ACTS

OF THE

Second Annual Session

OF THE

One Hundred and Ninety-eighth Legislature

OF THE

STATE OF NEW JERSEY

AND

Twenty-seventh Under the New Constitution

CHAPTERS 211-501

New Jersey State Library

1979

CHAPTER 211

AN ACT to validate certain sales by municipalities of real property not needed for public use.

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

Validating act.

1. No sale of any lands or buildings or any interest therein, not needed for public use, made by the governing body of any municipality pursuant to N. J. S. 40A:12–13 on or before December 31, 1976, shall be invalid because the purchaser was a nonprofit corporation as required by the terms and limitation of the notice published in accordance with the provisions of the said statute; provided the said governing body of the municipality, by resolution, has or shall have confirmed such sale and the conveyance made to effectuate the sale to the purchaser or purchasers thereof and that the said purchaser or purchasers shall have paid the full purchase price for said lands or buildings or any interest therein, as the highest bidder; and provided further, that no proceedings to contest said sale has heretofore been instituted in any court or is instituted within 30 days after the effective date of this act.

2. This act shall take effect immediately.

Approved September 28, 1979.

CHAPTER 212

AN ACT concerning the control, taking and disposition of certain birds and amending R. S. 23:4–25 and R. S. 23:4–50.

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

1. R. S. 23:4–25 is amended to read as follows:

Dogs running at large; training; carrying firearms into woods or fields; penalty; exceptions.

23:4–25. The owner, lessee or custodian of a dog found running at large in the woods or fields, shall be liable to a penalty of $20.00 for each offense; provided, however, that the occupant of a farm may permit his dog to run at large on the land he occupies, except during the open season for deer.

The owner, lessee or custodian of a dog may go into the woods or fields with the dog without firearms for the purpose of exercising or training it in daylight at any time, except during the open season for deer, provided that on State public shooting and fishing grounds or wildlife management areas such exercising or training may be restricted to designated areas, and raccoon dogs may be trained between the hours of sunset and sunrise for a period of 4 weeks prior to the last week preceding the opening of the raccoon season unless prescribed otherwise by the Fish and Game Code. The penalty for violation of this section shall be $20.00 for each offense.

Any person going into the woods or fields with a firearm, except during the open seasons for the taking of birds and animals as prescribed by law or by the Fish and Game Code, shall be liable to a penalty of $20.00 for each offense; provided, however, that this section shall not apply to the killing of crows, yellow-headed redwinged, bi-colored redwinged, tri-colored redwinged, Rusty and Brewer's blackbirds, cowbirds, grackles, wood chuck and vermin other than birds, which may be taken in any manner and at any time of the year, when in the act of destroying poultry, crops or property.

2. R. S. 23:4–50 is amended to read as follows:

Wild birds other than game birds; capturing; killing; possession; sale; plumage; exceptions.

23:4–50. Except as may be otherwise provided by any provision of law, regulation, or of the State Fish and Game Code, no person

shall, within this State, at any time, by any means or in any manner pursue, hunt, take, capture, kill, attempt to take, capture, or kill, or have in possession, living or dead, a wild bird other than a game bird as defined in section 23:4–49 of this Title, offer for sale, sell, offer to barter, barter, offer to purchase, purchase, deliver for shipment, ship, export, import, cause to be transported, carry or cause to be carried, or received for shipment, transportation, carriage, or export, any such wild bird after it has been killed or captured. Unless so otherwise provided, no part of plumage, skin or body of a bird other than a game bird as defined in section 23:4–49 of this Title shall be sold or had in possession for sale. Plumage, as used in this section, includes any part of the feathers, head, wings, or tail of a bird, and refers equally to plumage of birds coming from without the State as to birds obtained within the State, but it shall not be construed to apply to the feathers of ostriches, domestic fowl or domestic pigeons. The fact that a bird belongs to a different species from that native in this State shall constitute no defense to the possession of parts thereof.

The English or European house sparrow and the European starling are not included among the birds protected by this section. Nothing herein shall make it unlawful for the owner or occupant of land, the regular employees thereof, or an agent designated by the division to control hawks or owls only when in the act of destroying poultry or livestock, provided that such control activities are conducted in compliance with all relevant State and Federal laws and regulations and that such owner, occupant, employee or agent has first obtained all permits required thereby.

Except as may be otherwise provided by any provision of law, regulation, or of the State Fish and Game Code, no State permit shall be required to control yellow-headed, red-winged, bi-colored redwinged, tri-colored redwinged, Rusty and Brewer's blackbirds, cowbirds, grackles and crows when found committing or about to commit depredations upon ornamental or shade trees, crops, livestock, or wildlife, or when concentrated in such manners or manner as to constitute a health hazard or other nuisance; provided, that none of the birds killed pursuant to this section, nor their plumage, shall be sold or offered for sale, but may be possessed, transported and otherwise disposed of or utilized.

Nothing herein contained shall prohibit the control of animals or birds which have become obnoxious in nature and habit or that are doing damage to wildlife or agricultural crops, by the Division of

Fish, Game and Shellfisheries or its employees on any lands in the State.

A person violating any of the provisions of this section shall be subject to a penalty of not less than $50.00 nor more than $200.00 for each bird or part thereof which is the subject of such violation.

3. This act shall take effect immediately.

Approved September 28, 1979.

CHAPTER 213

AN ACT relating to housing providing additional loans for financial feasibility of certain housing projects, assisting in the rehabilitation, and maintenance of housing, and making an appropriation therefor.

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

1. The Commissioner of the Department of Community Affairs is authorized to utilize $4,285,000.00 from the mortgage assistance fund created by the "New Jersey Mortgage Assistance Bond Act of 1976," P. L. 1976, c. 94, to provide financial feasibility and stability to existing housing projects financed by the Housing Finance Agency by lending such sum directly to one or more qualified mortgagors, as defined in P. L. 1976, c. 94, of projects heretofore financed by the agency. The loan may be subordinated to an existing mortgage loan held by the agency on a project and repayment of principal and interest may be deferred until the existing mortgage loan to the agency is paid or otherwise discharged. If the agency has already advanced the amount of the subordinated or deferred payment loan on behalf of the commissioner, the commissioner is authorized to utilize all or any part of the $4,285,000.00 to reimburse the agency for the amount advanced by it on the loan. Upon receipt by the commissioner of any repayment of a loan authorized by this section, the commissioner shall deposit the sum in the mortgage assistance fund.

