securities may be made payable in any lawful medium. The corporation shall determine the form of the securities, either coupon, registered or book-entry form, and the manner of execution of the securities and shall fix the denomination or denominations of the securities and the place or places of payment of principal and interest thereof, which may be at any bank or trust company within or without the State. If any officer whose signature or a facsimile thereof appears on any securities or coupons shall cease to be such officer before the delivery of such securities, such signature or facsimile shall nevertheless be valid and sufficient for all purposes as if he or she had remained in office until such delivery. The securities may be issued in coupon or in registered form or both, as the corporation may determine, and provisions may be made for the registration of any coupon securities as to principal alone and as to both principal and interest and for the reconversion of any securities registered as to both principal and interest into coupon securities. The corporation may also provide for temporary securities and for the replacement of any security that shall become mutilated or shall be destroyed or lost.

c. The corporation with the approval of the State Treasurer may sell such securities in such manner, either at public or private sale and on either a competitive or negotiated basis. The proceeds of such securities shall be disbursed for the purposes for which such securities were issued as the act, the sale agreement and the corporation resolution authorizing the issuance of such securities or the related trust agreement or trust indenture may provide.

d. Any pledge made by the corporation shall be valid and binding at the time the pledge is made. The revenues, reserves or earnings so pledged or earnings on the investment thereof shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the corporation, irrespective of whether such parties have notice thereof. Notwithstanding any other provision of law to the contrary, neither the corporation resolution nor any trust agreement or trust indenture or other instrument by which a pledge is created or by which the corporation's interest in encumbered tobacco revenues, reserves or earnings thereon is assigned need be filed or recorded in any public records in order to protect the pledge thereof or perfect the lien thereof as against third parties, except that a copy thereof shall be filed in the records of the corporation.

e. Notwithstanding the provisions of any other law to the contrary, any securities issued pursuant to this act shall be fully negotiable within the meaning and for all purposes of Title 12A of the New Jersey Statutes, and each owner of such a security or other obligation, or of any coupon appurtenant thereto, by accepting the security or coupon shall be conclusively deemed to have agreed that the security or coupon is and shall be fully negotiable within the meaning and

for all purposes of Title 12A.

f. In the discretion of the corporation, any securities and any ancillary facilities may be secured by a trust agreement or trust indenture by and between the corporation and the trustee thereunder, which may be any trust company or bank having the powers of a trust company, whether located within or without the State. Such trust agreement or trust indenture or corporation resolution providing for the issuance of such securities may provide for the creation and maintenance of such reserves as the corporation shall determine to be proper and may include covenants setting forth the duties of the corporation in relation to the securities, the ancillary facilities, the income to the corporation, the sale agreement, the encumbered tobacco revenues and residual interests. Such trust agreement or trust indenture or corporation resolution may contain provisions respecting the custody, safeguarding and application of all moneys and securities and may contain such provisions for protecting and enforcing the rights and remedies (pursuant thereto and to the sale agreement) of the owners of the securities and benefitted parties as may be reasonable and proper and not in violation of law. It shall be lawful for any bank or trust company incorporated under the laws of the State which may act as depository of the proceeds of securities or of any other funds or obligations received on behalf of the corporation to furnish such indemnifying bonds or to pledge such obligations as may be required by the corporation. Any such trust agreement or trust indenture or corporation resolution may contain such other provisions as the corporation may deem reasonable and proper for priorities and subordination among the owners of the securities and benefitted parties.

g. The corporation may enter into, amend or terminate, as it determines to be necessary or appropriate, any ancillary facilities (1) to facilitate the issuance, sale, resale, purchase, repurchase or payment of securities or the making or performance of swap contracts, including without limitation bond insurance, letters of credit and liquidity facilities or (2) to attempt to hedge risk or achieve a desirable effective interest rate or cash flow. The determination of the corporation that an ancillary facility or the amendment or termination thereof is necessary or appropriate as aforesaid shall be conclusive. Such ancillary facility shall be made upon the terms and conditions established by the corporation, including without limitation provisions as to security, default, termination, payment, remedy and consent to service of process.

