

## **ARTICLE 12. CASINO REINVESTMENT DEVELOPMENT AUTHORITY**

### **5:12-153 Casino Reinvestment Development Authority**

a. There is established in, but not of, the Department of the Treasury a Casino Reinvestment Development Authority to consist of the following members:

(1) Six members appointed by the Governor with the advice and consent of the Senate for terms of four years, except that of the initial members to be appointed pursuant to this 1991 amendatory act, P.L.1991, c.219, one shall be appointed for a term of two years, and one for a term of four years;

(2) Two members appointed by the Governor upon the recommendation of the President of the Senate for a term of four years;

(3) Two members appointed by the Governor upon the recommendation of the Speaker of the General Assembly for a term of four years;

(4) A member of the Casino Control Commission, who shall be appointed by the Governor and shall be a voting member of the authority;

(5) The mayor of Atlantic City, ex officio and voting;

(6) The Attorney General and the State Treasurer, ex officio and voting;

(7) Two casino industry representatives, both of whom shall be voting members, appointed by the Governor for terms of two years, except that of the initial appointees, one shall serve for a term of one year and one for a term of two years. No person shall be reappointed to succeed himself as a casino industry representative member, and no person appointed shall be an employee, officer or agent of the same casino licensee as the person whom he succeeds as a casino industry representative member; and

(8) One member appointed by the Governor to serve ex officio as a voting member, who shall be either the Commissioner of the Department of Commerce and Economic Development or the Commissioner of the Department

of Community Affairs, or the Governor may appoint, in lieu thereof, an additional member of the Casino Control Commission as a voting member.

No more than four of the voting members appointed by the Governor pursuant to paragraph (1) of this subsection shall be of the same political party.

In the appointment of members of the authority, consideration should be given to achieving a membership of high quality and varied experience, with special emphasis on the fields of banking, finance, investment, and housing and urban development.

b. Each member appointed by the Governor shall hold office for the term of his appointment and until his successor shall have been appointed and qualified. A member shall be eligible for reappointment. Any vacancy in the membership occurring other than by expiration of term shall be filled in the same manner as the original appointment but for the unexpired term only.

c. The member or members of the Casino Control Commission appointed by the Governor shall serve as a member or members of the Casino Reinvestment Development Authority at the pleasure of the Governor, subject to the limitations in subsections c., f., and h. of section 52 of P.L.1977, c.110 (C.5:12-52). Such a member may be removed or suspended from office as a member of the Casino Reinvestment Development Authority as provided in section 6 of this act. Any removal or suspension from office of a member of the Casino Control Commission from the Casino Reinvestment Development Authority shall not affect his office held as a member of the Casino Control Commission. Removal from office as a member of the Casino Control

Commission may only be done in accordance with subsection g. of section 52 of P.L.1977, c.110 (C.5:12-52).

L.1984, c.218, § 5, eff. Dec. 19, 1984.

Amended by:

L.1991, c.219, § 1, eff. July 26, 1991.

L.1993, c.159, §10, eff. June 20, 1993.

L.1996, c.118, § 4, eff. Sept. 16, 1996.

L.2004, c.129, §11, eff. Aug. 25, 2004.

### **5:12-154 Removal of members; oath of office**

Each appointed member may be removed from office by the Governor for cause, after a public hearing, and may be suspended by the Governor pending the completion of that hearing. Each member before entering upon his duties shall take and subscribe an oath to perform the duties of his office faithfully, impartially and justly to the best of his ability. A record of those oaths shall be filed in the office of the Secretary of State.

L.1984, c.218, §6, eff. Dec. 19, 1984.

### **5:12-155 Officers; quorum**

The Governor shall designate, from among the appointed and voting public members, a chairman and a vice chairman of the Casino Reinvestment Development Authority, who shall serve in those capacities at the pleasure of the Governor. The powers of the Casino Reinvestment Development Authority shall be vested in the members thereof in office from time to time and nine voting members of the Casino Reinvestment Development Authority shall constitute a quorum at any meeting thereof. Action may be taken by motions and resolutions adopted by the Casino Reinvestment Development Authority at any meeting thereof by the affirmative vote of at least nine members of the Casino Reinvestment Development Authority. No vacancy in the membership of the Casino Reinvestment Development Authority shall impair the right of a

quorum of the members to exercise all the powers and perform all the duties of the Casino Reinvestment Development Authority.

L.1984, c.218, § 7, eff. Dec. 19, 1984.

Amended by:

L.1990, c. 24, § 1, eff. May 17, 1990.

L.1991, c.219, § 2, eff. July 26, 1991.

L.1995, c. 18, §42, eff. Jan. 25, 1995.

L.1996, c.118, § 5, eff. Sept. 16, 1996.

L.2004, c.129, §12, eff. Aug. 25, 2004.

### **5:12-156 Compensation of public members; reimbursement**

Each appointed and voting public member of the Casino Reinvestment Development Authority other than the chairman shall receive compensation of \$18,000.00 per annum. The compensation of the chairman shall be \$23,000.00 per annum. The casino industry representatives shall not be deemed to be public members and shall not receive this compensation. All members shall be reimbursed for actual expenses necessarily incurred in the discharge of their duties. Notwithstanding the provisions of any other law, no officer or employee of the State shall be deemed to have forfeited or shall forfeit his office or employment, or any benefits or emoluments thereof by reason of his acceptance of the office of an ex officio or appointed member of the Casino Reinvestment Development Authority or his services therein. Upon enactment of P.L.2011, c.18 (C.5:12-218 et al.), any member of the authority, reappointed upon expiration of the member's initial term, shall be eligible to receive compensation pursuant to this section; provided, however, that any such member shall not, upon reappointment, be eligible to receive

any benefit or compensation in the form of health benefits or pension credits for service with the Casino Reinvestment Development Authority.

L.1984, c.218, § 8, eff. Dec. 19, 1984.

Amended by:

L.1991, c.219, § 3, eff. July 26, 1991.

L.1993, c.292, §36, eff. Dec. 21, 1993.

L.2011, c. 18, § 2, eff. Feb. 1, 2011.

### **5:12-157 Designation of representatives to attend meetings**

The Attorney General and the State Treasurer, and, where appropriate, the Commissioner of the Department of Commerce and Economic Development or the Commissioner of the Department of Community Affairs, may designate an officer or employee of their respective departments, and the Casino Control Commission member or members on the Casino Reinvestment Development Authority may designate another commissioner or employee of the commission to represent them at meetings of the Casino Reinvestment Development Authority, and each designee may lawfully vote and otherwise act on behalf of the member for whom he constitutes the designee. Any designation shall be in writing delivered to the Casino Reinvestment Development Authority and shall continue in effect until revoked or amended by writing delivered to the Casino Reinvestment Development Authority.

L.1984, c.218, §9, eff. Dec. 19, 1984.

Amended by:

L.1991, c.219, §4, eff. July 26, 1991.

L.1996, c.118, §6, eff. Sept.16, 1996.

### **5:12-158 Interests prohibited**

Other than any casino hotel industry representatives, no member, officer, employee or agent of the Casino Reinvestment Development Authority shall be interested either directly or indirectly in any project or in any contract, sale, purchase, lease or transfer of real or personal property to which the

Casino Reinvestment Development Authority is a party. Any casino hotel industry representatives appointed shall not be subject to section 4 of P.L.1981, c.142 (C 52:13D-17.2).

L.1984, c.218, §10, eff. Dec. 19, 1984.

Amended by:

L.1991, c.219, § 5, eff. July 26, 1991.

### **5:12-159 Dissolution of authority; conditions**

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

L.1984, c.218, §11, eff. Dec. 19, 1984.

### **5:12-160 Purposes of authority**

The purposes of the Casino Reinvestment Development Authority shall be:

a. to maintain public confidence in the casino gaming industry as a unique tool of urban redevelopment for the city of Atlantic City and to directly facilitate the redevelopment of existing blighted areas and to address the pressing social and economic needs of the residents of the city of Atlantic City and the State of New Jersey by providing eligible projects in which licensees shall invest;

b. to provide licensees with an effective method of encouraging new capital investment in Atlantic City which investment capital would not otherwise be attracted by major casino-hotel convention complexes or by normal market conditions and which will not supplant capital, either public or private, that would otherwise be invested in the city of Atlantic City or in the jurisdiction in which the investment is to be made and which will have

the effect of benefiting the public at large and increasing opportunities and choices of those of low and moderate income in particular;

c. to provide, further and promote tourist industries in New Jersey and especially Atlantic county, by providing financial assistance for the planning, acquisition, construction, improvement, maintenance and operation of facilities for the recreation and entertainment of the public which may include an arts center, cultural center, historic site or landmark, or sports center;

d. to provide loans and other financial assistance for the planning, acquisition, construction, reconstruction, demolition, rehabilitation, conversion, repair or alteration of buildings or facilities to provide decent, safe and sanitary dwelling units for persons of low, moderate, median range, and middle income in need of housing, and to provide mortgage financing for such units;

e. to assist in the financing of structures, franchises, equipment and facilities for operation of, expansion of and the development of public transportation or for terminal purposes, including but not limited to development and improvement of port terminal structures, facilities and equipment for public use;

f. to provide loans and other financial assistance for the construction, reconstruction, demolition, rehabilitation, conversion, repair or alteration of convention halls in Atlantic county and the State of New Jersey, including but not limited to office facilities, commercial facilities, community service facilities, parking facilities, hotel facilities and other facilities for the accommodation and entertainment of tourists and visitors;

g. to make loans and assist in the financing of the construction, reconstruction, rehabilitation, repair or acquisition of infrastructure projects, including but not limited to sewage disposal facilities, water facilities, solid waste disposal facilities, roads, highways and bridges;

h. to assist in financing buildings, structures and other property to increase opportunities in manufacturing, industrial, commercial, recreational, retail and service enterprises in the State so as to induce and to accelerate opportunity for employment in these enterprises, particularly of unemployed and underemployed residents of the jurisdiction in which the investment is to be made; to provide loans and other financial assistance for the planning, developing or preservation of new and existing small businesses as well as the planning, acquisition, construction, reconstruction, rehabilitation, conversion or alteration of the facilities that house these enterprises, particularly those which provide services or employment to unemployed or underemployed residents of the State; and to provide loans and other financial assistance to provide employment training and retraining, particularly for unemployed and underemployed residents of the State;

i. to cooperate with and assist local governmental units in financing any eligible project;

j. to encourage investment in, or financing of, any plan, project, facility, or program which directly serves pressing social and economic needs of the residents of the jurisdiction or region in which the investment is to be made, including but not limited to supermarkets, commercial establishments, day care centers, parks and community service centers, and any other plan, project, facility or program which best serves the interest of the public in accordance with section 25 (C.5:12-173) of this 1984 amendatory and supplementary act;

k. to encourage investment in, or financing of, projects which are made as part of a comprehensive plan to improve blighted or redevelopment areas or are targeted to benefit low through middle income residents of the jurisdiction or region in which the investments are to be made;

l. to make loans for those eligible projects according to the projected allocated amounts to be available;

- m. to establish and exercise authority over the Atlantic City Tourism District pursuant to the provisions of P.L.2011, c.18 (C.5:12-218 et al.); and
- n. any combination of the foregoing.

L.1984, c.218, §12, eff. Dec. 19, 1984.

Amended by:

L.2011, c. 18, § 3, eff. Feb. 1, 2011.

### **5:12-161 Powers of authority**

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 cooperative purchasing agreements for the purchase of fuel, or other goods or services deemed necessary, convenient,

or desirable by a majority vote of the members of the Casino Reinvestment Development Authority, 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 establish and exercise authority over the Atlantic City Tourism District established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and, in addition to the powers provided in this section, to exercise, with regard to the tourism district, those powers granted to the authority pursuant to P.L.2011, c.18 (C.5:12-218 et al.);

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

s. 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.

L.1984, c.218, §13, eff. Dec. 19, 1984.