2. The commissioner is authorized to utilize $500,000.00 from the mortgage assistance fund for the purpose of assisting certain municipalities with revitalization in selected neighborhoods. Assist-

ance may include neighborhood preservation activities, rehabilitation of residential properties and grants and loans to residential property owners in viable urban neighborhoods threatened by the lack of funds for mortgage loans and loans for rehabilitation.

3. Not less than 30 days prior to the commisisoner's entering into any contract, lease, obligation, or agreement to effectuate the purposes of this act the commissioner shall report to and consult with the special joint legislative committee created pursuant to Assembly Concurrent Resolution No. 66 of 1968 as reconstituted and continued from time to time by the Legislature.

4. There is appropriated from the mortgage assistance fund to the Department of Community Affairs the sum of $4,785,000.00 in accordance with the provisions of this act. The appropriation shall be derived from the sale of State Mortgage Assistance Bonds issued pursuant to P. L. 1976, c. 94.

5. The State Treasurer shall establish and maintain the sum appropriated in the mortgage assistance fund. The sum appropriated may be requisitioned by the Department of Community Affairs for the uses and purposes specified herein, subject to the same restrictions and control as are exercised over all appropriated State funds.

6. This act shall take effect immediately.

Approved October 4, 1979.

CHAPTER 214

AN ACT to amend and supplement "An act concerning highways and bridges over the Delaware river, the responsibilities of the Delaware River Joint Toll Bridge Commission and the New Jersey Department of Transportation with regard to the construction of additional river crossings and supplementing Titles 27 and 32 of the Revised Statutes," approved June 25, 1968 (P. L. 1968, c. 118).

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

C. 27:12D-6 Construction and operation of Easton-Phillipsburg bridge.

1. (New section) Notwithstanding any provisions to the contrary of the act to which this act is amendatory and supplementary, the Delaware River Joint Toll Bridge Commission may, if it so agrees, construct the proposed Easton-Phillipsburg bridge and operate the same as a toll facility, provided that tolls are removed from the existing Easton-Phillipsburg bridge.

2. Section 5 of P. L. 1968, c. 118 (C. 27:12D–5) is amended to read as follows:

C. 27:12D-5 Bridge revenue bonds.

5. Notwithstanding the provisions of this act, the construction and operation of the bridges authorized herein shall be carried out in a manner which will not violate any existing covenant of the Delaware River Joint Toll Bridge Commission made for the protection of holders of its outstanding Bridge Revenue Bonds and such bridges shall not be opened to traffic until all such outstanding Bridge Revenue Bonds shall have been retired by payment, purchase or redemption, or provision for such retirement shall have been duly made, or unless the holders of such Bridge Revenue Bonds for which provision for retirement shall not have been made shall have consented in writing to such bridge opening.

3. This act shall take effect immediately upon the enactment into law by the Commonwealth of Pennsylvania of legislation having an identical effect with the provisions of this act, and upon approval by the Federal Highway Administration.

Approved October 11, 1979.

CHAPTER 215

AN ACT to amend "The Banking Act of 1948," approved April 29, 1948 (P. L. 1948, c. 67).

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

1. Section 48 of P. L. 1948, c. 67 (C. 17:9A–48) is amended to read as follows:

C. 17:9A-48 Nonmembers of Federal Reserve System.

48. Nonmembers of Federal Reserve System.

A. A bank which is not a member of the Federal Reserve System shall, subject to the provisions of subsection B of this section, at all times have in available funds consisting of (1) lawful currency of the United States, or (2) balances due on demand from reserve depositaries, or (3) direct obligations of the United States which have a maturity of not more than 18 months, not less than an amount equal to the aggregate of 15% of its immediate liabilities and 3% of its time liabilities. The amount of direct obligations of the United States, if any, which may be included in available funds shall be established by regulation of the Commissioner of Banking but in no case shall such amount exceed 50% of the total required available fund. The commissioner may from time to time, with the concurrence of the banking advisory board, increase or decrease such percentages; provided, that, in the case of immediate liabilities, such percentage shall not be lower than 15 or higher than 30 and, in the case of time liabilities, such percentage shall not be lower than 3 or higher than 6. Notwithstanding the foregoing provisions of this section, the amount of available funds required of such a bank shall at no time exceed the amount of the reserve balances it would be required to maintain were such a bank a member of the Federal Reserve System. The sufficiency of the available funds of any such bank upon a particular day shall be determined upon the basis of the bank's immediate liabilities at the opening of business on that day.

B. A bank shall be deemed to have complied with the requirements of subsection A of this section if its daily available funds, averaged over semimonthly periods beginning with the first and the sixteenth days of each month, shall at least equal the minimum amount prescribed by subsection A of this section.

2. This act shall take effect immediately.

Approved October 11, 1979.

CHAPTER 216

AN ACT to amend and supplement the "Municipal Land Use Law," approved January 14, 1976 (P. L. 1975, c. 291), and amending P. L. 1968, c. 285.

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

1. Section 2 of P. L. 1975, c. 291 (C. 40:55D–2) is amended to read as follows:

C. 40:55D-2 Purpose of the act.

2. Purpose of the act. It is the intent and purpose of this act:

a. To encourage municipal action to guide the appropriate use or development of all lands in this State, in a manner which will promote the public health, safety, morals, and general welfare;

b. To secure safety from fire, flood, panic and other natural and man-made disasters;

c. To provide adequate light, air and open space;

d. To ensure that the development of individual municipalities does not conflict with the development and general welfare of neighboring municipalities, the county and the State as a whole;

e. To promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions and preservation of the environment;

f. To encourage the appropriate and efficient expenditure of public funds by the coordination of public development with land use policies;

g. To provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens;

h. To encourage the location and design of transportation routes which will promote the free flow of traffic while discouraging location of such facilities and routes which result in congestion or blight;

i. To promote a desirable visual environment through creative development techniques and good civic design and arrangements;

j. To promote the conservation of open space and valuable natural resources and to prevent urban sprawl and degradation of the environment through improper use of land;

k. To encourage planned unit developments which incorporate the best features of design and relate the type, design and layout of residential, commercial, industrial and recreational development to the particular site;

l. To encourage senior citizen community housing construction; and

m. To encourage coordination of the various public and private procedures and activities shaping land development with a view of lessening the cost of such development and to the more efficient use of land.

2. Section 3 of P. L. 1975, c. 291 (C. 40:55D–3) is amended to read as follows:

C. 40:55D-3 Definitions.

3. For the purposes of this act, unless the context clearly indicates a different meaning:

The term "shall" indicates a mandatory requirement, and the term "may" indicates a permissive action.

"Administrative officer" means the clerk of the municipality unless a different municipal official or officials, are designated by ordinance or statute.