h. The corporation may enter into, amend or terminate any ancillary facility as it determines to be necessary or appropriate to place the obligations or investments of the corporation, as represented by the securities or the investment of their proceeds, in whole or in part, on the interest rate, cash flow or other basis desired by the corporation, which facility may include without limitation contracts commonly known as interest rate swap agreements, and futures or contracts providing for payments based on levels of, or changes in, interest rates. These contracts or arrangements may be entered into by the corporation in connection with, or incidental to, entering into, or maintaining any (1) agreement which secures securities of the corporation or (2) investment, or contract providing for investments, of reserves or similar facility guaranteeing an investment rate for a period of years. The determination by the corporation that an ancillary facility or the amendment or termination thereof is necessary or appropriate as aforesaid shall be conclusive. Any ancillary facility may contain such payment, security, default, remedy, termination provisions and payments and other terms and conditions as determined by the corporation, after giving due consideration to the creditworthiness of the counterparty or other obligated party, including without limitation any rating by any nationally recognized rating agency, and any other criteria as may be appropriate.

i. Securities and ancillary facilities may contain a recital that they are issued pursuant to this act, which recital shall be conclusive evidence of their validity, the validity of any ancillary facility and the regularity of the proceedings relating thereto.

j. Neither the members of the corporation nor any other person executing the securities or an ancillary facility shall be subject to any personal liability or accountability by reason of the issuance or execution and delivery thereof.

C.52:18B-8 Issuance of securities, execution of ancillary facility not an obligation of State.

8. The issuance of securities and the execution of any ancillary facility under the provisions of this act shall not directly, or indirectly or contingently obligate the State or any political

subdivision thereof to pay any amounts to the corporation or owner of securities or benefitted parties or levy or pledge any form of taxation whatsoever therefor. The securities and any ancillary facility shall not be a debt or liability of the State or any agency or instrumentality thereof (other than the corporation as set forth in this act), either legal, moral or otherwise, and nothing contained in this act shall be construed to authorize the corporation to incur any indebtedness on behalf of or in any way to obligate the State or any political subdivision thereof, and the securities and any ancillary facility shall contain on the face thereof or other prominent place thereon in bold typeface a statement to the foregoing effect. No appropriation of any moneys by the State to the corporation is authorized in this act.

C.52:18B-9 Creation of corporation deemed public benefit; tax exemption provided.

9. a. It is hereby determined that the creation of the corporation and the carrying out of its authorized purposes is in all respects a public and governmental purpose for the benefit of the people of the State and for the improvement of their health, safety, welfare, comfort and security, and that said purposes are public purposes and that the corporation will be performing an essential governmental function in the exercise of the powers conferred upon it by this act.

b. The property of the corporation and its income and operations shall be exempt from taxation.

c. The securities and the interest thereon and the income derived from all funds, revenues, incomes and other moneys received for or to be received by the corporation shall be exempt from all taxes levied pursuant to the provisions of Title 54 of the Revised Statutes or Title 54A of the New Jersey Statutes, except for transfer inheritance and estate taxes levied pursuant to Subtitle 5 of Title 54 of the Revised Statutes.

d. In the case of any securities, the interest on which is intended to be exempt from federal income tax, the corporation shall prescribe restrictions on the use of the proceeds thereof and related matters as are necessary to assure such exemption, and the recipients of such proceeds shall be bound thereby to the extent such restrictions shall be made applicable to them. Any such recipient, including without limitation the State or any political subdivision of the State, is authorized to execute a tax regulatory agreement with the corporation (and, as to any such political subdivision, the State) and the execution of such an agreement may be treated as a condition to receiving any such proceeds.

C.52:18B-10 Pledge, agreement between State and corporation.