As amended:

L.2001, c.221, §15, eff. Aug. 24, 2001.

L.2011, c. 18, § 4, eff. Feb. 1, 2011.

L.2013, c. 4, § 1, eff. Jan. 14, 2013.

### **5:12-161.1 Atlantic City Fund, established in CRDA**

There is created and established in the Casino Reinvestment Development Authority a special account to be known as the "Atlantic City Fund," into which shall be deposited or credited the moneys specified in section 45 of P.L.1995, c.18 (C.5:12-161.2), and the moneys specified in subsection f. of section 3 of P.L.1984, c.218 (C.5:12-144.1). The moneys in the fund shall be expended by the authority for economic development projects that foster the redevelopment of Atlantic City. The provisions of section 30 of P.L.1984, c.218

(C.5:12-178) shall not apply to investments made out of the Atlantic City Fund for projects to revitalize the boardwalk. The moneys may also be expended for appropriate and reasonable administrative expenses incurred in the administration of the fund by the authority. At least 30 days before the authority votes on an application for funding for a project, the authority shall provide to the Chairpersons of the Senate Budget and Appropriations Committee and the Assembly Appropriations Committee, or their successor committees, all relevant information concerning the project.

L.1995, c. 18, §44, eff. Jan. 25, 1995.

Amended by:

L.2004, c.129, § 3, eff. Aug. 25, 2004.

### **5:12-161.2 Moneys payable to the Atlantic City Fund; casino shares**

a. Beginning with Fiscal Year 1995-1996 and for the following three fiscal years, if the amount of money expended as operating expenses by the Casino Control Commission and the Division of Gaming Enforcement in each of those fiscal years is less than \$57,300,000, the amount of the difference shall be due and payable to the Atlantic City Fund, created by section 44 of this amendatory and supplementary act, P.L.1995, c.18 (C.5:12-161.1), by all casino licensees on the last day of October following the end of each of those fiscal years. Beginning with Fiscal Year 1999-2000 and for the following three fiscal years, an amount equal to the average of the amounts paid to the Atlantic City Fund for Fiscal Years 1995-1996 through 1998-1999 shall be due and payable to the Atlantic City Fund by all casino licensees on the last day of October following the end of each of those fiscal years. Any amount expended by the commission or the division in connection with the investigation of an application for a statement of compliance, interim casino authorization, or a casino license other than a casino license existing on the effective date of this act shall not be included in the calculation of the commission and division expenditures for the purposes of this subsection.

b. Each casino licensee shall pay to the authority for deposit in the fund as the licensee's share of the amount required pursuant to subsection a. of this section an amount equal to its percentage of the total gross revenue of the relevant fiscal year. The amount of the gross revenue and the amount due from each licensee shall be determined and certified by the Casino Control Commission. If a licensee fails to pay the amount due or underpays by an unjustifiable amount, the commission shall impose a fine of 5% for the amount due or of the underpayment for each month or portion thereof the licensee is in default of payment, up to 25% of the amount in default; any fines imposed shall be paid to the authority for deposit in the fund.

L.1995, c.18, §45, eff. Jan. 25, 1995.

**5:12-161.3 Prevailing wage rate for workers employed on projects with Casino Redevelopment Authority involvement**

Each worker employed in the construction or rehabilitation of facilities undertaken in connection with loans, loan guarantees, expenditures, investments, tax exemptions or other incentives or financial assistance approved, provided, authorized, facilitated or administered by the Casino Reinvestment Development Authority, or undertaken to fulfill any condition of receiving any of the incentives or financial assistance, shall be paid not less than the prevailing wage rate for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.).

The Commissioner of Labor and Workforce Development shall determine the prevailing wage rate in the locality in which the construction or rehabilitation is to be performed for each craft, trade or classification of worker employed in the construction or rehabilitation, as if the construction or rehabilitation is "public work" as defined in section 2 of P.L.1963, c.150 (C.34:11-56.26).

L.2004, c.127, §1, eff. Aug. 23, 2004.

#### **5:12-161.4 Exercise of rights, powers or duties**

For the purpose of implementing the provisions of sections 1 through 3 of this act, the Commissioner of Labor and Workforce Development shall, and a worker employed in the performance of work subject to this act or the employer or any designated representative of the worker may, exercise all rights, powers or duties granted or imposed upon them by P.L.1963, c.150 (C.34:11-56.25 et seq.).

L.2004, c.127, §2, eff. Aug. 23, 2004.

#### **5:12-161.5 Prevailing wage rules, regulations, adoption by Casino Reinvestment Development Authority**

The Casino Reinvestment Development Authority shall, in consultation with the Commissioner of Labor and Workforce Development, adopt rules and regulations, consistent with the rules and regulations adopted by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.), requiring that not less than the prevailing wage be paid to workers employed in the construction or rehabilitation of facilities undertaken in connection with loans, loan guarantees, expenditures, investments, incentives or other financial assistance provided, authorized or administered by the authority. The prevailing wage rate shall be the rate determined by the Commissioner of Labor and Workforce Development pursuant to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.).

L.2004, c.127, §3, eff. Aug. 23, 2004.

#### **5:12-161.6 Inapplicability of C.5:12-161.3 through C.5:12-161.5**

The provisions of sections 1 through 3 of this act shall not apply to construction and rehabilitation of facilities conducted entirely under contracts entered into prior to the effective date of this act or to the refinancing of the outstanding debt on projects in which all construction or rehabilitation of

facilities was conducted under contracts entered into prior to the effective date of this act.

L.2003, c.127, §4, eff. Aug. 23, 2004.

### **5:12-162 Bonds**

a. The Casino Reinvestment Development Authority shall have the power and is authorized from time to time to issue its bonds to licensees in principal amounts as in the opinion of the Casino Reinvestment Development Authority shall be necessary to provide sufficient funds for achieving any of its corporate purposes, or for the payment, funding or refunding of the principal of, or interest or redemption premiums on, any bonds issued by it, whether the bonds or interest to be funded or refunded have or have not become due, the establishment or increase of reserves to secure or to pay the bonds or interest thereon, and all other costs or expenses of the Casino Reinvestment Development Authority incident to and necessary or convenient to carry out its corporate purposes and powers.

b. A contract for purchase of Casino Reinvestment Development Authority bonds entered into pursuant to sections 3 and 13 of this 1984 amendatory and supplementary act shall provide that an investment for any tax credit shall be paid by the licensee to the Casino Reinvestment Development Authority upon entering into the contract or at any other times specified in the contract but not later than April 30 of each year. The Casino Reinvestment Development Authority shall invest any moneys so received as provided in subsection m. of section 13 of this 1984 amendatory and supplementary act until such time as the Casino Reinvestment Development Authority determines what projects it will invest in or what other investments it will make and issues its bonds to the licensees to finance those projects or investments.

c. Except as may be otherwise expressly provided herein or by the Casino Reinvestment Development Authority, every issue of bonds shall be

general obligations payable out of any moneys or revenues of the Casino Reinvestment Development Authority, subject only to any agreements with the holders of particular bonds pledging any particular moneys or revenues, but interest on the bonds shall not be payable out of proceeds of bonds issued by the Casino Reinvestment Development Authority. The Casino Reinvestment Development Authority may issue the types of bonds as it may determine, including but not limited to bonds on which the principal and interest are payable (1) exclusively from the income and revenues of certain designated projects, whether or not they are financed in whole or in part with the proceeds of those bonds or (2) from its revenues generally.

d. Bonds of the Casino Reinvestment Development Authority shall be authorized by or in accordance with a resolution of the Casino Reinvestment Development Authority and may be issued in one or more series and shall bear dates, mature at times not exceeding 50 years from the date thereof, bear interest at the rates specified in this subsection, be in denominations, be in registered form only, have a rank or priority, be executed in a manner, be payable from sources in a medium of payment at places within or without the State, and be subject to terms of redemption, with or without premium, as the resolution may provide. The bonds issued by the authority shall bear interest at the rate of 7% for those bonds issued for purchase by a licensee to satisfy the requirements of subsection h. of section 144 of P.L.1977, c.110 (C.5:12-144) and at the rate of  $66 \frac{2}{3}$  of the average rate of the Bond Buyer Weekly 25 Revenue Bond Index for bonds available for purchase during the last 26 weeks preceding the date the Casino Reinvestment Development Authority issues its bonds to a licensee to satisfy the requirements of subsection b. of section 3 of this 1984 amendatory and supplementary act. Notwithstanding the provisions of section 19 of this 1984 amendatory and supplementary act, if, however, for bonds issued by the Casino Reinvestment Development Authority to satisfy the requirements of subsection b. of section 3 of this 1984 amendatory and supplementary act, either (1) the Casino Reinvestment Development Authority,

pursuant to section 17 of this 1984 amendatory and supplementary act, consents, on any of its bonds being issued, to the inclusion of interest, or (2) the Internal Revenue Service determines that any of the interest on any of the bonds issued by the Casino Reinvestment Development Authority must be included in the gross income of holders of those bonds under the Internal Revenue Code of 1954, as amended, or any subsequent federal law, to the same extent and in the same manner as the interest on bills, notes, bonds and other obligations of the United States, then those bonds issued by the authority shall bear interest at the rate of  $66 \frac{2}{3}$  of the average rate of Moody's A-rated Utility Index for bonds available for purchase during the last 26 weeks preceding the date the Casino Reinvestment Development Authority issues its bonds to a licensee to satisfy the requirements of subsection b. of section 3 of this 1984 amendatory and supplementary act. The written approval of the State Treasurer shall be obtained before the Casino Reinvestment Development Authority adopts any bond resolution or supplement to a bond resolution.

e. Interest earned on bonds issued by the Casino Reinvestment Development Authority shall be paid annually. If, however, a licensee enters into a long-term contract with the Casino Reinvestment Development Authority pursuant to subsection b. of section 3 of this 1984 amendatory and supplementary act, in which the licensee agrees to purchase bonds issued by the Casino Reinvestment Development Authority in each year for a period of at least 10 continuous years, the contract shall provide for the payment of interest earned on the bonds quarterly or at any other time agreed upon by the licensee and the Casino Reinvestment Development Authority.

f. Whether or not bonds of the Casino Reinvestment Development Authority are of the form and character as to be negotiable instruments under the terms of Title 12A of the New Jersey Statutes, the bonds are made negotiable instruments within the meaning of and for all the purposes of Title 12A of the New Jersey Statutes, subject only to the provisions of the bonds for registration.

g. Bonds of the Casino Reinvestment Development Authority may be sold at prices as the Casino Reinvestment Development Authority shall determine. Bonds of the Casino Reinvestment Development Authority may be sold at less than the current market rate of return but not less than the rate specified in subsection c. of this section.

h. Bonds may be issued by the Casino Reinvestment Development Authority under the provisions of this act, without obtaining the consent of any department, division, commission, board, bureau or other agency of the State, and without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions or things which are specifically required by this act.

i. Bonds of the Casino Reinvestment Development Authority issued under the provisions of this act shall not be in any way a debt or liability of the State or of any political subdivision thereof other than the Casino Reinvestment Development Authority and shall not create or constitute any indebtedness, liability or obligation of the State or of any of its political subdivisions or be or constitute a pledge of the faith and credit of the State or of any of its political subdivisions, but all the bonds, unless funded or refunded by bonds, shall be payable solely from revenues or funds pledged or available for their payment as authorized in this act. Each bond shall contain on its face a statement to the effect that the Casino Reinvestment Development Authority is obligated to pay the principal thereof or in interest thereon only from revenues or funds of the Casino Reinvestment Development Authority, that neither the State nor any political subdivision thereof is obligated to pay the principal or interest, and that neither the faith and credit nor the taxing power of the State or any political subdivision thereof is pledged in the payment of the principal of or the interest on the bonds.

j. As an alternative to bonds issued by the Casino Reinvestment Development Authority, the Casino Reinvestment Development Authority may, in its sole discretion, offer for purchase by licensees bonds of the State of New

Jersey, any political subdivision thereof, or any authority created by the State or any political subdivision thereof, as a means of fulfilling any investment obligation required of a licensee, provided those bonds fulfill the purposes of the Casino Reinvestment Development Authority and are in accordance with the requirements established pursuant to this section. A licensee may purchase such bonds through the Casino Reinvestment Development Authority only after approval by and in the sole discretion of the Casino Reinvestment Development Authority.

k. All expenses incurred in carrying out the provisions of this act shall be payable solely from revenues or funds provided or to be provided under the provisions of this act and nothing in this act shall be construed to authorize the Casino Reinvestment Development Authority to incur any indebtedness or liability on behalf of or payable by the State or any political subdivision thereof.