"Applicant" means a developer submitting an application for development.

"Application for development" means the application form and all accompanying documents required by ordinance for approval of a subdivision plat, site plan, planned development, conditional use, zoning variance or direction of the issuance of a permit pursuant to section 25 or section 27 of this act.

"Approving authority" means the planning board of the municipality unless a different agency is designated by ordinance when acting pursuant to the authority of this act.

"Board of adjustment" means the board established pursuant to section 56 of this act.

"Building" means a combination of materials to form a construction adapted to permanent, temporary, or continuous occupancy and having a roof.

"Capital improvement" means a governmental acquisition of real property or major construction project.

"Circulation" means systems, structures and physical improvements for the movement of people, goods, water, air, sewage or power by such means as streets, highways, railways, waterways, towers, airways, pipes and conduits, and the handling of people and goods by such means as terminals, stations, warehouses, and other storage buildings or transshipment points.

"Common open space" means an open space area within or related to a site designated as a development, and designed and in-

tended for the use or enjoyment of residents and owners of the development. Common open space may contain such complementary structures and improvements as are necessary and appropriate for the use or enjoyment of residents and owners of the development.

"Complete application" means an application form completed as specified by ordinance and the rules and regulations of the municipal agency, and all accompanying documents required by ordinance for approval of the application for development, including where applicable, but not limited to, a site plan or subdivision plat; provided that the municipal agency may require such additional information not specified in the ordinance, or any revisions in the accompanying documents, as are reasonably necessary to make an informed decision as to whether the requirements necessary for approval of the application for development have been met. The application shall not be deemed incomplete for lack of any such additional information or any revisions in the accompanying documents so required by the municipal agency. An application shall be certified as complete immediately upon the meeting of all requirements specified in the ordinance and in the rules and regulations of the municipal agency, and shall be deemed complete as of the day it is so certified by the administrative officer for purposes of the commencement of the time period for action by the municipal agency.

"Conditional use" means a use permitted in a particular zoning district only upon a showing that such use in a specified location will comply with the conditions and standards for the location or operation of such use as contained in the zoning ordinance, and upon the issuance of an authorization therefor by the planning board.

"Conventional" means development other than planned development.

"County master plan" means a composite of the master plan for the physical development of the county in which the municipality is located, with the accompanying maps, plats, charts and descriptive and explanatory matter adopted by the county planning board pursuant to R. S. 40:27–2 and R. S. 40:27–4.

"County planning board" means the county planning board, as defined in section 1 of P. L. 1968, c. 285 (C. 40:27–6.1), of the county in which the land or development is located.

3. Section 3.2 of P. L. 1975, c. 291 (C. 40:55D–5) is amended to read as follows:

C. 40:55D-5 Definitions.

3.2. "Maintenance guarantee" means any security, other than cash, which may be accepted by a municipality for the maintenance of any improvements required by this act.

"Major subdivision" means any subdivison not classified as a minor subdivision.

"Master plan" means a composite of one or more written or graphic proposals for the development of the municipality as set forth in and adopted pursuant to section 19 of this act.

"Mayor" means the chief executive of the municipality, whatever his official designation may be, except that in the case of municipalities governed by municipal council and municipal manager the term "mayor" shall not mean the "municipal manager" but shall mean the mayor of such municipality.

"Minor site plan" means a development plan of one or more lots which (1) proposes new development within the scope of development specifically permitted by ordinance as a minor site plan; (2) does not involve planned development, any new street or extension of any off-tract improvement which is to be prorated pursuant to section 30 of this act (C. 40:55D–42); and (3) contains the information reasonably required in order to make an informed determination as to whether the requirements established by ordinance for approval of a minor site plan have been met.

"Minor subdivision" means a subdivision of land for the creation of a number of lots specifically permitted by ordinance as a minor subdivision; provided that such subdivision does not involve (1) a planned development, (2) any new street or (3) the extension of any off-tract improvement, the cost of which is to be prorated pursuant to section 30 of this act (C. 40:55D–42).

"Municipality" means any city, borough, town, township or village.

"Municipal agency" means a municipal planning board or board of adjustment, or a governing body of a municipality when acting pursuant to this act and any agency which is created by or responsible to one or more municipalities when such agency is acting pursuant to this act.

"Nonconforming lot" means a lot the area, dimension or location of which was lawful prior to the adoption, revision or amendment of a zoning ordinance, but fails to conform to the requirements of the zoning district in which it is located by reason of such adoption, revision or amendment.

"Nonconforming structure" means a structure the size, dimension or location of which was lawful prior to the adoption, revision or amendment of a zoning ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption, revision or amendment.

"Nonconforming use" means a use or activity which was lawful prior to the adoption, revision or amendment of a zoning ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption, revision or amendment.

"Official county map" means the map, with changes and additions thereto, adopted and established, from time to time, by resolution of the board of chosen freeholders of the county pursuant to R. S. 40:27–5.

"Official map" means a map adopted by ordinance pursuant to article 5.

"Offsite" means located outside the lot lines of the lot in question but within the property (of which the lot is a part) which is the subject of a development application or contiguous portion of a street or right-of-way.

"Off-tract" means not located on the property which is the subject of a development application nor on a contiguous portion of a street or right-of-way.

"Onsite" means located on the lot in question.

"On-tract" means located on the property which is the subject of a development application or on a contiguous portion of a street or right-of-way.

"Open-space" means any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space; provided that such areas may be improved with only those buildings, structures, streets and offstreet parking and other improvements that are designed to be incidental to the natural openness of the land.

4. Section 3.4 of P. L. 1975, c. 291 (C. 40:55D–7) is amended to read as follows:

C. 40:55D-7 Definitions.

3.4 "Sedimentation" means the deposition of soil that has been transported from its site of origin by water, ice, wind, gravity or other natural means as a product of erosion.

"Site plan" means a development plan of one or more lots on which is shown (1) the existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, drainage, flood plains, marshes and waterways, (2) the location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping, structures and signs, lighting, screening devices, and (3) any other information that may be reasonably required in order to make an informed determination pursuant to an ordinance requiring review and approval of site plans by the planning board adopted pursuant to article 6 of this act.

"Standards of performance" means standards (1) adopted by ordinance pursuant to subsection 52 d. regulating noise levels, glare, earthborne or sonic vibrations, heat, electronic or atomic radiation, noxious odors, toxic matters, explosive and inflammable matters, smoke and airborne particles, waste discharge, screening of unsightly objects or conditions and such other similar matters as may be reasonably required by the municipality or (2) required by applicable Federal or State laws or municipal ordinances.