10. a. The State hereby pledges and agrees with the corporation, and the owners of the securities and benefitted parties, that until all securities and ancillary facilities, together with the interest thereon and all costs and expenses in connection with any action or proceedings by or on behalf of owners of securities or benefitted parties, are fully paid and discharged the State will (1) irrevocably direct through the Attorney General the escrow agent under the master settlement agreement to transfer directly to the corporation or its assignee the TSRs, (2) enforce the corporation's rights to receive the TSRs to the full extent permitted by the terms of the master settlement agreement, (3) not amend the master settlement agreement in any manner that would materially impair the rights of the owners of the securities or of the benefitted parties, (4) not limit or alter the rights of the corporation to fulfill the terms of its agreements with such owners or benefitted parties, (5) not in any way impair the rights and remedies of such owners or benefitted parties or the security for such securities or ancillary facilities (provided, that nothing herein shall be construed to preclude the State's regulation of smoking and taxation and regulation of the sale of cigarettes or the like), (6) not fail to enforce the qualifying statute, and (7) not amend, supersede or repeal the qualifying statute in any way that would materially adversely affect the amount of any payment to, or materially impair the rights of, the corporation, such owners of the securities or the benefitted parties. The State representative is authorized and directed to include this pledge and agreement in sale agreements and the corporation is authorized and directed to include this pledge and agreement in any contract with the owners of the securities and benefitted parties.

b. Prior to the date that is one year and one day after the corporation no longer has any securities or ancillary facilities outstanding, the corporation shall have no authority to file a

voluntary petition under chapter 9 of the federal bankruptcy code or such corresponding chapter or sections as may, from time to time, be in effect, and neither any public officer nor any organization, entity or other person shall authorize the corporation to be or become a debtor under chapter 9 or any successor or corresponding chapter or sections during such period. The State hereby covenants with the owners of the securities and benefitted parties that the State will not limit or alter the denial of the corporation under this subsection during the period referred to in the preceding sentence. The corporation is authorized and directed to include this covenant as an agreement of the State in any contract with the owners of the securities and benefitted parties.

C.52:18B-11 Securities as legal investments.

11. Notwithstanding any restriction contained in any other law, rule, regulation or order to the contrary, the State and all political subdivisions of the State, their officers, boards, commissioners, departments or other agencies, all banks, bankers, trust companies, savings banks and institutions, building and loan associations, saving and loan associations, investment companies and other persons carrying on a banking or investment business, and all executors, administrators, guardians, trustees and other fiduciaries, and all other persons whatsoever who now are or may hereafter be authorized to invest in bonds or other obligations of the State, may properly and legally invest any sinking funds, moneys or other funds, including capital, belonging to them or within their control, in any securities; and said securities are hereby made securities which may properly and legally be deposited with, and received by, any State municipal officers or agency of the State, for any purpose for which the deposit of bonds or other obligations of the State is now, or may hereafter be, authorized by law.

C.52:18B-12 Immunity from personal liability.

12. Neither any member of the corporation nor any officer, employee or agent of the corporation, while acting within the scope of his or her authority, shall be subject to any personal liability resulting from exercising or carrying out of any of the corporation's purposes or powers.

C.52:18B-13 Rules, regulations.

13. The corporation may adopt any rules and regulations to effectuate the purposes of this act and, if it does so, shall apply the procedures of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), with respect thereto.

C.52:18B-14 Liberal construction; severability.

14. This act and all powers granted hereby shall be liberally construed to effectuate its intent and their purposes, without implied limitations thereon. This act shall constitute full and complete authority for all things herein contemplated to be done. All rights and powers herein granted shall be cumulative with those derived from other sources and shall not, except as expressly stated herein, be construed in limitation thereof. Insofar as the provisions of this act are inconsistent with the provisions of any other act, general or special, the provisions of this act shall be controlling. If any clause, sentence, paragraph, section or part of this act be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder hereof but shall be applied in its operation to the clause, sentence, paragraph, section or part hereof directly involved in the controversy in which such judgment shall have been rendered.

15. This act shall take effect immediately.

Approved July 1, 2002.

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