L.1984, c.218, §14, eff. Dec. 19, 1984.

### **5:12-162.1 Issuance of bond, notes, other obligations**

a. In addition to the authorization contained in any other statutory provisions relating to the issuance or sale of bonds, notes or other obligations by the Casino Reinvestment Development Authority, the authority may, upon written approval from the State Treasurer, from time to time issue bonds, notes or other obligations which are to be payable in all or part from any present or future funds, moneys, income or revenues of the authority from any source whatsoever. At least 14 days before the members of the authority approve the issuance or sale of bonds, notes or other obligations, the authority shall submit to the President of the Senate and the Speaker of the General Assembly a proposed plan of finance for such sale or issuance. The authority is authorized to issue its bonds, notes or other obligations in such principal amounts as shall be necessary to provide sufficient funds to finance eligible projects of the authority, and to pay, fund, or refund any bonds, notes or other obligations issued by it, whether the bonds, notes or other obligations to be funded or

refunded have or have not become due or to pay for the administrative costs of the authority.

b. The bonds or notes or other obligations may be additionally secured by a pledge of any grant or contribution from the federal government or any State or any agency or public subdivision thereof or any person or a pledge of any other funds, moneys, income or revenues of the authority from any source whatsoever. The authority may also enter into bank loan agreements, lines of credit or bond insurance, bond purchase agreements and other security agreements and obtain for or on its behalf letters of credit in each case for the purpose of securing its bonds, notes or other obligations or to provide direct payment of any costs which the authority is authorized to pay by this act and to secure repayment of any borrowings under the loan agreement, line of credit, letter of credit, bond insurance or other security agreement by its bonds, notes or other obligations or the proceeds thereof or by any or all of the moneys, income or revenues of the authority pledged to the payment of the bonds or by any appropriation, grant or reimbursement to be received by the authority and other moneys or funds as the authority shall determine.

c. Any provision of any law to the contrary notwithstanding, any bond or note issued pursuant to this act shall be fully negotiable within the meaning and for all purposes of the negotiable instruments law of the State, and each holder or owner of a bond or note, or of any coupon appurtenant thereto, by accepting the bond, note or coupon shall be conclusively deemed to have agreed that the bond, note or coupon is and shall be fully negotiable within the meaning and for all purposes of the negotiable instruments law.

d. Bonds or notes or other obligations of the authority shall be authorized by resolution of the authority and may be issued in one or more series and shall bear the date or dates, mature at the time or times not exceeding 50 years from the date thereof, bear interest at a rate or rates, as shall be determined by the authority, shall be in the denomination or denominations, be in the form, either bearer or registered, carry the conversion

or registration privileges, have the rank or priority, be executed in the manner, be payable from the sources in the medium of payment at the place or places within or without the State, and be subject to the terms of redemption, with or without premium, as the resolution or resolutions may provide.

e. Bonds or notes of the authority may be sold at public or private sale at the price or prices as the authority shall determine.

f. Any resolution authorizing the issuance of bonds or refunding bonds pursuant to this section may also provide for the authority to enter into any revolving credit agreement, agreement establishing a line of credit or letter of credit, reimbursement agreement, interest rate exchange 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 contracts, surety bonds, commitments to purchase or sell bonds, purchase or sale agreements, or commitments or other contracts or agreements and other security agreements approved by the authority in connection with the issuance of the bonds or refunding bonds pursuant to this section. The authority's payment obligations under any such agreements may be secured by and payable from any or all of the moneys, income or revenues of the authority pledged to the payment of the bonds or by any appropriation, grant or reimbursement to be received by the authority and other moneys or funds as the authority shall determine.

g. The authority is authorized to engage the services of financial advisors and experts, placement agents, underwriters, appraisers, and other advisors, consultants and agents as may be necessary to effectuate the financing of eligible projects of the authority.

h. Bonds and refunding bonds issued by the authority pursuant to this section shall be special and limited obligations of the authority payable from, and secured by, the funds, moneys, income or revenues of the authority so specified in accordance with this section. Neither the members of the authority nor any other person executing the bonds or refunding bonds shall be

personally liable with respect to payment of principal, interest or redemption premium on the bonds or refunding bonds. Bonds or refunding bonds issued pursuant to this section shall not be a debt or liability of the State or any political subdivision thereof, other than the authority, or any agency or instrumentality thereof, except as otherwise provided by this subsection, either legal, moral or otherwise, and nothing contained in this act shall be construed to authorize the authority to incur any indebtedness on behalf of or in any way to obligate the State or any political subdivision thereof, and all bonds and refunding bonds issued by the authority shall contain a statement to that effect on their face.

i. The State of New Jersey hereby covenants with the purchasers, holders and owners, from time to time, of any bonds, notes or other obligations secured in all or part from any funds, moneys, income or revenues of the authority that it shall not repeal or reduce any fees, charges or other sources of revenue securing such bonds while bonds entitled to benefits from such fees, charges or other sources of revenue so imposed are outstanding, and shall not modify or amend the provisions of any law, so as to create any lien or charge on, or any pledge, assignment, diversion, withholding payment or otherwise of or deduction from the funds, moneys, income or revenues of the authority securing such bonds which is prior in time or superior in right to any payments required to be made pursuant to any bond covenants entered into with the purchasers, holders and owners of the bonds so secured.

j. In any resolution of the authority authorizing or relating to the issuance of bonds or notes or other obligations pursuant this act, the authority, in order to secure the payment of the bonds or notes or other obligations and in addition to its other powers, shall have power by provisions therein which shall constitute covenants by the authority and contracts with the holders of the bonds or notes or other obligations:

(1) To pledge to any payment or purpose all or any part of its revenues to which its right then exists or may thereafter come into existence,

and the moneys derived therefrom and the proceeds of any bonds or notes or other obligations.

(2) To covenant against pledging all or any part of its revenues, or against mortgaging all or any part of its real or personal property then owned or thereafter acquired, or against permitting or suffering any lien on its revenues or property.

(3) To covenant with respect to limitations on any right to sell, lease or otherwise dispose of any project or any part thereof or any property of any kind.

(4) To covenant as to any bonds and notes to be issued and the limitations thereon and the terms and conditions thereof and as to the custody, application, investment and disposition of the proceeds thereof.

(5) To covenant as to the issuance of additional bonds or notes or other obligations or as to limitations on the issuance of additional bonds or notes and on the incurring of other debts by the authority.

(6) To covenant as to the payment of the principal of or interest on the bonds or notes or any other obligations, as to the sources and methods of that payment, as to the rank or priority of any bonds, notes or other obligations with respect to any lien or security or as to the acceleration of the maturity of any bonds, notes or obligations.

(7) To provide for the replacement of lost, stolen, destroyed or mutilated bonds or notes.

(8) To covenant against extending the time for the payment of bonds or notes or interest thereon.

(9) To covenant as to the redemption of bonds or notes or other obligations and privileges of exchange thereof for other bonds or notes or other obligations of the authority.

(10) To covenant to create or authorize the creation of special funds or moneys to be held in pledge or otherwise for construction, operating expenses, payment or redemption of bonds or notes or other obligations,

reserves or other purposes and as to the use and disposition of the moneys held in the funds.

(11) To establish the procedure, if any, by which the terms of any contract or covenant with or for the benefit of the holders of bonds or notes or other obligations may be amended or abrogated, the amount of bonds or notes the holders of which must consent thereto, and the manner in which the consent may be given.

(12) To covenant as to the construction, operation or maintenance of real property and personal property, the replacement thereof, the insurance to be carried thereon, and the use and disposition of insurance moneys.

(13) To provide for the release of property, leases or other agreements, or revenues and receipts from any pledge or mortgage and to reserve rights and powers in, or the right to dispose of, property which is subject to a pledge or mortgage.

(14) To mortgage all or any part of its property, real or personal, then owned or thereafter to be acquired.

(15) To provide for the rights and liabilities, powers and duties arising upon the breach of any covenant, condition or obligation and to prescribe the events of default and the terms and conditions upon which any or all of the bonds, notes or other obligations of the authority shall become or may be declared due and payable before maturity and the terms and conditions upon which any declaration and its consequences may be waived.

(16) To vest in a trustee or trustees within or without the State such property, rights, powers and duties in trust as the authority may determine and to limit the rights, powers and duties of the trustee.

(17) To pay the costs or expenses incident to the enforcement of the bonds or notes or other obligations or of the provisions of the resolution or of any covenant or agreement of the authority with the holders of its bonds or notes.

(18) To limit the rights of the holder of any bonds or notes to enforce any pledge or covenant securing bonds or notes.

(19) To make covenants other than and in addition to the covenants herein expressly authorized, of like or different character, and to make the covenants to do or refrain from doing any acts and things as may be necessary, or convenient and desirable, in order to better secure bonds or notes or other obligations or which, in the absolute discretion of the authority, will tend to make bonds or notes or other obligations more marketable, notwithstanding that the covenants, acts or things may not be enumerated herein.

L.2004, c.129, §4, eff. Aug. 25, 2004.

### **5:12-163 Resolution authorizing bonds; provisions**

Any resolution of the Casino Reinvestment Development Authority authorizing the issuance or offering of bonds may contain provisions, except as expressly limited in this act and except as otherwise limited by existing agreements with the holders of the bonds, which shall be a part of the contract with the holders thereof, as to the following:

a. The pledging of or creating of a lien on, as security for the payment of the principal and redemption price of and interest on any bonds issued by or offered through the Casino Reinvestment Development Authority, all or any part of its revenues or assets to which the issuing authority's right then exists or may thereafter come into existence, and the moneys derived therefrom, and all or any part of the proceeds of any bonds, and covenanting against pledging all or any part of the revenues, assets, moneys, funds or property, or against permitting or suffering any lien thereon;

b. Otherwise providing for the custody, collection, securing, investment and payment of any revenues, assets, moneys, funds or property of the Casino Reinvestment Development Authority or of the issuing authority, or with

respect to which the Casino Reinvestment Development Authority or the issuing authority may have any rights or interest;

c. The use and disposition of any payments of principal or interest received by the Casino Reinvestment Development Authority or the issuing authority with respect to investments made by the Casino Reinvestment Development Authority or the issuing authority or other income, revenues or receipts of the Casino Reinvestment Development Authority or the issuing authority;

d. The establishment of reserves or sinking funds, and the regulation and disposition thereof;

e. The custody, application and disposition of the proceeds of any bonds;

f. The rank or priority of any bonds with respect to any lien or security or the acceleration of the maturity of any bonds;

g. The creation of special funds or moneys to be held in trust or otherwise for operating expenses, payment or redemption of bonds, reserves against defaults or prepayments of investments made by the Casino Reinvestment Development Authority or the issuing authority or for other purposes, and the use and disposition of the moneys held in these funds;

h. Limitations on the purpose to which the proceeds of sale of bonds may be applied and pledging the proceeds to secure the payment of the bonds;

i. Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, the refunding or purchase of outstanding bonds of the Casino Reinvestment Development Authority or the issuing authority;

j. The procedure, if any, by which the terms of any contract with the holders of any bonds of the Casino Reinvestment Development Authority or the issuing authority may be amended, the amount of bonds the holders of which must consent thereto, and the manner in which the consent may be given;

k. Provision for a trust agreement by and between the Casino Reinvestment Development Authority or the issuing authority and a corporate

trustee, which may be any trust company or bank having the powers of a trust company, within or without the State, which agreement may provide (1) for the pledging or assigning of any assets or income from assets to which or in which the Casino Reinvestment Development Authority or the issuing authority has any rights or interest, (2) for any other rights and remedies exercisable by the trustee as may be proper for the protection of the holders of any bonds of the Casino Reinvestment Development Authority or the issuing authority and not otherwise in violation of the law, and (3) for the restriction of the rights of any individual holder of bonds of the Casino Reinvestment Development Authority or the issuing authority. All expenses incurred in carrying out the provisions of the trust agreement may be treated as a part of the costs of operation of the Casino Reinvestment Development Authority or the issuing authority. The trust agreement may contain any further provisions which are reasonable, to delineate further the respective rights, duties, safeguards, responsibilities and liabilities of the Casino Reinvestment Development Authority or the issuing authority, individual and collective holders of bonds of the Casino Reinvestment Development Authority or the issuing authority, and the trustee;