"Street" means any street, avenue, boulevard, road, parkway, viaduct, drive or other way (1) which is an existing State, county or municipal roadway, or (2) which is shown upon a plat heretofore approved pursuant to law, or (3) which is approved by official action as provided by this act, or (4) which is shown on a plat duly filed and recorded in the office of the county recording officer prior to the appointment of a planning board and the grant to such board of the power to review plats; and includes the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, curbs, sidewalks, parking areas and other areas within the street lines.

"Structure" means a combination of materials to form a construction for occupancy, use or ornamentation whether installed on, above, or below the surface of a parcel of land.

"Subdivision" means the division of a lot, tract or parcel of land into two or more lots, tracts, parcels or other divisions of land for sale or development. The following shall not be considered subdivisions within the meaning of this act, if no new streets are created: (1) divisions of land found by the planning board or subdivision committee thereof appointed by the chairman to be for agricultural purposes where all resulting parcels are 5 acres or larger in size, (2) divisions of property by testamentary or in-

testate provisions, (3) divisions of property upon court order, including but not limited to judgments of foreclosure, (4) consolidation of existing lots by deed or other recorded instrument and (5) the conveyance of one or more adjoining lots, tracts or parcels of land, owned by the same person or persons and all of which are found and certified by the administrative officer to conform to the requirements of the municipal development regulations and are shown and designated as separate lots, tracts or parcels on the tax map or atlas of the municipality. The term "subdivision" shall also include the term "resubdivision."

"Transcript" means a typed or printed verbatim record of the proceedings or reproduction thereof.

"Variance" means permission to depart from the literal requirements of a zoning ordinance pursuant to section 47 and subsections 29. 2b., 57 c. and 57 d. of this act.

"Zoning permit" means a document signed by the administrative officer (1) which is required by ordinance as a condition precedent to the commencement of a use or the erection, construction, reconstruction, alteration, conversion or installation of a structure or building and (2) which acknowledges that such use, structure or building complies with the provisions of the municipal zoning ordinance or variance therefrom duly authorized by a municipal agency pursuant to sections 47 and 57 of this act.

5. Section 4 of P. L. 1975, c. 291 (C. 40:55D–8) is amended to read as follows:

C. 40:55D-8 Administrative procedures; fees.

4. Administrative procedures; fees. a. Every municipal agency shall adopt, and may amend reasonable rules and regulations, not inconsistent with this act or with any applicable ordinance, for the administration of its functions, powers and duties, and shall furnish a copy thereof to any person upon request and may charge a reasonable fee for such copy. Copies of all such rules and regulations and amendments thereto shall be maintained in the office of the administrative officer.

b. Fees to be charged (1) an applicant for review of an application for development by a municipal agency, and (2) an appellant pursuant to section 8 of this act shall be reasonable and shall be established by ordinance.

6. Section 5 of P. L. 1975, c. 291 (C. 40:55D–9) is amended to read as follows:

C. 40:55D-9 Meetings; municipal agency.

5. Meetings; municipal agency. a. Every municipal agency shall by its rules fix the time and place for holding its regular meetings for business authorized to be conducted by such agency. Regular meetings of the municipal agency shall be scheduled not less than once a month and shall be held as scheduled unless canceled for lack of applications for development to process. The municipal agency may provide for special meetings, at the call of the chairman, or on the request of any two of its members, which shall be held on notice to its members and the public in accordance with municipal regulations. No action shall be taken at any meeting without a quorum being present. All actions shall be taken by a majority vote of the members of the municipal agency present at the meeting except as otherwise required by sections 23, 25, 49, 50, and subsections 8e., 17a., 17b. and 57d. of this act. Nothing herein shall be construed to contravene any act providing for procedures for governing bodies.

b. All regular meetings and all special meetings shall be open to the public. Notice of all such meetings shall be given in accordance with municipal regulations. An executive session for the purpose of discussing and studying any matters to come before the agency shall not be deemed a regular or special meeting within the meaning of this act.

c. Minutes of every regular or special meeting shall be kept and shall include the names of the persons appearing and addressing the municipal agency and of the persons appearing by attorney, the action taken by the municipal agency, the findings, if any, made by it and reasons therefor. The minutes shall thereafter be made available for public inspection during normal business hours at the office of the administrative officer. Any interested party shall have the right to compel production of the minutes for use as evidence in any legal proceedings concerning the subject matter of such minutes. Such interested party may be charged a reasonable fee for reproduction of the minutes for his use.

7. Section 6 of P. L. 1975, c. 291 (C. 40:55D–10) is amended to read as follows:

C. 40:55D-10 Hearings.

6. Hearings. a. The municipal agency shall hold a hearing on each application for development, or adoption, revision or amendment of the master plan.

b. The municipal agency shall make the rules governing such hearings. Any maps and documents for which approval is sought at

a hearing shall be on file and available for public inspection at least 10 days before the date of the hearing during normal business hours in the office of the administrative officer. The applicant may produce other documents, records, or testimony at the hearing to substantiate or clarify or supplement the previously filed maps and documents.

c. The officer presiding at the hearing or such person as he may designate shall have power to administer oaths and issue subpenas to compel the attendance of witnesses and the production of relevant evidence, including witnesses and documents presented by the parties, and the provisions of the "County and Municipal Investigations Law," P. L. 1953, c. 38 (C. 2A:67A–1 et seq.) shall apply.

d. The testimony of all witnesses relating to an application for development shall be taken under oath or affirmation by the presiding officer, and the right of cross-examination shall be permitted to all interested parties through their attorneys, if represented, or directly, if not represented, subject to the discretion of the presiding officer and to reasonable limitations as to time and number of witnesses.

e. Technical rules of evidence shall not be applicable to the hearing, but the agency may exclude irrelevant, immaterial or unduly repetitious evidence.

f. The municipal agency shall provide for the verbatim recording of the proceedings by either stenographer, mechanical or electronic means. The municipal agency shall furnish a transcript, or duplicate recording in lieu thereof, on request to any interested party at his expense; provided that the governing body may provide by ordinance for the municipality to assume the expense of any transcripts necessary for appeal to the governing body pursuant to section 8 of this act of decisions by the zoning board of adjustment pursuant to subsection 57d. of this act, up to a maximum amount as specified by the ordinance.

The municipal agency in furnishing a transcript of the proceedings to an interested party at his expense shall not charge such interested party more than the maximum permitted in N. J. S. 2A:11–15. Said transcript shall be certified in writing by the transcriber to be accurate.

g. Each decision on any application for development shall be reduced to writing as provided in this subsection, and shall include findings of facts and conclusions based thereon.

