

CHAPTER 120

AN ACT concerning tax lien financing and supplementing P.L.2002, c.43 (C.52:27BBB-1 et al.).

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

C.52:27BBB-66 Short title.

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

C.52:27BBB-67 Declarations relative to tax lien financing; purposes of act.

2. It is hereby declared to be in the public interest and to be the policy of the State to assist qualified municipalities by facilitating the creation of capital markets structures to fund public improvements or purposes at a reduced cost not otherwise available in the absence of such capital markets structures, particularly for qualified municipalities that are not otherwise able to access the capital markets for such purposes. It is hereby further declared that qualified municipalities are owed millions of dollars annually in unpaid property taxes, and that such uncollected taxes adversely impact qualified municipalities' ability to timely collect the moneys necessary to meet their operating expenditures and provide for the delivery of necessary government services, amplifying the risk of future real property tax increases and negatively impacting those taxpayers who timely remit payment. It is hereby further declared that limited means exist for qualified municipalities to expedite the collection of delinquent taxes, that as a result, such delinquencies often remain unpaid, and that the assignment sale of the tax liens related to such delinquent taxes will enable qualified municipalities to expedite the receipt of anticipated revenues and provide a funding source that will enable such qualified municipalities to more effectively carry out their public purposes. Accordingly, one of the purposes of this act is to authorize, create and establish a corporation empowered to acquire from a qualified municipality all or a portion of the qualified municipality's tax liens. Additional purposes of this act are: to authorize the sale by a qualified municipality of all or a portion of the tax liens to the corporation; to authorize the transfer to and the receipt by the corporation of the tax liens; 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 tax liens 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 the securities; to authorize the corporation to hold and invest the portion of the net proceeds of the sale of the securities pending direction by a qualified municipality and the portion of a qualified municipality's tax liens sold to the corporation which are not pledged to secure securities of the corporation; to authorize the corporation to acquire, hold, operate, maintain, improve and dispose of real and personal property; and to authorize the corporation to manage the portion of the net proceeds of the sale of the securities pending direction by a qualified municipality and all or a portion of a qualified municipality's tax liens sold to the corporation for the purposes and in the manner authorized in this act.

C.52:27BBB-68 "Taxation Financing Corporation" established; governing members, terms, duties.

3. a. There is hereby established in, but not of, the Department of the Treasury, a public body corporate and politic, with corporate succession, to be known as the "Tax Lien 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. 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 a qualified municipality 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 five members, including one seat reserved for the State Treasurer, who shall be a member ex officio, a second seat reserved for the Commissioner of Community Affairs, who shall be a member ex officio, a third seat reserved for a Chief Operating Officer to be selected by the Governor, a fourth seat reserved for a public member appointed by the Governor and who shall serve at the pleasure of the Governor, and a

fifth seat reserved for a public member to be appointed by the Governor and selected from three persons nominated by any mayor of any qualified municipality. The State Treasurer shall serve as the chairperson of the corporation. The corporation shall elect from among its members a vice chairperson. 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 the oaths shall be filed in the office of the Secretary of State.

d. The State Treasurer shall be the president of the corporation. The president of the corporation shall appoint the vice president, treasurer and secretary of the corporation. The staff of the office of the State Treasurer shall also serve as staff of the corporation. Officers, agencies, and departments of the State and of a qualified municipality 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 the member or treasurer in the form and amount as may be prescribed by the State Comptroller. The 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 the bonds in full force and effect. All costs of the 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 a qualified municipality or of the State shall be deemed to have forfeited or shall forfeit office or employment or any benefits or emoluments thereof by reason of that person's acceptance of the office of ex officio member or officer of the corporation.

g. Each ex officio member of the corporation may designate an officer or employee of the member's department to represent the member at meetings of the corporation. A designee may lawfully vote and otherwise act on behalf of the member designating the designee. Any 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, obligations or residual interests outstanding or that provision has been made for the payment or retirement of the debts, obligations or residual interests. Upon any 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.

j. No member, officer or employee 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.52:27BBB-69 Definitions relative to tax lien financing.

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 section 6 of this act.

"Benefitted parties" means persons, firms, corporations or organizations 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 servicers, auditors, consultants and fiduciaries.

"Corporation" means the Tax Lien Financing Corporation established by section 3 of this act.

"Encumbered tax lien" means those tax liens that are pledged by the corporation for the repayment of any securities pursuant to the terms of the applicable corporation resolution, trust agreement or 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.