1. The custody of any of its properties or investments, the safekeeping thereof, the insurance to be carried thereon, and the use and disposition of insurance moneys;

- m. The time or manner of enforcement or restraint from enforcement of any rights of the Casino Reinvestment Development Authority or the issuing authority, arising by reason of or with respect to nonpayment of principal or interest with respect to investments made by the Casino Reinvestment Development Authority or the issuing authority or any rights to or security interest in the collateral securing the investments made by the Casino Reinvestment Development Authority or the issuing authority or arising with respect to the default with respect to any investments made by the Casino Reinvestment Development Authority or the issuing authority;

n. Defining the acts or omissions to act which shall constitute a default in the obligations and duties of the Casino Reinvestment Development Authority or the issuing authority and providing for the rights and remedies of the holders of bonds in the event of a default;

o. Covenants to do or refrain from doing any acts or things as may be necessary or convenient or desirable in order to better secure any bonds of the Casino Reinvestment Development Authority or the issuing authority or which, in the discretion of the Casino Reinvestment Development Authority, will tend to make any bonds to be issued more marketable, notwithstanding that the covenants, acts or things may not be enumerated herein; and

p. Any other matters of the like or different character, which in any way affect the security or protection of the bonds issued by or offered through the Casino Reinvestment Development Authority.

L.1984, c.218, §15, eff. Dec. 19, 1984.

#### **5:12-164 Pledges of income, revenue or property; validity; effect**

Any pledge made by the Casino Reinvestment Development Authority of income, revenues or other property shall be valid and binding from the time the pledge is made. The income, revenue or other property so pledged by the Casino Reinvestment Development Authority shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of any pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Casino Reinvestment Development Authority, irrespective of whether the parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be filed or recorded except in the records of the Casino Reinvestment Development Authority.

L.1984, c.218, §16, eff. Dec. 19, 1984.

**5:12-165 Treatment of interest on bonds as provided under Internal Revenue Code of 1954; consent; application of state or federal laws**

The Casino Reinvestment Development Authority may consent, at or prior to the time of issuance of any issue of its bonds, to the inclusion of interest on those bonds in the gross income of holders of those bonds under the Internal Revenue Code of 1954 to the same extent and in the same manner as the interest on bills, notes, bonds and other obligations of the United States is includable in the gross income of the holders thereof under the Internal Revenue Code of 1954. Nothing contained in this act shall be construed to waive or to authorize the Casino Reinvestment Development Authority to waive any other exemption, privilege or immunity of the State or to consent or to authorize the Casino Reinvestment Development Authority to consent to the application of any other provision of any other laws, federal or State, to the Casino Reinvestment Development Authority or to its bonds, which would not otherwise be so applicable.

L.1984, c.218, §17, eff. Dec. 19, 1984.

**5:12-166 Liability of members on bonds**

Neither the members of the Casino Reinvestment Development Authority nor any person executing bonds issued pursuant to this act shall be liable personally on those bonds by reason of the issuance thereof.

L.1984, c.218, §18, eff. Dec. 19, 1984.

**5:12-167 Property and bonds of authority; tax exemption**

All property of the Casino Reinvestment Development Authority is declared to be public property devoted to an essential public and governmental function and purpose and shall be exempt from all taxes and special assessments of the State or any subdivision thereof. All bonds issued pursuant to this act are declared to be issued by an instrumentality of this State and for

an essential public and governmental purpose and the bonds, and the interest thereon and the income therefrom, and all fees, charges, funds, revenues, income and other moneys pledged or available to pay or secure the payment of the bonds, or interest thereon, shall at all times be exempt from taxation.

L.1984, c.218, §19, eff. Dec. 19, 1984.

**5:12-168 Authority property; exemption from execution or judicial process**

All property of the Casino Reinvestment Development Authority shall be exempt from levy and sale by virtue of an execution and no execution or other judicial process shall issue against the same nor shall any judgment against the Casino Reinvestment Development Authority be a charge or lien upon its property; but nothing herein contained shall apply to or limit the rights of the holder of any bonds to pursue any remedy for the enforcement of any pledge or lien given by the Casino Reinvestment Development Authority on its revenues or other moneys.

L.1984, c.218, §20, eff. Dec. 19, 1984.

**5:12-169 Annual report; audit**

On or before the last day of February in each year, the Casino Reinvestment Development Authority shall make an annual report on its activities for the preceding calendar year to the Governor and to the Legislature. Each report shall set forth a complete operating and financial statement covering its operations during the year. The Casino Reinvestment Development Authority shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants and the cost thereof shall be considered an expense of the Casino Reinvestment Development Authority and a copy thereof shall be filed with the State Treasurer.

L.1984, c.218, §21, eff. Dec. 19, 1984.

### **5:12-170 Authority may use employees of other agencies**

The Casino Reinvestment Development Authority shall be entitled to call to its assistance and avail itself of the services of the employees of any State, county or municipal department, board, bureau, commission or agency as it may require and as may be available to it for that purpose. The cost and expense of any of these services shall be met and provided for by the Casino Reinvestment Development Authority. The Casino Reinvestment Development Authority shall also be entitled to employ professional, stenographic, and clerical assistants and incur traveling and other miscellaneous expenses as it may deem necessary in order to perform its duties, and as may be within the limits of funds appropriated or otherwise made available to it for those purposes. To the maximum extent feasible, the Casino Reinvestment Development Authority shall avail itself of the staffs of the Casino Control Commission, the Department of Community Affairs, the Department of Environmental Protection, the Department of Transportation, and the Department of the Treasury. Any use of the staff of the Casino Control Commission shall be subject to the approval of the chairman of the commission. In addition, the Casino Reinvestment Development Authority may accept the voluntary services of any person in the private sector. If a need is shown by the Casino Reinvestment Development Authority and approved by the Casino Control Commission, the members of the Casino Reinvestment Development Authority may have access to information which is regarded as confidential pursuant to section 74 of P.L.1977, c.110 (C.5:12-74) and to the staffs of the Casino Control Commission and the Division of Gaming Enforcement in connection with that information. Any casino hotel industry representatives, however, shall not have access to information which is regarded as confidential pursuant to section 74 of P.L.1977, c.110 (C.5:12-74)

or to the staffs of the Casino Control Commission or the Division of Gaming Enforcement in connection with that information.

L.1984, c.218, §22, eff. Dec. 19, 1984.

Amended by:

L.1991, c.219, § 6, eff. July 26, 1991.

**5:12-171 Annual budget; approval; line item vetoes; transmittal**

The annual budget of the Casino Reinvestment Development Authority for administrative and operating costs shall be submitted to the State Treasurer for his approval 90 days after the effective date of this act and thereafter, on or before the last day of October in each year. The State Treasurer shall have 30 days to review and approve the requested budget. He may object in whole or in part to any item or items contained in the budget while approving the other portions of the budget. In such a case he shall append to the budget at the time of signing it, a statement of each item or part thereof to which he objects, and each item or part so objected to shall not take effect. A copy of the budget and any statement shall be transmitted by him to the Casino Reinvestment Development Authority. The costs associated with a specific bond issue or investment, such as underwriting and counsel fees, shall be considered costs of the issue and not operating costs of the Casino Reinvestment Development Authority.

L.1984, c.218, §23, eff. Dec. 19, 1984.

**5:12-172 Guarantee of obligations; provision of resolution**

The Casino Reinvestment Development Authority shall have the power to guarantee the obligations of any other person, corporation, association or of any instrumentality, municipality or political subdivision of the State, which are issued to finance an eligible project as defined in accordance with section 25 of this act. Such a guarantee shall be authorized by a resolution of the Casino Reinvestment Development Authority, which resolution may contain agreements, covenants and pledges of the Casino

Reinvestment Development Authority as it may deem necessary or desirable to provide security for the guarantee, including but not limited to the establishment of reserves derived from proceeds of bonds issued by the Casino Reinvestment Development Authority to licensees or from the revenues of the Casino Reinvestment Development Authority, the subordination of bonds and other obligations of the Casino Reinvestment Development Authority to the guarantee, limitations on the amount of obligations of the Casino Reinvestment Development Authority which can be issued, which would be senior to or on a parity with the guarantee, the pledge of contracts with licensees and of proceeds of bonds issued to licensees as security for the payment of guaranteed obligations and limitations on the total amount of annual debt service payable by the Casino Reinvestment Development Authority on all of its obligations.

L.1984, c.218, §24, eff. Dec. 19, 1984.

### **5:12-173 Investments; authorization; criteria and priorities**

The Casino Reinvestment Development Authority shall have the power to invest in projects, in the form of equity investments or loans, or a combination of both, and to approve direct investments in the form of equity investments or loans, or a combination of both, by licensees in projects which best serve the public interest, which are in furtherance of the public purposes set forth in section 12 of this act and which promote the health or social or economic well-being of the people of this State and, in particular, of the residents of the local governmental unit in which the investment is being made. For investments by licensees required to be made in the city of Atlantic City, the Casino Reinvestment Development Authority shall consider financing and approving those investments which serve the most pressing social and economic needs of the city of Atlantic City or which directly respond to the impact of legalized gambling on the residents of the city of Atlantic City. The Casino Reinvestment Development Authority shall adopt regulations establishing criteria and

priorities for eligible projects and investments. The criteria should also apply to projects considered for guarantees pursuant to section 24 of this 1984 amendatory and supplementary act and to projects considered for the reinvestment by licensees of proceeds of bonds repurchased by the Casino Reinvestment Development Authority from licensees pursuant to subsection e. of section 3 of this 1984 amendatory and supplementary act. No project shall be financed by the Casino Reinvestment Development Authority by investment, guarantee or repurchase of bonds nor shall a licensee commence a direct investment unless the project has been determined to be an eligible project meeting the criteria. The determination shall be made only after a public hearing on the merits of the project held in the jurisdiction of the local government unit in which the project is to be located. No investment or guarantee shall be made by the Casino Reinvestment Development Authority unless the terms of the investment or guarantee have been approved by the State Treasurer.

L.1984, c.218, §25, eff. Dec. 19, 1984.

### **5:12-173.1 Findings, declarations relative to redevelopment in Atlantic City**

The Legislature finds that the single most significant factor contributing to the cost of constructing, maintaining, operating and supporting highways, roads and infrastructure, in Atlantic City, and particularly in the "corridor" region of the city, is the heavy volume of motor vehicular traffic occasioned by the attraction of casino gaming in Atlantic City. This traffic is encouraged by the provision of free parking by casino operations, by the relative underdevelopment of public transportation services, and by the shortage of hotel accommodations in the city. While the Legislature has taken various measures, most notably the "South Jersey Transportation Authority Act," P.L.1991, c.252 (C.27:25A-1 et al.), to provide and improve public transportation services in the South Jersey region as an alternative to the use

of motor vehicles, the heavy capital costs associated with reconstruction of the corridor region's infrastructure require a continuous source of public funding. The Legislature declares, therefore, that it is in the public interest to require a standard minimum charge for casino parking within Atlantic City, and to impose fees on amounts received from those charges, with the proceeds of those fees to be used by the Casino Reinvestment Development Authority for projects which are related to improving the highways, roads, infrastructure, traffic regulation and public safety of the city, or which are otherwise necessary or useful to the economic development and redevelopment of the city in this regard. It is also in the public interest to establish a special temporary fund for the use of existing moneys of the authority for the provision of financial assistance to casino licensees to construct, reconstruct or rehabilitate hotel rooms in Atlantic City.