Failure of a motion to approve an application for development to receive the number of votes required for approval shall be deemed an action denying the application.

The municipal agency may provide such written decision and findings and conclusions either on the date of the meeting at which the municipal agency takes to grant or deny approval, or, if the meeting at which such action is taken occurs within the final 45 days of the applicable time period for rendering a decision on the application for development, within 45 days of such meeting by the adoption of a resolution of memorialization setting forth the decision and the findings and conclusions of the municipal agency thereon. An action resulting from the failure of a motion to approve an application shall be memorialized by resolution as provided above, notwithstanding the time at which such action occurs within the applicable time period for rendering a decision on the application.

The adoption of a resolution of memorialization pursuant to this subsection shall not be construed to alter the applicable time period for rendering a decision on the application for development. Such resolution shall be adopted by a vote of a majority of the members of the municipal agency who voted for the action previously taken, and no other member shall vote thereon. The vote on such resolution shall be deemed to be a memorialization of an action of the municipal agency, and not to be an action of the municipal agency; except that failure to adopt such a resolution within the 45 day period shall result in the approval of the application for development, notwithstanding any prior action taken thereon.

Whenever a resolution of memorialization is adopted in accordance with this subsection, the date of such adoption shall constitute the date of the decision for purposes of the mailings, filings and publications required by subsections h. and i. of this section.

h. A copy of the decision shall be mailed by the municipal agency within 10 days of the date of decision to the applicant, or if represented then to his attorney, without separate charge, and to all who request a copy of the decision for a reasonable fee. A copy of the decision shall also be filed by the municipal agency in the office of the administrative officer. The administrative officer shall make a copy of such filed decision available to any interested party for a reasonable fee and available for public inspection at his office during reasonable hours.

i. A brief notice of the decision shall be published in the official newspaper of the municipality, if there be one, or in a newspaper

of general circulation in the municipality. Such publication shall be arranged by the applicant unless a particular municipal officer is so designated by ordinance; provided that nothing contained in this act shall be construed as preventing the applicant from arranging such publication if he so desires. The municipality may make a reasonable charge for its publication. The period of time in which an appeal of the decision may be made shall run from the first publication of the decision, whether arranged by the municipality or the applicant.

C. 40:55D-10.1 Concept plan; review.

8. (New section) At the request of the developer, the planning board shall grant an informal review of a concept plan for a development for which the developer intends to prepare and submit an application for development. The developer shall not be required to submit any fees for such an informal review. The developer shall not be bound by any concept plan for which review is requested, and the planning board shall not be bound by any such review.

C. 40:55D-10.2 Voting by member when absent.

9. (New section) A member of a municipal agency who was absent for one or more of the meetings at which a hearing was held shall be eligible to vote on the matter upon which the hearing was conducted, notwithstanding his absence from one or more of the meetings; provided, however, that such board member has available to him the transcript or recording of all of the hearing from which he was absent, and certifies in writing to the board that he has read such transcript or listened to such recording.

10. Section 7.1 of P. L. 1975, c. 291 (C. 40:55D-12) is amended to read as follows:

C. 40:55D-12 Notice of applications.

7.1. Notice of applications. Notice pursuant to subsection a., b., d., e., f. and g. of this section shall be given by the applicant unless a particular municipal officer is so designated by ordinance; provided that nothing contained herein shall prevent the applicant from giving such notice if he so desires. Notice pursuant to subsections a., b., d., e., f. and g. of this section shall be given at least 10 days prior to the date of the hearing.

a. Public notice of a hearing on an application for development shall be given except for (1) conventional site plan review pursuant to section 34 of this act, (2) minor subdivisions pursuant to section 35 of this act or (3) final approval pursuant to section 38 of this

act; provided that the governing body may by ordinance require public notice for such categories of site plan review as may be specified by ordinance; and further provided that public notice shall be given in the event that relief is requested pursuant to section 47 or 63 of this act as part of an application for development otherwise excepted herein from public notice. Public notice shall be given by publication in the official newspaper of the municipality, if there be one, or in a newspaper of general circulation in the municipality.

b. Notice of a hearing requiring public notice pursuant to subsection a. of this section shall be given to the owners of all real property as shown on the current tax duplicate, located in the State and within 200 feet in all directions of the property which is the subject of such hearing; provided that this requirement shall be deemed satisfied by notice to the (1) condominium association, in the case of any unit owner whose unit has a unit above or below it, or (2) horizontal property regime, in the case of any co-owner whose apartment has an apartment above or below it. Notice shall be given by: (1) serving a copy thereof on the property owner as shown on the said current tax duplicate, or his agent in charge of the property, or (2) mailing a copy thereof by certified mail to the property owner at his address as shown on the said current tax duplicate.

Notice to a partnership owner may be made by service upon any partner. Notice to a corporate owner may be made by service upon its president, a vice president, secretary or other person authorized by appointment or by law to accept service on behalf of the corporation. Notice to a condominium association, horizontal property regime, community trust or homeowners' association, because of its ownership of common elements or areas located within 200 feet of the property which is the subject of the hearing, may be made in the same manner as to a corporation without further notice to unit owners, co-owners, or homeowners on account of such common elements or areas.

c. Upon the written request of an applicant, the administrative officer of a municipality shall, within 7 days, make and certify a list from said current tax duplicates of names and addresses of owners to whom the applicant is required to give notice pursuant to subsection b. of this section. The applicant shall be entitled to rely upon the information contained in such list, and failure to give notice to any owner not on the list shall not invalidate any

hearing or proceeding. A sum not to exceed $0.25 per name, or $10.00, whichever is greater, may be charged for such list.

d. Notice of hearings on applications for development involving property located within 200 feet of an adjoining municipality shall be given by personal service or certified mail to the clerk of such municipality.

e. Notice shall be given by personal service or certified mail to the county planning board of a hearing on an application for development of property adjacent to an existing county road or proposed road shown on the official county map or on the county master plan, adjoining other county land or situated within 200 feet of a municipal boundary.

f. Notice shall be given by personal service or certified mail to the Commissioner of Transportation of a hearing on an application for development of property adjacent to a State highway.

g. Notice shall be given by personal service or certified mail to the director of the division of a hearing on an application for development of property which exceeds 150 acres or 500 dwelling units. Such notice shall include a copy of any maps or documents required to be on file with the municipal clerk pursuant to subsection 6 b. of this act.

h. The applicant shall file an affidavit of proof of service with the municipal agency holding the hearing on the application for development in the event that the applicant is required to give notice pursuant to this section.

i. Notice pursuant to subsections d., e., f., and g. of this section shall not be deemed to be required, unless public notice pursuant to subsection a. and notice pursuant to subsection b. of this section are required.