"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 or 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 but not limited to the fees and expenses (including legal fees and expenses) incurred in the pursuit of any collections or the foreclosure of, or other realization upon, the tax liens, the fees and costs related to the foreclosure process, the expenses relating to appraisals and property inspections and valuations, the expenses relating to property operation, maintenance, improvement and sale, the fees and disbursements incurred in connection with landlord-tenant proceedings, the expenses related to the sale of properties acquired through foreclosure or other liquidation of tax liens such as advertising, brokerage fees, transfer taxes, legal fees and the cost of setting up reserves for tenant security, the cost of preparation of accounting and other reports, costs of maintenance of the ratings on any securities, insurance premiums and costs of annual meetings or other required activities of the corporation, and fees and expenses incurred for servicers, auditors, 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, indenture or trust agreement authorizing the issuance of the 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 the ancillary facilities.

"Qualified municipality" means a municipality: (1) that has been subject to the supervision of a financial review board pursuant to the "Special Municipal Aid Act," P.L.1987, c.75 (C.52:27D-118.24 et seq.) for at least one year; (2) that has been subject to the supervision of the Local Finance Board pursuant to the "Local Government Supervision Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.) for at least one year; and (3) which, according to its most recently adopted municipal budget, is dependent upon State aid and other State revenues for not less than 55 percent of its total budget.

"Residual interests" means the interests consisting of the right to receive remaining undistributed assets of the corporation after provision has been made for the payment of 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 corporation in accordance with the terms of any sale agreements.

"Sale agreement" means any agreement authorized pursuant to section 5 of this act in which a qualified municipality provides for the sale of tax liens 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.

"Tax liens" means those tax liens which are held by a qualified municipality securing delinquent real property taxes, assessments, water, sewer, utilities or other municipal charges by a qualified municipality or certified to a qualified municipality that become a lien on real property and are held by a qualified municipality pursuant to R.S.54:5-34.

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

C.52:27BBB-70 Sales agreements applicable to tax liens; procedures, conditions.

5. a. Authority to Enter into Sale Agreements. A qualified municipality 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 tax liens pursuant to the terms of one or more sale agreements. Any sale agreement shall provide, among other matters, the purchase price payable by the corporation to a qualified municipality for the tax liens, which amount may be more or less than the face amount of the tax liens purchased by the corporation, and may include the residual interests, if any. The sale agreement may require a qualified municipality to repurchase a tax lien, or to substitute another tax lien of equivalent value, under conditions to be specified in the sale agreement. The sale agreement may provide that a qualified municipality shall be obligated to sell to the corporation subsequent tax liens encumbering the property encumbered by the tax liens originally sold and remaining unpaid on such terms as the corporation deems desirable. Any sale shall be conducted pursuant to one or more sale agreements that may contain such terms and conditions deemed appropriate by a qualified municipality to carry out and effectuate the purposes of this section, including, without limitation, covenants binding the qualified municipality in favor of the corporation and its assignees, including, without limitation, the owners of its securities and benefitted parties; 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 qualified municipality's tax liens to preserve the tax exemption of the interest on any securities, if issued as tax exempt. A qualified municipality in any sale agreement may agree to, and the corporation may provide for, the assignment of the corporation's right, title and interest under the sale agreement for the benefit and security of the owners of securities and benefitted parties. The residual interest shall be uncertificated.

Notwithstanding that the corporation is hereby constituted an instrumentality of the State, all of the residual interests arising upon the transfer of a qualified municipality's tax liens to the corporation shall be the property of and vest in such qualified municipality and all of the economic avails and benefits of such residual interests, including, but not limited to, the income attributable to and accruing with respect to such interests from time to time, shall accrue to and inure to the benefit of such qualified municipality.

b. True Sale. Any sale of tax liens to the corporation pursuant to a sale agreement shall constitute a true sale and absolute transfer of the property so transferred and not a pledge or a grant of a security interest for any borrowing. The characterization of a sale as an absolute transfer by the participants shall not be negated or adversely affected by the fact that only a portion of a qualified municipality's tax liens is transferred, nor by the acquisition or retention by a qualified municipality of a residual interest, nor by the characterization of the corporation or its obligations for purposes of accounting, taxation or securities regulation, nor by any actual pledge, assignment or grant of a security interest in the tax liens and any proceeds of the tax liens, nor by any other factor whatsoever.