The Legislature declares that it is the public purpose of this amendatory act, P.L.1996, c.118 (C. 5:12-173.3a et al.), that financial assistance to casino licensees to construct, reconstruct or rehabilitate hotel rooms in Atlantic City shall be determined after excluding costs reasonably related to space used for the conduct of casino gaming. It was, and continues to be, the public purpose of P.L.1993, c.159 (C. 5:12-173.1 et seq.) that financial assistance may be provided to a project which includes, incorporates, facilitates or supports space used for the conduct of casino gaming in a casino hotel facility, but only for costs reasonably related to hotel rooms and their appurtenant facilities in the project.

The Legislature declares that it is the public purpose of this amendatory and supplementary act, P.L.2003, c.116 (C.5:12-148.1 et al.), that the proceeds of the increase in the fee imposed on the minimum charge for casino hotel parking within Atlantic City be deposited into the Casino Revenue Fund in

State fiscal years 2004 through 2006, in order to assist the Casino Revenue Fund, and thereafter for use for the purposes specified.

L.1993, c.159, §1, eff. June 20, 1993.

Amended by:

L.1996, c.118, §1, eff. Sept. 16, 1996.

L.2003, c.116, §8, eff. July 1, 2003.

**5:12-173.2 Minimum charge of \$3.00 imposed for use of casino parking facility**

On and after July 1, 1993, there is established a minimum amount which shall be charged in the City of Atlantic City for the use of a parking space for the purpose of parking, garaging or storing a motor vehicle in a parking facility or property owned or leased by a casino hotel licensed under the "Casino Control Act," P.L.1977, c.110 (C.5:12-1 et seq.), or by any person on behalf of a casino hotel. The charge shall not be less than \$3.00 per day for each motor vehicle parked, garaged or stored in the parking space. The charge shall be made for all motor vehicles so parked, garaged or stored, except for motor vehicles owned or leased by the owner or operator of the parking facility or property, or by an employee of the casino hotel which owns or leases the parking facility or property. A parking space is considered to be that of a licensed casino hotel if the facility or property in which the space is located is owned, wholly or in part, or leased by the casino hotel, and is utilized in whole or in part in conjunction with the operations of the casino hotel. A parking space shall be considered to be on behalf of a casino hotel if spaces within the facility or property are kept under lease or contract for the use of visitors or guests of the casino hotel. No motor vehicle shall be required, upon proof of payment of the \$3.00 charge, to pay the charge again in the same calendar day, either for use of a parking space in the same parking facility or property,

or for use of a parking space in another casino hotel parking facility or property.

L.1993, c.159, §2, eff. June 20, 1993.

Amended by:

L.2003, c.116, §9, eff. July 1, 2003.

**5:12-173.3 Minimum fee of \$3.00 imposed for use of casino parking space**

On and after July 1, 1993, there is imposed in the City of Atlantic City a fee upon the use of spaces for the parking, garaging or storing of motor vehicles in a parking facility or property owned or leased by a casino hotel licensed under the "Casino Control Act," P.L.1977, c.110 (C.5:12-1 et seq.), or by any person on behalf of a casino hotel. The fee so imposed is \$3.00 of the amount received by the casino hotel or person from each charge made for the use of the parking space; provided, however, that if the casino hotel or person shall fail to collect, or shall rebate, all or a portion of the charge required herein to be imposed for the use of any parking space, the full amount of the fee shall be payable by the casino hotel or person.

L.1993, c.159, § 3, eff. June 20, 1993.

Amended by:

L.2003, c.116, §10, eff. July 1, 2003.

**5:12-173.3a Covenant by State with bond holders as to casino parking fee**

The State of New Jersey hereby covenants with the purchasers, holders and owners, from time to time, of any bonds secured by funds derived from fees imposed for the use of casino parking spaces pursuant to section 3 of P.L.1993, c.159 (C.5:12-173.3) that it shall not repeal or reduce the fee so imposed under that act, while bonds entitled to benefits from the fee so imposed are outstanding, and shall not modify or amend the provisions of that act so as to create any lien or charge on, or any pledge, assignment, diversion, withholding payment or other use of or deduction from the fee so imposed which is prior in time or superior in right to any payments required to be made

pursuant to any bond covenants entered into with the purchasers, holders and owners of the bonds so secured.

L.1996, c.118, §7, eff. Sept. 16, 1996.

**5:12-173.4 Special fund, use of fees**

a. The State Treasurer shall deposit the first \$1.50 of the fee collected pursuant to section 3 of this act, P.L.1993, c.159 (C.5:12-173.3) into a special fund established and held by the State Treasurer and made available for the exclusive use of the Casino Reinvestment Development Authority established pursuant to section 5 of P.L.1984, c.218 (C.5:12-153), and shall deposit the remaining \$1.50 of the fee into the Casino Revenue Fund established pursuant to section 145 of P.L.1977, c.110 (C.5:12-145) in State fiscal years 2004 through 2006. Beginning in State fiscal year 2007 and thereafter, the State Treasurer shall deposit the remaining \$1.50 of the fee as follows: \$0.50 into the Casino Revenue Fund and \$1.00 to the authority for its purposes pursuant to law, as approved by the membership of the authority, provided that the authority shall use the portion of this \$1.00 that is necessary to carry out the purpose of section 13 of P.L.2003, c.116 (C.5:12-173.22).

b. Amounts in the special fund shall be expended by the authority for eligible projects in the corridor region of the City of Atlantic City in Atlantic County as defined by regulation of the authority, which are related to improving the highways, roads, infrastructure, traffic regulation and public safety of that city or which are otherwise necessary or useful to the economic development and redevelopment of the city in this regard. The State Treasurer may require that a financial plan demonstrating the need, schedule and use for moneys placed in the special fund be approved by the State Treasurer prior to allocation. Pending application of moneys held in this special fund for these

purposes, the moneys shall be invested in accordance with applicable law and income therefrom shall be credited exclusively to the special fund.

L.1993, c.159, § 4, eff. June 20, 1993.

Amended by:

L.2003, c.116, §11, eff. July 1, 2003.

### **5:12-173.5 Responsibility for collection of fees**

Each person subject to the provisions of section 3 of P.L.1993, c.159 (C.5:12-173.3) shall be responsible for the collection of the fees imposed pursuant thereto, which shall be collected as part of the charge made for the use of a parking space. Amounts so collected shall be forwarded to the State Treasurer. The commission shall determine and certify to the State Treasurer on a monthly basis the amount of revenues which are payable as directed by section 4 of P.L.1993, c.159 (C.5:12-173.4). The State Treasurer, upon certification of the commission and upon warrant of the State Comptroller, and subject to the pertinent requirements of section 4 of P.L.1993, c.159 (C.5:12-173.4) shall pay and distribute on a monthly basis pursuant to section 4 of P.L.1993, c.159 (C.5:12-173.4) the amount so certified.

L.1993, c.159, § 5, eff. June 20, 1993.

Amended by:

L.2003, c.116, §12, eff. July 1, 2003.

L.2004, c.128, § 7, eff. Aug. 25, 2004.

### **5:12-173.6 Issuance of bonds, notes**

a. Notwithstanding any provisions of P.L.1984, c.218 (C.5:12-153 et al.) restricting the issuance or sale of bonds, notes or other obligations by the Casino Reinvestment Development Authority, the authority may from time to time issue bonds or notes, the principal, interest or redemption premiums on which are to be payable in all or part from amounts then on deposit or to be deposited in the special fund established pursuant to section 4 of this act, P.L.1993, c.159 (C.5:12-173.4). The authority is authorized to issue its bonds in such principal amounts as shall be necessary to provide sufficient funds for

eligible projects to be financed from that special fund, and to pay, fund, or refund principal or interest or redemption premiums on any bonds or notes issued by it which are payable from that special fund, whether the bonds or notes or interest to be funded or refunded have or have not become due.

b. The bonds or notes may be additionally secured by a pledge of any grant or contribution from the federal government or any State or any agency or public subdivision thereof or any person or a pledge of any moneys, income or revenues of the authority from any source whatsoever. The authority may also enter into bank loan agreements, lines of credit or bond insurance and other security agreements and obtain for or on its behalf letters of credit in each case for the purpose of securing its bonds, notes or other obligations or to provide direct payment of any costs which the authority is authorized to pay by this act and to secure repayment of any borrowings under the loan agreement, line of credit, letter of credit, bond insurance or other security agreement by its bonds, notes or other obligations or the proceeds thereof or by any or all of the revenues of and payments to the authority or by any appropriation, grant or reimbursement to be received by the authority and other moneys or funds as the authority shall determine.

c. Any provision of law to the contrary notwithstanding, any bond or note issued pursuant to this act shall be fully negotiable within the meaning and for all purposes of the negotiable instruments law of the State, and each holder or owner of a bond or note, or of any coupon appurtenant thereto, by accepting the bond, note or coupon shall be conclusively deemed to have agreed that the bond, note or coupon is and shall be fully negotiable within the meaning and for all purposes of the negotiable instruments law.

d. Bonds or notes of the authority shall be authorized by resolution of the authority and may be issued in one or more series and shall bear the date or dates, mature at the time or times not exceeding 50 years from the date thereof, bear interest at a rate or rates within the maximum rate, as shall be determined by the authority, shall be in the denomination or denominations,

be in the form, either coupon or registered, carry the conversion or registration privileges, have the rank or priority, be executed in the manner, be payable from the sources in the medium of payment at the place or places within or without the State, and be subject to the terms of redemption, with or without premium, as the resolution or resolutions may provide.

e. Bonds or notes of the authority may be sold at public or private sale at the price or prices as the authority shall determine.

L.1993, c.159, §6, eff. June 20, 1993.