11. Section 8 of P. L. 1975, c. 291 (C. 40:55D–17) is amended to read as follows:

C. 40:55D-17 Appeal to the governing body; time; notice; modification; stay of proceedings.

8. Appeal to the governing body; time; notice; modification; stay of proceedings.

a. Any interested party desiring to appeal the decision of a municipal agency shall appeal to the governing body (1) any final decision of a board of adjustment approving an application for development pursuant to subsection 57 d. of this act, and (2) if so permitted by ordinance, any other final decision of a board of adjustment or planning board on any class of applications

for development. Such appeal shall be made within 10 days of the date of publication of such final decision pursuant to subsection 6i. In the case of any board established pursuant to article 10 of this act, the governing body of the municipality in which the land is situated shall be the "governing body" for purposes of this section. The appeal to the governing body shall be made by serving the municipal clerk in person or by certified mail with a notice of appeal specifying the grounds thereof and the name and address of the appellant and name and address of his attorney, if represented. Such appeal shall be decided by the governing body only upon the record established before the planning board or board of adjustment.

b. Notice of the meeting to review the record below shall be given by the governing body by personal service or certified mail to the appellant, to those entitled to notice of a decision pursuant to subsection 6 h. and to the board from which the appeal is taken at least 10 days prior to the date of the meeting. The parties may submit oral and written argument on the record at such meeting, and the governing body shall provide for verbatim recording and transcripts of such meeting pursuant to subsection 6 f.

c. The appellant shall, (1) within 5 days of service of the notice of the appeal pursuant to subsection a. hereof, arrange for a transcript pursuant to subsection f. of section 6 of this act (C. 40:55D–10) for use by the governing body and pay a deposit of $50.00 or the estimated cost of such transcription, whichever is less, or (2) within 35 days of service of the notice of appeal, submit a transcript as otherwise arranged to the municipal clerk; otherwise, the appeal may be dismissed for failure to prosecute.

The governing body shall conclude a review of the record below not later than 95 days from the date of publication of notice of the decision below pursuant to subsection i. of section 6 of this act (C. 40:55D–10) unless the applicant consents in writing to an extension of such period. Failure of the governing body to hold a hearing and conclude a review of the record below and to render a decision within such specified period shall constitute a decision affirming the action of the board.

d. The governing body may reverse, remand or affirm, wholly or in part, or may modify the final decision of the planning board or board of adjustment, as the case may be.

e. The affirmative vote of a majority of the full authorized membership of the governing body shall be necessary to reverse, remand or modify any final action of either board.

f. An appeal to the governing body shall stay all proceedings in furtherance of the action in respect to which the decision appealed from was made unless the board from whose action the appeal is taken certifies to the governing body, after the notice of appeal shall have been filed with such board, that by reasons of facts stated in the certificate a stay would, in its opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by an order of the Superior Court on application upon notice to the board from whom the appeal is taken and on good cause shown.

g. The governing body shall mail a copy of the decision to the appellant or if represented then to his attorney, without separate charge, and for a reasonable charge to any interested party who has requested it, not later than 10 days after the date of the decision. A brief notice of the decision shall be published in the official newspaper of the municipality, if there be one, or in a newspaper of general circulation in the municipality. Such publication shall be arranged by the applicant unless a particular municipal officer is so designated by ordinance; provided that nothing contained herein shall be construed as preventing the applicant from arranging such publication if he so desires. The governing body may make a reasonable charge for its publication. The period of time in which an appeal to a court of competent jurisdiction may be made shall run from the first publication, whether arranged by the municipality or the applicant.

h. Nothing in this act shall be construed to restrict the right of any party to obtain a review by any court of competent jurisdiction according to law.

12. Section 14 of P. L. 1975, c. 291 (C. 40:55D–23) is amended to read as follows:

C. 40:55D-23 Planning board membership.

14. Planning board membership. a. The governing body may, by ordinance, create a planning board of seven or nine members. The membership shall consist of, for convenience in designating the manner of appointment, the four following classes:

Class I—the mayor or, in the case of the council-manager form of government pursuant to the "Optional Municipal Charter Law," P. L. 1950, c. 210 (C. 40:69A–1 et seq.) or "The Municipal Manager Form of Government Law" (Subtitle 5 of Title 40 of the Revised Statutes), the manager, if so provided by the aforesaid ordinance.

Class II—one of the officials of the municipality other than a member of the governing body, to be appointed by the mayor; provided that if there be an environmental commission, the member of the environmental commission who is also a member of the planning board as required by section 1 of P. L. 1968, c. 245 (C. 40:56A–1), shall be deemed to be the Class II planning board member for purposes of this act in the event that there be among the Class IV or alternate members of the planning board both a member of the zoning board of adjustment and a member of the board of education.

Class III—a member of the governing body to be appointed by it, except that no member for Class III shall be appointed to the planning board if the governing body consists of only three members.

Class IV—other citizens of the municipality, to be appointed by the mayor or, in the case of the council-manager form of government pursuant to the "Optional Municipal Charter Law," P. L. 1950, c. 210 (C. 40:69A–1 et seq.) or "The Municipal Manager Form of Government Law" (Subtitle 5 of Title 40 of the Revised Statutes), by the council, if so provided by the aforesaid ordinance.

The members of Class IV shall hold no other municipal office, except that in the case of nine-member boards, one such member may be a member of the zoning board of adjustment. No member of the board of education may be a Class IV member of the planning board, except that in the case of a nine-member board, one Class IV member may be a member of the board of education. If there be a municipal environmental commission, the member of the environmental commission who is also a member of the planning board, as required by section 1 of P. L. 1968, c. 245 (C. 40:56A–1), shall be a Class IV planning board member, unless there be among the Class IV or alternate members of the planning board both a member of the zoning board of adjustment and a member of the board of education, in which case the member common to the planning board and municipal environmental commission shall be deemed a Class II member of the planning board.

b. The term of the member composing Class I shall correspond to his official tenure. The terms of the members composing Class II and Class III shall be for 1 year or terminate at the completion of their respective terms of office, whichever occurs first except for a Class II member who is also a member of the environmental

commission. The term of a Class II or Class IV member who is also a member of the environmental commission shall be for 3 years or terminate at the completion of his term of office as a member of the environmental commission, whichever occurs first. The term of a Class IV member who is also a member of the board of adjustment, or board of education shall terminate whenever he is no longer a member of such other body or at the completion of his Class IV term, whichever occurs first. The terms of all Class IV members first appointed under this act shall be so determined that to the greatest practicable extent the expiration of such terms shall be distributed evenly over the first 4 years after their appointment; provided that the initial Class IV term of no member shall exceed 4 years. Thereafter, the Class IV term of each such member shall be 4 years. If a vacancy in any class shall occur otherwise than by expiration of the planning board term, it shall be filled by appointment, as above provided, for the unexpired term. No member of the planning board shall be permitted to act on any matter in which he has, either directly or indirectly, any personal or financial interest. Any member other than a Class I member, after a public hearing if he requests one, may be removed by the governing body for cause.