c. Qualified Municipality to Notify Collector. On and after the effective date of each sale of tax liens, a qualified municipality shall have no right, title or interest in or to the tax liens sold, and the tax liens so sold shall be property of the corporation and not of the qualified municipality, and shall be owned and held by the corporation and not the qualified municipality. On or before the effective date of any sale, the qualified municipality shall notify the collector that the tax liens have been sold to the corporation and irrevocably instruct the collector that,

subsequent to the effective date of the sale, it shall pay over to the corporation or its designee within two days of its receipt any payments made on the transferred tax liens for the benefit of the owners of the securities and benefitted parties.

d. **No Right to Cancel, Reduce or Compromise.** Notwithstanding any other law to the contrary, a qualified municipality shall not have any right to cancel, reduce or compromise any taxes, penalties or interest secured by a tax lien sold pursuant to this act or extend the time for payment thereof. A qualified municipality may not waive any penalties and interest on a tax lien that has been sold pursuant to this act.

e. **Sale by Assignment.** A qualified municipality's sale of tax liens to the corporation shall be made by assignment. The certificates of sale may be assigned separately or in bulk with other such certificates. Upon such assignment, the qualified municipality shall promptly deliver such certificates to the corporation or its designee.

f. **Recording.** Any and all further or additional assignments of the tax sale certificates shall promptly be recorded in the office of the county clerk or the register of deeds and mortgages, as the case may be, of the county where the real property is located, and a photocopy of the recorded assignment shall be served upon the collector by certified mail, return receipt requested. When assignments have not been recorded and served upon the collector, the collector shall be held harmless for the payment of any redemption amounts to the holder of the certificate of sale as appears on the records of the collector. All assignments must be submitted to the office of the county clerk or register of deeds and mortgages for recording within 90 days of the sale by assignment.

g. **Presumptive Evidence.** The certificate of sale shall be presumptive evidence in all courts in all proceedings by and against the corporation of the truth of the statements therein, of the title of the corporation in the transferred tax liens, and the regularity and validity of all proceedings had in reference to the sale. After six months from the recording of the certificate of sale, no evidence shall be admitted in any court to rebut the presumption that the lien purported to be transferred by the certificate of sale is a valid and enforceable lien, unless the corporation shall have procured it by fraud, or had previous knowledge that it was fraudulently made or procured.

h. **Destruction or Loss of a Certificate.** In case of the destruction or loss of a certificate of sale issued by a qualified municipality, the corporation shall present an affidavit of destroyed or lost certificate to the collector, and the collector shall then issue and execute a new certificate of sale in place of the one destroyed or lost. There shall appear on the new certificate a statement that it is a duplicate of the original certificate of sale that was destroyed or lost, the date of the original certificate, the date of the tax sale of the original certificate, the date the original certificate was issued and the name and title of the officer who issued the original certificate.

i. **Duplicate Certificate and Time Limit to Redeem.** The time limit within which the right to redeem from any tax sale in which a duplicate certificate has been issued shall be the same as though the original certificate had not been destroyed or lost.

j. **Amount Required for Redemption.** Any person having a legal and beneficial interest in the property affected by a certificate of sale acquired by the corporation may satisfy the outstanding lien on the property at any time upon payment to the collector of all sums due with respect to such certificate and for subsequent taxes, municipal liens and charges, and interest and costs thereon, together with interest on the amounts so paid at the rate or rates chargeable by the qualified municipality.

k. **Cancellation of Certificate Upon Redemption.** Upon satisfaction of a tax lien, the redeeming party shall be entitled to have, upon demand, the certificate of sale, duly receipted for cancellation, or a certificate of redemption thereof, duly executed, stating that said certificate of sale may be canceled of record in the manner prescribed by law.

l. **Duties Upon Redemption.** The collector, on receiving payment as set forth in subsection j. of this section from a redeeming party, shall confirm with the corporation that such payment constitutes a payment in full. Upon such confirmation, the collector shall execute and deliver to the redeeming party a certificate of redemption which may be recorded with the county clerk or register of deeds and mortgages, as appropriate. The county clerk or register of deeds and

mortgages, as appropriate, shall, on request, note on the record of the original certificate of sale a reference to the record of the certificate of redemption, and shall be entitled to the same fees as provided for the cancellation of a mortgage, or, at the option of the redeeming party, the collector shall request the corporation to deliver to it the certificate of sale and in turn, the collector shall deliver to the redeeming party the certificate of sale receipted for cancellation by endorsement in the same manner required by the law of the State to satisfy or cancel a mortgage, whereupon the record of the certificate of sale shall be canceled by the county clerk or register of deeds and mortgages in the same manner and for the same fees as in the case of a mortgage.