### **5:12-173.7 Covenants by authority; contracts with holders of bonds, notes**

In any resolution of the authority authorizing or relating to the issuance of bonds or notes pursuant to section 6 of this act, P.L.1993, c.159 (C.5:12-173.6), the authority, in order to secure the payment of the bonds or notes and in addition to its other powers, shall have power by provisions therein which shall constitute covenants by the authority and contracts with the holders of the bonds or notes:

a. To pledge to any payment or purpose all or any part of its revenues to which its right then exists or thereafter may come into existence, and the moneys derived therefrom, and the proceeds of any bonds or notes.

b. To covenant against pledging all or any part of its revenues, or against mortgaging all or any part of its real or personal property then owned or thereafter acquired, or against permitting or suffering any lien on its revenues or property.

c. To covenant with respect to limitations on any right to sell, lease or otherwise dispose of any project or any part thereof or any property of any kind.

d. To covenant as to any bonds and notes to be issued and the limitations thereon and the terms and conditions thereof and as to the custody, application, investment and disposition of the proceeds thereof.

e. To covenant as to the issuance of additional bonds or notes or as to limitations on the issuance of additional bonds or notes and on the incurring of other debts by the authority.

f. To covenant as to the payment of the principal of or interest on the bonds or notes, or any other obligations, as to the sources and methods of that payment, as to the rank or priority of any bonds, notes or obligations with respect to any lien or security or as to the acceleration of the maturity of any bonds, notes or obligations.

g. To provide for the replacement of lost, stolen, destroyed or mutilated bonds or notes.

h. To covenant against extending the time for the payment of bonds or notes or interest thereon.

i. To covenant as to the redemption of bonds or notes and privileges of exchange thereof for other bonds or notes of the authority.

j. To covenant to create or authorize the creation of special funds or moneys to be held in pledge or otherwise for construction, operating expenses, payment or redemption of bonds or notes, reserves or other purposes and as to the use and disposition of the moneys held in the funds.

k. To establish the procedure, if any, by which the terms of any contract or covenant with or for the benefit of the holders of bonds or notes may be amended or abrogated, the amount of bonds or notes the holders of which much consent thereto, and the manner in which the consent may be given.

l. To covenant as to the construction, operation or maintenance of real property and personal property, the replacement thereof, the insurance to be carried thereon, and the use and disposition of insurance moneys.

m. To provide for the release of property, leases or other agreements, or revenues and receipts from any pledge or mortgage and to reserve rights and powers in, or the right to dispose of, property which is subject to a pledge or mortgage.

n. To mortgage all or any part of its property, real or personal, then owned or thereafter to be acquired.

o. To provide for the rights and liabilities, powers and duties arising upon the breach of any covenant, condition or obligation and to prescribe the events of default and the terms and conditions upon which any or all of the bonds, notes or other obligations of the authority shall become or may be declared due and payable before maturity and the terms and conditions upon which any declaration and its consequences may be waived.

p. To vest in a trustee or trustees within or without the State such property, rights, powers and duties in trust as the authority may determine and to limit the rights, powers and duties of the trustee.

q. To pay the costs or expenses incident to the enforcement of the bonds or notes or of the provisions of the resolution or of any covenant or agreement of the authority with the holders of its bonds or notes.

r. To limit the rights of the holder of any bonds or notes to enforce any pledge or covenant securing bonds or notes.

s. To make covenants other than and in addition to the covenants herein expressly authorized, of like or different character, and to make the covenants to do or refrain from doing any acts and things as may be necessary, or convenient and desirable, in order to better secure bonds or notes or which, in the absolute discretion of the authority, will tend to make bonds or notes more marketable, notwithstanding that the covenants, acts or things may not be enumerated herein.

L.1993, c.159, §7, eff. June 20, 1993.

### **5:12-173.8 Moneys set aside for hotel development projects**

a. From the moneys made available to the Casino Reinvestment Development Authority pursuant to section 3 of P.L.1984, c.218 (C.5:12-144.1), the authority shall, in such manner as it may reasonably determine, set aside \$100,000,000 for investment on hotel development projects in Atlantic

City undertaken by a casino licensee under the "Casino Control Act," P.L.1977, c.110 (C.5:12-1 et seq.), operating an approved hotel on the effective date of this amendatory and supplementary act, P.L.1993, c.159 (C.5:12-171.1 et al.), which result in the construction, reconstruction or rehabilitation of at least 200 hotel rooms in the City of Atlantic City. The authority shall, by regulation, adopt standards for determining the extent of construction, reconstruction or rehabilitation of hotel rooms or appurtenant facilities required in order to qualify for authority investment, which standards shall require at least that the hotel rooms be operated as part of a licensed casino facility or be first class hotel rooms located and operated in a manner consistent with an authority approved project. The authority shall require as a condition for authority investment that the hotel rooms be subject to an agreement with the authority that requires the rooms to be reserved, at certain times and under certain conditions agreeable to the authority, for convention business in connection with an authority approved project. A hotel development project may qualify for authority investment notwithstanding that it includes, incorporates, facilitates or supports an expansion of space used for the conduct of casino gaming in a casino hotel facility operated by a casino licensee. Any casino licensee which undertook a hotel development project that was approved by the authority prior to the effective date of this amendatory act, P.L.1996, c.118 (C.5:12-173.3a et al.), for an investment out of moneys set aside pursuant to this subsection a., but which investment has not been received by the casino licensee as a result of the inclusion in the project of space for use for the conduct of casino gaming, shall be entitled pursuant to this subsection a. to receive the investment previously approved by the authority. The provisions of section 30 of the P.L.1984, c.218 (C.5:12-178) shall not apply to investments made out of the moneys so set aside.

The authority shall determine the amount each casino licensee shall be eligible to receive out of the moneys so set aside. The form, amount and terms of the investment made by the authority shall be determined by the authority,

but the maximum amount of the investment shall not exceed the lesser of the amount which the casino licensee applying therefor is eligible to receive, or the amount equal to 27% of the costs reasonably related to constructing, reconstructing or rehabilitating the hotel rooms or appurtenant facilities in the project, excluding costs reasonably related to space used for the conduct of casino gaming.

For the purposes of determining each casino licensee's eligibility for authority investments from the moneys so set aside, the authority may by resolution permit the transfer of obligation to make payment under section 3 of P.L.1984, c.218 (C.5:12-144.1) to any other casino licensee which has received approval for investment in a project to construct, reconstruct or rehabilitate hotel rooms.

In approving a hotel development project, the authority shall establish a schedule for investments to be made by the authority as progressive stages of construction, reconstruction or rehabilitation are accomplished. Any moneys remaining in the special fund thereafter shall be available for investment in otherwise eligible projects of the authority.

b. From the moneys made available to the Casino Reinvestment Development Authority pursuant to section 3 of P.L.1984, c.218 (C.5:12-144.1), the authority shall, in such manner as it may reasonably determine, set aside \$75,000,000 for investment on hotel development projects in Atlantic City, which shall be in addition to the moneys set aside pursuant to subsection a. of this section. Any moneys set aside pursuant to that subsection a. which are not invested by the authority as the result of the failure of a casino licensee to comply with requirements, regulations, conditions or determinations made under that subsection a. shall be available for authority investment pursuant to this subsection b. Authority investments under this subsection b. shall be subject to the requirements, regulations, conditions and determinations of that subsection a., except as follows:

(1) The authority may provide an additional investment amount to a casino licensee which has had a hotel development project approved prior to the effective date of this amendatory act, P.L.1996, c. 118 (C. 5:12-173.3a et al.), but which the authority has approved for an amount out of the moneys set aside pursuant to that subsection a. that is less than the maximum amount of investment for the approved project because sufficient investment funds were not available to fund all projects approved under that subsection a. at the maximum amount of investment. The additional investment may be made only as the result of an application made to the authority on or before April 1, 1996. The additional investment amount shall not be greater than the difference between the maximum amount of investment for the approved project under that subsection a. and the amount which the authority actually approved for the project. The authority may provide an additional investment amount pursuant to paragraph (1) only for those previously approved hotel development projects for which construction, reconstruction or rehabilitation has actually and substantially commenced on or before August 31, 1996.

(2) Thereafter, any casino licensee may be eligible to receive an investment out of moneys set aside pursuant to this subsection b.; provided, that the casino licensee shall apply for approval of a hotel development project by the authority within 90 days following the effective date of this amendatory act. The authority shall require as a condition for authority investment under this paragraph that construction, reconstruction or rehabilitation of the hotel development project actually and substantially commence within 12 months after the date upon which the authority and the casino licensee enter into a hotel room credit agreement.

L.1993, c.159, §8, eff. June 20, 1993.

Amended by:

L.1996, c.118, §2, eff. Sept. 16, 1996.

### **5:12-173.9 Short title**

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."

L.2001, c.221, §1, eff. Oct. 23, 2001.

### **5:12-173.10 Findings, declaration relative to CRDA urban revitalization program**

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.

L.2001, c.221, §2, eff. Oct. 23, 2001.

## **5:12-173.11 Definitions relative to CRDA urban revitalization programs**

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 eleven 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 June 30, 2004, including, but not necessarily limited to, a minimum of 150,000 square feet of public space, retail stores, entertainment venues, restaurants, hotel rooms in non-casino hotels or residential units, provided that such rooms and residential units shall constitute not more than 50% of the required minimum square footage. The project may include, in addition, casino hotels, public parking facilities or commercial office space, 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.

L.2001, c.221, §3, eff. Oct. 23, 2001.  
Amended by:  
L.2004, c.129, §6, eff. Aug. 25, 2004.  
L.2005, c. 30, §2, eff. Jan. 26, 2005.

### **5:12-173.12 Urban revitalization incentive program**

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 June 30, 2014 for approval of a district project and to designate by resolution up to eleven districts 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 pursuant to section 12 of P.L.2001, c.221 (C.5:12-173.20). 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 a district project sponsored by the authority pursuant to section 12 of P.L.2001, c.221 (C.5:12-173.20) under the incentive program, if the authority determines that:

(1) construction of the district project will commence within two years of the authority's approval of the district project, 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, c.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). Notwithstanding the foregoing, the requirements of this paragraph shall not apply with regard to the five district projects authorized by this amendatory and supplementary act, P.L.2004, c.129.

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. If construction of a designated district project does not commence within the time required pursuant to this section, the authority may remove that designation and, in accordance with procedures adopted by the authority by resolution, accept applications for and designate another district project of another casino licensee notwithstanding the application time requirements of this section.

d. The authority may by resolution amend its designation of a district project to increase the area of the district project by up to 50% with the agreement of the casino licensee.

e. Notwithstanding any provision to the contrary in P.L.2001, c.221 (C.5:12-173.9 et seq.), the authority is authorized to accept an application from an entity other than a casino licensee on or before June 30, 2014 for approval of a district project and to designate by resolution an entertainment-retail district, enter into a project grant agreement with such entity to develop a district project within the district, maintain separate accounts as appropriate, and 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 such entity with an approved district project under the incentive program.

L.2001, c.221, § 4, eff. Oct. 23, 2001.

Amended by:

L.2002, c. 65, §33, eff. Aug. 14, 2002.

L.2004, c.129, § 7, eff. Aug. 25, 2004.

### **5:12-173.13 Deposit of sales and use tax revenues**

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).

L.2001, c.221, §5, eff. Oct. 23, 2001.

#### **5:12-173.14 Deposit of hotel room use fee revenues**

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).

L.2001, c.221, §6, eff. Oct. 23, 2001.

### **5:12-173.15 Project fund created**

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 (a) 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 for 20 years from the date of completion of the district project, or until such time as 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, and (b) from the amounts remaining after such disbursement in (a), to the authority for its purposes pursuant to law, as approved by the membership of the authority, with each annual grant not to exceed \$2.5 million per district project and payable annually for 20 years from the date of completion of the district project;

(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.

L.2001, c.221, § 7, eff. Oct. 23, 2001.

Amended by:

L.2002, c. 65, §34, eff. Aug. 14, 2002.

L.2004, c.129, § 8, eff. Aug. 25, 2004.

### **5:12-173.16 Room fund created**

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 for 20 years from the date of completion of the district project, or until such time as 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.

L.2001, c.221, §8, eff. Oct. 23, 2001.

Amended by:

L.2004, c.129, §9, eff. Aug. 25, 2004.

### **5:12-173.17 Separate accounts within project, room funds**

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.

L.2001, c.221, §9, eff. Oct. 23, 2001.

#### **5:12-173.18 Proposed district project plan**

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.

L.2001, c.221, §10, eff. Oct. 23, 2001.

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

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 proposed 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. Investment by a casino licensee of a minimum of \$20 million of its investment alternative tax obligation under section 3 of P.L.1984, c.218 (C.5:12-144.1) in a North Jersey investment fund established for the purpose of furthering the development and revitalization of one or more urban areas designated by the commissioner shall satisfy the requirements of this section and section 4 of P.L.2001, c.221 (C.5:12-173.12).

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.

L.2001, c.221, §11, eff. Oct. 23, 2001.  
Amended by:  
L.2002, c. 65, §35, eff. Aug. 14, 2002.

#### **5:12-173.20 Authority sponsored project**

Notwithstanding any provision to the contrary in P.L.2001, c.221 (C.5:12-173.9 et al.), 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.

L.2001, c.221, §12, eff. Oct. 23, 2001.  
Amended by:  
L.2004, c.129, §10, eff. Aug. 25, 2004.