C. 40:55D-23.1 Alternate members; appointment; vacancies; conflict of interest; voting.

13. (New section) The governing body may, by ordinance, provide for the appointment to the planning board of not more than two alternate members. Alternate members shall be appointed by the appointing authority for Class IV members, and shall meet the qualifications of Class IV members of nine-member planning boards. Alternate members shall be designated at the time of appointment by the mayor as "Alternate No. 1" and "Alternate No. 2." The terms of the alternate members shall be for 2 years, except that the terms of the alternate members shall be such that the term of not more than one alternate members shall expire in any 1 year; provided, however, that in no instance shall the terms of the alternate members first appointed exceed 2 years. A vacancy occurring otherwise than by expiration of term shall be filled by the appointing authority for the unexpired term only.

No alternate member shall be permitted to act on any matter in which he has either directly or indirectly any personal or financial interest. An alternate member may, after public hearing if he requests one, be removed by the governing body for cause.

Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member of any class. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote.

C. 40:55D-46.1 Minor site plan; approval.

14. (New section) An ordinance requiring, pursuant to section 7.1 of this act (C. 40:55D–12), notice of hearings on applications for development for conventional site plans, may authorize the planning board to waive notice and public hearing for an application for development, if the planning board or site plan subcommittee of the board appointed by the chairman finds that the application for development conforms to the definition of "minor site plan." Minor site plan approval shall be deemed to be final approval of the site plan by the board, provided that the board or said subcommittee may condition such approval on terms ensuring the provision of improvements pursuant to sections 29, 29.1, 29.3 and 41 of this act (C. 40:55D–38, 40:55D–39, 40:55D–41 and 40:55D–53).

a. Minor site plan approval shall be granted or denied within 45 days of the date of submission of a complete application to the administrative officer, or within such further time as may be consented to by the applicant. Failure of the planning board to act within the period prescribed shall constitute minor site plan approval.

b. Whenever review or approval of the application by the county planning board is required by section 8 of P. L. 1968, c. 285 (C. 40:27–6.6), the municipal planning board shall condition any approval that it grants upon timely receipt of a favorable report on the application by the county planning board or approval by the county planning board by its failure to report thereon within the required time period.

c. The zoning requirements and general terms and conditions, whether conditional or otherwise, upon which minor site plan approval was granted, shall not be changed for a period of 2 years after the date of minor site plan approval.

15. Section 34 of P. L. 1975, c. 291 (C. 40:55D–46) is amended to read as follows:

C. 40:55D-46 Procedure for preliminary site approval.

34. Procedure for preliminary site plan approval. a. An ordinance requiring site plan review and approval shall require that the developer submit to the administrative officer a site plan and such other information as is reasonably necessary to make an informed decision as to whether the requirements necessary for preliminary site plan approval have been met. The site plan and any engineering documents to be submitted shall be required in tentative form for discussion purposes for preliminary approval. If any architectural plans are required to be submitted for site plan approval, the preliminary plans and elevations shall be sufficient. If an application for development is found to be incomplete, the developer shall be notified in writing of the deficiencies therein by the board or the board's designee for the determination of completeness within 45 days of the submission of such application or it shall be deemed to be properly submitted.

b. If the planning board required any substantial amendment in the layout of improvements proposed by the developer that have been the subject of a hearing, an amended application for development shall be submitted and proceeded upon, as in the case of the original application for development. The planning board shall, if the proposed development complies with the ordinance and this act, grant preliminary site plan approval.

c. Upon the submission to the administrative officer of a complete application for a site plan which involves 10 acres of land or less, and 10 dwelling units or less, the planning board shall grant or deny preliminary approval within 45 days of the date of such submission or within such further time as may be consented to by the developer. Upon the submission of a complete application for a site plan which involves more than 10 acres, or more than 10 dwelling units, the planning board shall grant or deny preliminary approval within 95 days of the date of such submission or within such further time as may be consented to by the developer. Otherwise, the planning board shall be deemed to have granted preliminary approval of the site plan.

16. Section 36 of P. L. 1975, c. 291 (C. 40:55D–48) is amended to read as follows:

C. 40:55D-48 Procedure for preliminary major subdivision approval.

36. Procedure for preliminary major subdivision approval. a. An ordinance requiring subdivision approval by the planning board shall require that the developer submit to the administrative officer

a plat and such other information as is reasonably necessary to make an informed decision as to whether the requirements necessary for preliminary approval have been met; provided that minor subdivisions pursuant to section 35 of this act shall not be subject to this section. The plat and any other engineering documents to be submitted shall be required in tentative form for discussion purposes for preliminary approval. If the application for development is found to be incomplete, the developer shall be notified in writing of the deficiencies therein by the board or the board's designee for the determination of completeness within 45 days of submission of such application or it shall be deemed to be properly submitted.

b. If the planning board required any substantial amendment in the layout of improvements proposed by the developer that have been the subject of a hearing, an amended application shall be submitted and proceeded upon, as in the case of the original application for development. The planning board shall, if the proposed subdivision complies with the ordinance and this act, grant preliminary approval to the subdivision.

c. Upon the submission to the administrative officer of a complete application for a subdivision of 10 or fewer lots, the planning board shall grant or deny preliminary approval within 45 days of the date of such submission or within such further time as may be consented to by the developer. Upon the submission of a complete application for a subdivision of more than 10 lots, the planning board shall grant or deny preliminary approval within 95 days of the date of such submission or within such further time as may be consented to by the developer. Otherwise, the planning board shall be deemed to have granted preliminary approval to the subdivision.