m. **Installment Agreements.** If the corporation holds a certificate of sale, it shall be entitled in its own name or in the name of its duly authorized representative to enter into installment agreements with the related taxpayers as if it were a municipality acting pursuant to Title 54 of the Revised Statutes and on such terms as the corporation deems desirable; provided, however, that the payment of the total sum due the corporation on any one parcel shall be made in substantially equal monthly installments, over a period not exceeding five years.

n. **Filing of Installment Agreements.** The installment agreement must be in writing and filed with the collector where the property is located. Upon due execution of the installment agreement the corporation shall forward a true copy of the agreement to the collector's office.

o. **Foreclosure.** When the corporation is the purchaser or assignee of a certificate of sale, the corporation, or its assignee or transferee, may, in its own name or in the name of its duly authorized representative, at any time after the expiration of the term of six months from the issuance of the certificate of sale, institute a procedure to foreclose the right of redemption. The corporation shall be entitled to foreclose the tax lien or liens evidenced thereby in the manner provided by the law for the foreclosure of tax liens as if it were a municipality. In connection with the enforcement of a tax lien, all statutory references to a municipality acting pursuant to the provisions of Title 54 of the Revised Statutes shall be deemed to refer to the corporation, and all references to actions to be taken by an officer of the municipality shall be deemed to refer to an appropriate officer or duly authorized representative of the corporation.

p. **Jurisdiction of Court.** The Superior Court, in a procedure to foreclose the right of redemption, may give full and complete relief under this act, in accordance with other statutory authority of the court, to bar the right of redemption and to foreclose all prior or subsequent alienations and descents of the lands and encumbrances thereon, except subsequent municipal liens, and to adjudge an absolute and indefeasible estate of inheritance in fee simple, to be vested in the purchaser or assignee. The judgment shall be final upon the defendants, their heirs, devisees and personal representatives, and any of their heirs, devisees, executors, administrators, grantees, assigns or successors in right, title or interest and no application shall be entertained to reopen the judgment after the date thereof, and then only upon the grounds of lack of jurisdiction or fraud in the conduct of the suit. The judgment and recording thereof shall not be deemed a sale, transfer, or conveyance of title or interest to the subject property under the provisions of the "Uniform Fraudulent Transfer Act," R.S.25:2-20 et seq.

In the event that any federal statute or regulation requires a judicial sale of the property in order to debar and foreclose a mortgage interest or any other lien held by the United States or any agency or instrumentality thereof, then the tax lien may be foreclosed in the same manner as a mortgage, and the final judgment shall provide for the issuance of a writ of execution to the sheriff of the county wherein the property is situated and the holding of a judicial sale as in the manner of the foreclosure of a mortgage.

q. **Conflict.** In connection with the foreclosure of the right of redemption, in the event of any conflict between this act and any other law relating to the foreclosure of the right of redemption, this act shall be given precedence over the other law or laws.

r. **Recovery of Fees and Expenses.** To the extent permitted by law, in connection with the foreclosure of tax liens, the corporation or its designee shall have the right to recover attorneys' fees and disbursements incurred relating to the foreclosure at the time such fees and disbursements are incurred, together with the expenses of the sale.

s. **Evidence of Payments of Subsequent Tax Liens at Foreclosure.** Notwithstanding R.S.54:5-99, in connection with the foreclosure of tax liens, the corporation or its designee shall produce evidence that all subsequent tax liens on the related land have been paid in full at the

time a foreclosure judgment shall be entered. The evidence shall not be required to be produced at the commencement of a foreclosure procedure.

C.52:27BBB-71 Powers of the corporation.

6. The corporation also shall have the power to and be authorized to:
 - a. sue and be sued;
 - b. have a seal and alter the same at its pleasure;
 - c. make and alter by laws 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, indentures, bond purchase agreements, tax regulatory agreements, continuing disclosure agreements, servicing 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, in such manner as the corporation may determine, the services of financial advisors and experts, servicers, contractors, real estate agents, property maintenance contractors, custodians, placement agents, underwriters, appraisers and such other advisors, auditors, 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 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, transfer, assign or pledge all or any part of the tax liens 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 securities;
 - l. (1) enter into any ancillary facility with any person under such terms and conditions as the corporation 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. establish, create or otherwise form and control one or more trusts or other single purpose entities to facilitate the purchase of tax liens and the issuance of tax lien collateralized securities;
 - n. acquire, hold and dispose of real and personal property for its corporate purposes;
 - o. cancel, reduce or compromise any taxes, penalties or interest secured by tax liens sold pursuant to this act or extend the time for payment thereof; provided, however, that in the event such reduction causes the principal sum of any taxes secured by the tax liens to fall below the fair market value of the underlying property, the corporation shall obtain the approval of the board prior to such reduction; and
 - p. 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.52:27BBB-72 Issuance of securities.