#### **5:12-173.21 Repealed by L.2004, c.129, §13, eff. Aug. 25, 2004.**

#### **5:12-173.22 Issuance of bonds by CRDA, establishment of Casino Capital Construction Fund**

a. Notwithstanding any other law to the contrary, the Casino Reinvestment Development Authority established pursuant to section 5 of P.L.1984, c.218 (C.5:12-153) shall issue bonds sufficient to generate \$30 million for deposit into the Casino Capital Construction Fund created by this section, so that \$10 million shall be available in each State fiscal year for designation and reserve pursuant to subsection d. of this section, except that the authority shall issue bonds to generate an amount greater than \$30 million

and make available more than \$10 million annually as may be necessary to ensure that for each casino licensee there is designated and reserved the maximum share provided for in subsection d. of this section. The principal and interest of such bonds shall be repaid exclusively from the revenue dedicated to the authority for this purpose pursuant to section 4 of P.L.1993, c.159 (C.5:12-173.4), as amended by section 11 of P.L.2003, c.116.

b. The authority shall establish a Casino Capital Construction Fund, into which the authority shall hold and make available for the exclusive use of casino licensees for eligible projects approved by the authority, the amount directed to be deposited into the fund pursuant to subsection a. of this section.

c. Amounts in this fund shall be distributed to a casino licensee for eligible capital construction projects approved by the membership of the authority for the following types of expansion: to increase the square footage of retail space, parking spaces or casino hotel rooms or to create a significant physical amenity or improvement. The authority shall promulgate regulations establishing criteria governing the approval of eligible projects.

d. Of the amounts available in the fund in each State fiscal year pursuant to subsection a. of this section, the authority shall designate and reserve in State fiscal years 2004 through 2006 for each casino licensee a maximum share of the available \$10 million or such greater amount as may be necessary, which maximum share shall be calculated as follows: the greater of (1) the casino licensee's total payment of the adjusted net income tax imposed pursuant to section 5 of P.L.2003, c.116 (C.5:12-148.3) in State fiscal year 2004, 2005 or 2006, as appropriate, divided by the sum of payments by all casino licensees of that tax in State fiscal year 2004, 2005 or 2006, as appropriate, or (2) an amount equal to one half of the amount of tax paid in State fiscal year 2004, 2005, or 2006 as appropriate. A casino licensee may receive a distribution up to the licensee's maximum share in each State fiscal year and the share of the fund so designated and reserved for a casino licensee that has not been distributed by June 30, 2014 shall be forfeited to the

authority for use for its purposes pursuant to law for projects located within the boundaries of the City of Atlantic City, County of Atlantic, as approved by the membership of the authority.

e. Notwithstanding any provisions of P.L.1984, c.218 (C.5:12-153 et seq.) or any other law to the contrary, the authority shall issue bonds, the principal, interest or redemption premiums on which are to be payable in all from amounts to be deposited in the fund established pursuant to this section in the manner provided in sections 6 and 7 of P.L.1993, c.159 (C.5:12-173.6 and 173.7).

L.2003, c.116, §13, eff. July 1, 2003.

#### **5:12-173.22a Atlantic City Expansion Fund; creation, use**

a. The Casino Reinvestment Development Authority shall issue, upon the approval of the State Treasurer, bonds, notes or other obligations, in an amount not to exceed \$62 million, the proceeds of which shall be deposited into the Atlantic City Expansion Fund created pursuant to subsection b. of this section. The principal and interest of such bonds, notes or other obligations shall be repaid exclusively from the revenues dedicated to the authority for this purpose pursuant to section 6 of P.L.2003, c.116 (C.5:12-145.8).

b. The authority shall establish an Atlantic City Expansion Fund into which the authority shall deposit the amount directed to be deposited into the fund pursuant to subsection a. of this section. Notwithstanding section 30 of P.L.1984, c.218 (C.5:12-178), the authority shall make moneys on deposit in the fund available, in amounts determined pursuant to subsection c. of this section, to each casino licensee operating a casino hotel facility as of June 30, 2004 for investment in an eligible expansion project approved by the authority. An eligible project approved by August 25, 2006 shall add hotel rooms, retail, dining or non-gaming entertainment venues, or other non-gaming amenities, including parking spaces, in the City of Atlantic City, provided that the moneys received pursuant to this subsection may be used for parking spaces only if the

authority determines that the addition of parking spaces is an essential component of a comprehensive development plan. An eligible project approved thereafter shall add hotel rooms in the City of Atlantic City. The authority shall not authorize investment of moneys in the fund for a project that receives or is anticipated to receive funding pursuant to the Casino Reinvestment Development Authority Urban Revitalization Act, P.L.2001, c.221 (C.5:12-173.9 et seq.), or section 8 of P.L.1993, c.159 (C.5:12-173.8), unless the casino licensee demonstrates to the satisfaction of the authority that the funding from the Atlantic City Expansion Fund will result in a significant improvement in or expansion of that project, and the casino licensee invests additional private funds in the project in an amount deemed appropriate by the authority. The authority shall promulgate regulations establishing the criteria governing the approval of eligible projects.

c. The authority shall determine the amount each casino licensee shall be eligible to receive from the Atlantic City Expansion Fund. The form, terms and maximum percentage of the cost of an eligible expansion project to be received by each casino licensee shall be determined by the authority by resolution. In the event that a casino licensee has not submitted by June 30, 2014 an application that, if approved, would exhaust its share of the Atlantic City Expansion Fund, the remainder of such casino licensee's share of the fund shall be transferred to its Atlantic City non-housing obligations pursuant to section 3 of P.L.1984, c.218 (C.5:12-144.1), provided that such transferred share shall not reduce the licensee's investment alternative tax obligation pursuant to subsection f. of section 3 of P.L.1984, c.218 (C.5:12-144.1).

d. The authority may, in its discretion, advance any of the funds in the Atlantic City Expansion Fund to make a grant to an eligible project located in North Jersey approved by the authority provided that the authority has executed an agreement with casino licensees for the repayment of the advanced amount from the funds devoted to the financing of projects in North Jersey pursuant to the Casino Reinvestment Development Authority Urban

Revitalization Act, P.L.2001, c.221 (C.5:12-173.9 et seq.) or from casino licensees' investment alternative tax obligations devoted to the financing of projects in North Jersey pursuant to section 3 of P.L.1984, c.218 (C.5:12-144.1).

e. (1) The Casino Reinvestment Development Authority shall issue, upon the approval of the State Treasurer, bonds, notes or other obligations, in an amount not to exceed \$31 million, which shall be deposited into a special fund created pursuant to this subsection. The principal and interest of such bonds, notes or other obligations shall be repaid exclusively from revenues dedicated to the authority for this purpose pursuant to section 6 of P.L.2003, c.116 (C.5:12-145.8).

(2) The authority shall establish a special fund into which the authority shall deposit the amount directed to be deposited into the fund pursuant to this subsection. The authority shall make half of the moneys on deposit in the fund available for investment in projects located in North Jersey, and half of the moneys on deposit in the fund available for investment in projects located in South Jersey. For the purposes of this paragraph, "South Jersey" means the counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Ocean, and Salem, except that "South Jersey" shall not include the City of Atlantic City; and "North Jersey" means the remaining 12 counties of the State.

L.2004, c.129, §5, eff. Aug. 25, 2004.

Amended by:

L.2005, c. 30, § 1, eff. Jan. 26, 2005.

### **5:12-174 Waiver of project eligibility determination**

Upon a showing of good cause by a licensee, the Casino Reinvestment Development Authority may waive the requirements of section 25 of this 1984 amendatory and supplementary act requiring a prior determination of an eligible project and approve as an eligible project or investment a project or

investment already commenced by a licensee, if the project or investment meets the other requirements contained in section 25 of this act.

L.1984, c.218, §26, eff. Dec. 19, 1984.

**5:12-175 Waiver of requirements relating to composition of investment tax credit**

Upon a showing of good cause by a licensee, the Casino Reinvestment Development Authority may, in its sole discretion, waive the requirements of subsection b. of section 3 of this act requiring that at least 100% or 50%, as the case may be, of the investment tax credit against the tax imposed by subsection a. of section 3 be composed of the purchase of bonds of the Casino Reinvestment Development Authority, provided the licensee shall make an equivalent investment in an eligible project approved by the Casino Reinvestment Development Authority and provided the authority determines that the amount waived does not impair the amount to be set aside pursuant to section 33 of this act and that the waiver will not violate any agreement or covenant or impair any financial obligation of the Casino Reinvestment Development Authority.

L.1984, c.218, §27, eff. Dec. 19, 1984.

**5:12-176 Waiver of requirements relating to composition, during first ten years of tax obligation, of investment tax credit; conditions**

Upon a showing of good cause by a licensee, the Casino Reinvestment Development Authority may, in its sole discretion, waive the requirements of subsection b. of section 3 of this act that, during the first 10 years of a licensee's obligation to pay the investment alternative tax imposed by subsection a. of section 3 of this act, at least 100% of the investment tax credit against the tax imposed by subsection a. of section 3 be composed of the purchase of bonds of the Casino Reinvestment Development Authority,

provided the licensee shall make an equivalent investment in or guarantee of infrastructure requirements, such as public roads, streets, intersections and sewer and water facilities, which are dedicated to the public use and benefit society as a whole. To the extent any such investment in or guarantee of infrastructure requirements exceeds the demand for such requirements created by an approved casino hotel or related facility and thus does not finance infrastructure improvements required to be made by a casino licensee pursuant to subsection e. of section 84 of P.L.1977, c.110 (C.5:12-84), the excess investment or guarantee may, in the sole discretion of the Casino Reinvestment Development Authority, be considered an eligible investment or project, if the authority finds that the investment or guarantee serves the most pressing social and economic needs of the residents of the city of Atlantic City and otherwise satisfies the requirements of section 25 of this 1984 amendatory and supplementary act, and if the authority determines that the amount waived does not impair the amount to be set aside pursuant to section 33 of this act and that the waiver will not violate any agreement or covenant or impair any financial obligation of the Casino Reinvestment Development Authority.

L.1984, c.218, §28, eff. Dec. 19, 1984.

### **5:12-177 Donation in lieu of bond purchase or investment**

In lieu of buying the bonds of the Casino Reinvestment Development Authority or in lieu of making a direct investment, the Casino Reinvestment Development Authority may, in its sole discretion, permit a licensee to obtain an investment tax credit by making a donation of money or realty to an eligible project, facility or program. For the purposes of applying this section, a donation shall be deemed to be an investment and shall be subject to any provision of this 1984 amendatory and supplementary act which is relevant to an investment. No donation shall qualify for investment tax credit unless it has been approved and determined to be eligible for investment tax credit by

the Casino Reinvestment Development Authority prior to the making of the donation and provided that the granting of the waiver to make the donation will not violate any agreement or covenant or impair any financial obligation of the Casino Reinvestment Development Authority.

L.1984, c.218, §29, eff. Dec. 19, 1984.

**5:12-178 Projects or investments benefiting, improving, or increasing value of casino hotel or related facility; authority investment; prohibition**

The Casino Reinvestment Development Authority shall not invest in, issue a guarantee in support of, or approve any investment or project which directly and exclusively benefits, improves, or increases the assessed value of a casino hotel or related facility. Notwithstanding the foregoing, to the extent that an investment in or guarantee of infrastructure requirements, such as public roads, streets, intersections and sewer and water facilities, which are dedicated to the public use and benefit society as a whole, exceeds the demand for such requirements created by an approved casino hotel or related facility and thus does not finance infrastructure improvements required to be made by a casino licensee pursuant to subsection e. of section 84 of P.L.1977, c.110 (C.5:12-84), the excess investment or guarantee may be considered an eligible investment or project, if the authority finds that the investment or guarantee serves the most pressing social and economic needs of the residents of the city of Atlantic City and otherwise satisfies the requirements of section 25 of this 1984 amendatory and supplementary act.

L.1984, c.218, §30, eff. Dec. 19, 1984.