7. a. The corporation shall have the power and is hereby authorized from time to time to issue securities in 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 a qualified municipality's tax liens pursuant to section 5 of this act and the payment of or provision for financing costs.

(1) The issuance of securities shall be authorized by a corporation resolution. Other than the express written consent 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 a qualified municipality 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, in whole or in part, by a pledge of encumbered tax liens or other assets, or both, including, without limitation, those proceeds of the securities deposited in a reserve fund for the benefit of the owners of the securities, earnings on funds of the corporation and other funds as may become available, as specified by the corporation in the corporation resolution pursuant to which the securities are issued or in a related trust agreement, indenture or sale agreement.

(2) The corporation may issue securities to refund any securities by the issuance of new securities, whenever it deems refunding expedient, whether the securities to be refunded have or have not matured, and may 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 the 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 tax 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 the 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 a qualified municipality. If any officer whose signature or a facsimile thereof appears on any securities shall cease to be the officer before the delivery of the securities, the signature or facsimile shall nevertheless be valid and sufficient for all purposes as if he or she had remained in office until 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, interest 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 may sell the securities in any manner, either at public or private sale and on either a competitive or negotiated basis. The proceeds of the securities shall be disbursed for the purposes for which the securities were issued as the act, the sale agreement and the corporation resolution authorizing the issuance of the securities or the related trust agreement or 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 the pledge without any physical delivery thereof or further act, and the lien of the 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 the parties have notice thereof. Notwithstanding any other provision of law to the contrary, neither the corporation resolution nor any trust agreement or indenture or other instrument by which a pledge is created, or by which the corporation's interest in the encumbered tax liens, reserves or earnings thereon or in properties acquired by the corporation as a result of the foreclosure or other liquidation of tax liens 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, by accepting the security shall be conclusively deemed to have agreed that the security 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 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. A trust agreement or indenture or corporation resolution providing for the issuance of 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 tax liens and residual interests. The trust agreement, indenture or corporation resolution may contain provisions respecting the servicing of the tax liens, 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 trust agreement or 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 to facilitate the issuance, sale, resale, purchase, repurchase or payment of securities. The determination of the corporation that an ancillary facility or the amendment or termination thereof is necessary or appropriate as aforesaid shall be conclusive. The 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. 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.

8. The securities and any ancillary facility shall not be a debt or liability of the State, a qualified municipality or any agency or instrumentality of either 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 a qualified municipality (excluding a qualified municipality's obligation, if any, to repurchase or substitute for a tax lien pursuant to the terms set forth in the sale agreement), 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.

C.52:27BBB-74 Tax exemptions.

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 a qualified municipality and for the improvement of financial security of a qualified municipality, 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 all State 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 and the properties and income thereon acquired and held by the corporation or its designee as a result of the foreclosure or other liquidation of tax liens 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 exempt from federal and State (personal and corporate) income tax, the corporation may prescribe restrictions on the use of the proceeds thereof and related matters as may be necessary to assure such exemption, if any, and the recipients of such proceeds shall then be bound thereby to the extent such restrictions shall be made applicable to them. Any such recipient, including without limitation, a qualified municipality, is authorized to execute a tax regulatory agreement with the corporation and the execution of such an agreement may be treated as a condition to receiving any such proceeds.

C.52:27BBB-75 State pledges, agreements with parties.

10. a. The State hereby pledges and agrees with the corporation, 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) not limit or alter the rights of the corporation to fulfill the terms of its agreements with the owners or benefitted parties and (2) not in any way impair the rights and remedies of the owners or benefitted parties or the security for the securities or ancillary facilities. The State 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 the 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 this 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.52:27BBB-76 Immunity.

11. 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.52:27BBB-77 Rules, regulations.

12. The corporation may adopt any rule and regulation 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.52:27BBB-78 Liberal construction.

13. 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, the 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 the judgment shall have been rendered.

C.52:27BBB-79 Title 54 unaffected; precedence of act.

14. Title 54 of the Revised Statutes shall remain in full force and effect. In the event of any conflict between this act and Title 54 of the Revised Statutes, this act shall be given precedence over such other law.

15. This act shall take effect immediately.

Approved July 1, 2003.