**5:12-179 Determination of investment or donation eligibility prior to adoption of rules and regulations; conditions**

a. Notwithstanding any other law or any other section of this 1984 amendatory and supplementary act to the contrary, a casino licensee may seek

a determination of eligibility from the Casino Reinvestment Development Authority for an equity investment commenced or a donation made prior to the adoption by the Casino Reinvestment Development Authority of its rules and regulations pursuant to subsection h. of section 3 of P.L.1984, c.218 (C.5:12-144.1) if:

(1) The application concerns an equity investment in, or donation of money or realty in support of, the rehabilitation, development or construction of housing facilities in the Inlet section of the city of Atlantic City for persons or families of low through middle income, as defined and required by subsection f. of section 3 of P.L. 1984, c.218 (C. 5:12-144.1);

(2) The Casino Reinvestment Development Authority finds that the investment or donation is consistent with the requirements of section 25 of P.L.1984, c.218 (C.5:12-173) and in particular, that the housing facilities which are the recipients of the investment or donation are compatible with the proposal for the development of a balanced residential community in the Inlet section of the city of Atlantic City, approved and adopted by the Casino Control Commission; and

(3) The licensee applies to the Casino Reinvestment Development Authority for a determination of eligibility for the investment or donation within 90 days of the adoption by the Casino Reinvestment Development Authority of its rules and regulations pursuant to subsection h. of section 3 of P.L.1984, c.218 (C.5:12-144.1), and subsequently obtains a determination of eligibility for the investment or donation, in accordance with the rules and regulations of the Casino Reinvestment Development Authority.

b. Notwithstanding any other law or section of this 1984 amendatory and supplementary act to the contrary, a casino licensee may seek a determination of eligibility from the Casino Reinvestment Development Authority for an investment in, guarantee of, or a contractual commitment for an investment in or guarantee of infrastructure requirements, such as public roads, streets, intersections and sewer and water facilities, made prior to the

adoption by the Casino Reinvestment Development Authority of its rules and regulations pursuant to subsection h. of section 3 of P.L.1984, c.218 (C.5:12-144.1) which are dedicated to the public use and benefit society as a whole. To the extent any such investment in or guarantee of infrastructure requirements exceeds the demand for such requirements created by an approved casino hotel or related facility and thus does not finance infrastructure improvements required to be made by a casino licensee pursuant to subsection e. of section 84 of P.L.1977, c.110 (C.5:12-84), the excess investment or guarantee may, in the sole discretion of the Casino Reinvestment Development Authority, be considered an eligible investment or project, if the authority finds that the investment or guarantee serves the most pressing social and economic needs of the residents of the city of Atlantic City and otherwise satisfies the requirements of section 25 of this 1984 amendatory and supplementary act.

c. If a casino licensee obtains a determination of eligibility for an investment or donation pursuant to subsection a. or b. of this section, the investment or donation shall first be used to satisfy the licensee's most recently incurred investment obligation under subsection b. of section 144 of P.L.1977, c.110 (C.5:12-144). If the licensee has no outstanding investment obligations under subsection b. of section 144 of P.L.1977, c.110 (C.5:12-144) at the time the determination of eligibility is obtained, the licensee shall be entitled to an investment tax credit against the tax imposed by subsection a. of section 3 of P.L.1984, c.218 (C.5:12-144.1) in an amount equal to twice the amount of the eligible equity investment or donation made by the licensee.

L.1984, c.218, §31, eff. Dec. 19, 1984.

**5:12-180 Investments or contributions adverse to priorities;  
prohibition of support or approval by authority**

Notwithstanding any other law or section of this 1984 amendatory and supplementary act to the contrary, the Casino Reinvestment Development Authority shall not grant any waiver or invest in, guarantee support for or

approve any investments or contributions by licensees, as provided for in sections 26, 27, 28, 29, 30 and 31 of this 1984 amendatory and supplementary act, which would reduce, impair or prevent the fulfillment of the priorities contained in subsection f. of section 3 or any priorities established by the Casino Reinvestment Development Authority pursuant to section 25 of this 1984 amendatory and supplementary act.

L.1984, c.218, §32, eff. Dec. 19, 1984.

**5:12-181 Aid to minority, women’s business**

a. Beginning with the proceeds received by the authority for the calendar year 1984 from the sale of bonds and for 24 years there-after, the authority shall set aside \$1,200,000.00 annually for the purpose of investing in obligations of the New Jersey Development Authority for Small Businesses, Minorities and Women's Enterprises established pursuant to P.L.1984, c. .... (C. ....) (now pending before the Legislature as Assembly Committee Substitute for Assembly Bill No. 1828 of 1984).

That amount shall be used by that authority to finance the establishment of minority and women's businesses, as defined pursuant to section 2 of P.L.1984, c. .... (C. ....) (now pending before the Legislature as Assembly Committee Substitute for Assembly Bill No. 1828 of 1984), or the operation or expansion of existing minority or women's businesses, or projects to be constructed by minority and women's businesses; and shall be allocated to those businesses and projects in the following areas and time periods:

Areas	Years 1-3	Years 4-5	Years 6-10	Years 11-15	Years 16-20	Years 21-25
(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%

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. No more than 50% of the above amounts shall be made available to women, and no more than 50% of this amount shall be made available to minorities.

b. (1) The authority shall ensure that minority or women's businesses which are in the construction industry or related industries or services, including suppliers of materials and professional construction engineering and design services, shall receive at least 20% of the total expenditures on the total number of eligible projects financed each year by the authority. A business shall be deemed to be a minority or women's business if it meets the definition of that term in section 2 of P.L.1984, c. .... (C. ....) (now pending before the Legislature as Assembly Committee Substitute for Assembly Bill No. 1828 of 1984). The authority shall, in providing financing for eligible projects, impose such conditions as necessary to effectuate this 20% requirement.

(2) The primary obligation for carrying out the 20% minority and women s business set-aside rests with the borrowers of the proceeds of bonds of the Casino Reinvestment Development Authority or the licensees, in the case of a direct investment. Nothing contained herein, however, shall relieve the Casino Reinvestment Development Authority from the obligation of enforcing the requirement of the 20% set-aside for minority and women's businesses. The borrower or licensee and those of its contractors which will make subcontracts with or purchase substantial supplies from or seek engineering or design services from other firms must seek out all available minority and women's businesses and make every effort to use as many of them as possible on the project, in order to satisfy the set-aside requirement. A minority of women's business is available if the project is located in the market area of the minority or women's business and the minority or women's business can perform project services or supply project materials or provide engineering and

design services at the time they are needed and at a competitive price. The relevant market area depends on the kind of services or supplies which are needed. The authority will require borrowers, licensees and prime contractors to engage minority and women's businesses from as wide a market area as is economically feasible. A minority or women's business is qualified if it can perform the service or supply the materials that are needed. Borrowers, licensees, and prime contractors will be expected to use minority and women's businesses with less experience than available nonminority enterprises and should expect to provide technical assistance to minority and women's businesses, as needed. The authority may waive up to 10% of this 20% set-aside requirement, if the borrower of the proceeds of bonds of the Casino Reinvestment Development Authority or the licensee, in the case of a direct investment, demonstrates at a public hearing of the authority that there are not sufficient, relevant, or qualified minority and women's business enterprises whose market areas include the project location to justify a waiver. The borrower or licensee must detail in its waiver request the efforts the borrower or licensee and its potential contractors have exerted to locate and enlist minority and women's business enterprises. The request must indicate the specific minority and women's business enterprises which were contacted and the reason each was not used. Such a waiver request should ordinarily be made after the initial bidding or negotiation procedures prove unsuccessful; however, a borrower or licensee whose eligible project is situated in an area where the minority population is very small may apply for a waiver before requesting bids on its project. The Casino Reinvestment Development Authority shall only approve a waiver under exceptional circumstances.

(3) The authority may waive bonding requirements in full or in part in order to facilitate the use of such a business, if the business has been rejected by two surety companies authorized to do business in this State. The

authority may require a cash deposit, increase the amount of retention, or limit or eliminate periodic payments. Such a waiver may not be extended more than three times.

L.1984, c.218, §33, eff. Dec. 19, 1984.

**5:12-182 Eminent domain or condemnation**

a. The Legislature finds and declares that the achievement of the beneficial purposes of this 1984 amendatory and supplementary act requires the granting to the Casino Reinvestment Development Authority of the right of condemnation and the exercise by it of the right of eminent domain in the city of Atlantic City because special problems may arise or exist in that city concerning the necessity for the acquisition of the property for projects for the public good under this 1984 amendatory and supplementary act, including inflated land values resulting from speculation and intentional obstruction of a landowner or speculator to the acquisition of needed property in order to exact an unreasonable and prohibitive purchase price.

b. In the event the Casino Reinvestment Development Authority finds it is necessary to complete a project in the city of Atlantic City, the authority may acquire any real property in the city, whether a fee simple absolute or lesser interest and whether for immediate use, that the authority may find and determine is required for public use, and upon such a determination, the property shall be deemed to be required for a public use until otherwise determined by the authority; and with the exceptions hereinafter specifically noted, the determination shall not be affected by the fact that such property has theretofore been taken for, or is then devoted to, a public use, but the public use in the hands or under the control of the authority shall be deemed superior to the public use in the hands or under the control of any other person, association or corporation.

c. If the Casino Reinvestment Development Authority is unable to agree with the owner or owners thereof upon terms for the acquisition of any such

real property in the city for any reason whatsoever, then the authority may acquire, and is hereby authorized to acquire, after consultation with the appropriate agency of the city by way of notification 30 days prior to the filing of condemnation proceedings, such property, whether a fee simple absolute or lesser interest, by condemnation or the exercise of the right of eminent domain pursuant to the provisions of the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.) and the "Relocation Assistance Act," P.L.1971, c.362 (C.20:4-1 et seq.).

d. The power of the authority to acquire real property by condemnation or the exercise of the power of eminent domain in the city shall be a continuing power and no exercise thereof shall be deemed to exhaust it.

e. The Casino Reinvestment Development Authority and its duly authorized agents and employees may enter upon any land in the State for the purpose of making such surveys, maps or other examinations thereof as it may deem necessary or convenient for its authorized purposes.

f. Notwithstanding anything to the contrary contained in this 1984 amendatory and supplementary act, no property now or hereafter vested in or held by any county, city, borough, village, township or other municipality shall be taken by the Casino Reinvestment Development Authority without the consent of such municipality, unless expressly authorized so to do by the State. All counties, cities, boroughs, villages, townships, and other municipalities, and all public agencies and commissions of the State, notwithstanding any contrary provision of law, are hereby authorized and empowered to grant and convey to the Casino Reinvestment Development Authority upon its request, but not otherwise, and upon reasonable terms and conditions, any real property which may be necessary or convenient to the effectuation of its authorized purposes, including real property already devoted to public use.

g. The term "real property" as used in this 1984 amendatory and supplementary act includes lands, structures, franchises and interests in land,

including lands under water and riparian rights, and any and all things and rights usually included within that term and includes not only fees simple absolute, but also any and all lesser interests such as easements, rights of way, uses, leases, licenses and all other incorporeal hereditaments, and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise, and also claims for damage to real estate.

L.1984, c.218, §34, eff. Dec. 19, 1984.

**5:12-183 Minutes of authority meetings; effective date of actions; veto**

A true copy of the minutes of every meeting of the Casino Reinvestment Development Authority shall be forthwith delivered by and under the certification of the secretary thereof to the Governor. No action taken at such meeting by the Casino Reinvestment Development Authority shall have force and effect until the earlier of 10 days, exclusive of Saturdays, Sundays and public holidays, after such copy of the minutes shall have been so delivered, or the approval thereof by the Governor. If, in the 10-day period, the Governor returns such copy of the minutes with veto of any action taken by the authority or any member thereof at such meeting, such action shall be null and void and of no effect. The Governor may approve all or part of the action taken at such meeting, prior to the expiration of the 10-day period.

L.1984, c 218, §35, eff. Dec. 19, 1984.