17. Section 41 of P. L. 1975, c. 291 (C. 40:55D–53) is amended to read as follows:

C. 40:55D-53 Guarantees required; surety; release.

41. Guarantees required; surety; release. a. Before recording of final subdivision plats or as a condition of final site plan approval or as a condition to the issuance of a zoning permit pursuant to subsection 52 d. of this act, the approving authority may require and shall accept in accordance with the standards adopted by ordinance for the purpose of assuring the installation and maintenance of on-tract improvements:

(1) The furnishing of a performance guarantee in favor of the municipality in an amount not to exceed 120% of the cost of installation for improvements it may deem necessary or appropriate including: streets, grading, pavement, gutters, curbs, sidewalks, street lighting, shade trees, surveyor's monuments, as shown on the final map and required by the "Map Filing Law," P. L. 1960, c. 141 (C. 46:23–9.9 et seq.), water mains, culverts, storm sewers, sanitary sewers or other means of sewage disposal, drainage structures, erosion control and sedimentation control devices, public improvements of open space and, in the case of site plans only, other on-site improvements and landscaping.

(2) Provision for a maintenance guarantee to be posted with the governing body for a period not to exceed 2 years after final acceptance of the improvement, in an amount not to exceed 15% of the cost of the improvement. In the event that other governmental agencies or public utilities automatically will own the utilities to be installed or the improvements are covered by a performance or maintenance guarantee to another governmental agency, no performance or maintenance guarantee, as the case may be, shall be required by the municipality for such utilities or improvements.

b. The time allowed for installation of the improvements for which the performance guarantee has been provided may be extended by the governing body by resolution. As a condition or as part of any such extension, the amount of any performance guarantee shall be increased or reduced, as the case may be, to an amount not to exceed 120% of the cost of the installation as determined as of the time of the passage of the resolution.

c. If the required improvements are not completed or corrected in accordance with the performance guarantee, the obligor and surety, if any, shall be liable thereon to the municipality for the reasonable cost of the improvements not completed or corrected and the municipality may either prior to or after the receipt of the proceeds thereof complete such improvements.

d. Upon substantial completion of all required appurtenant utility improvements, and the connection of same to the public system, the obligor may notify the governing body in writing, by certified mail addressed in care of the municipal clerk of the completion or substantial completion of improvements and shall send a copy thereof to the municipal engineer. Thereupon the municipal engineer shall inspect all improvements of which such notice has been given and shall file a detailed report, in writing, with the governing body, indicating either approval, partial approval or

rejection of such improvements with a statement of reasons for any rejection. The cost of the improvements as approved or rejected shall be set forth.

e. The governing body shall either approve, partially approve or reject the improvements, on the basis of the report of the municipal engineer and shall notify the obligor in writing, by certified mail, of the contents of said report and the action of said approving authority with relation thereto, not later than 65 days after receipt of the notice from the obligor of the completion of the improvements. Where partial approval is granted, the obligor shall be released from all liability pursuant to its performance guarantee, except for that portion adequately sufficient to secure provision of the improvements not yet approved; provided that 30% of the amount of the performance guarantee posted may be retained to ensure completion of all improvements. Failure of the governing body to send or provide such notification to the obligor within 65 days shall be deemed to constitute approval of the improvements and the obligor and surety, if any, shall be released from all liability pursuant to such performance guarantee for such improvements.

f. If any portion of the required improvements are rejected, the approving authority may require the obligor to complete such improvements and, upon completion, the same procedure of notification, as set forth in this section shall be followed.

g. Nothing herein, however, shall be construed to limit the right of the obligor to contest by legal proceedings any determination of the governing body or the municipal engineer.

h. The obligor shall reimburse the municipality for all reasonable inspection fees paid to the municipal engineer for the foregoing inspection of improvements; provided that the municipality may require of the developer a deposit for all or a portion of the reasonably anticipated fees to be paid to the municipal engineer for such inspection.

i. In the event that final approval is by stages or sections of development pursuant to subsection a. of section 29 of this act (C. 40:55D–38), the provisions of this section shall be applied by stage or section.

18. Section 44 of P. L. 1975, c. 291 (C. 40:55D–56) is amended to read as follows:

C. 40:55D-56 Certificates showing approval; contents.

44. Certificates showing approval; contents. The prospective purchaser, prospective mortgagee, or any other person interested

in any land which forms part of a subdivision, or which formed part of such a subdivision 3 years preceding the effective date of this act, may apply in writing to the administrative officer of the municipality, for the issuance of a certificate certifying whether or not such subdivision has been approved by the planning board. Such application shall contain a diagram showing the location and dimension of the land to be covered by the certificate and the name of the owner thereof.

The administrative officer shall make and issue such certificate within 15 days after the receipt of such written application and the fees therefor. Said officer shall keep a duplicate copy of each certificate, consecutively numbered, including a statement of the fee charged, in a binder as a permanent record of his office.

Each such certificate shall be designated a "certificate as to approval of subdivision of land," and shall certify:

a. Whether there exists in said municipality a duly established planning board and whether there is an ordinance controlling subdivision of land adopted under the authority of this act.

b. Whether the subdivision, as it relates to the land shown in said application, has been approved by the planning board, and, if so, the date of such approval and any extensions and terms thereof, showing that subdivision of which the lands are a part is a validly existing subdivision.

c. Whether such subdivision, if the same has not been approved, is statutorily exempt from the requirement of approval as provided in this act.

The administrative officer shall be entitled to demand and receive for such certificate issued by him a reasonable fee not in excess of those provided in R. S. 54:5–14 and 54:5–15. The fees so collected by such official shall be paid by him to the municipality.

19. Section 47 of P. L. 1975, c. 291 (C. 40:55D–60) is amended to read as follows:

C. 40:55D-60 Planning board review in lieu of board of adjustment.

47. Planning board review in lieu of board of adjustment. The planning board when reviewing applications for approval of subdivision plats, site plans or conditional uses shall have the power to grant to the same extent and subject to the same restrictions as the board of adjustment;

a. Variances pursuant to subsection 57 c. of this act;

b. Direction pursuant to section 25 of this act for issuance of a permit for a building or structure in the bed of a mapped street or

public drainage way, flood control basin or public area reserved pursuant to section 23 of this act; and,

c. Direction pursuant to section 27 of this act for issuance of a permit for a building or structure not related to a street.

Whenever relief is requested pursuant to this section, notice of the hearing on the application for development shall include reference to the request for a variance, or direction for issuance of a permit, as the case may be.

20. Section 48 of P. L. 1975, c. 291 (C. 40:55D–61) is amended to read as follows:

C. 40:55D-61 Time periods.

48. Time periods. Whenever an application for approval of a subdivision plat, site plan or conditional use includes a request for relief pursuant to section 47 of this act, the planning board shall grant or deny approval of the application within 95 days after submission by a developer of a complete application to the administrative officer or within such further time as may be consented to by the applicant. Failure of the planning board to act within the period prescribed shall constitute approval of the application and a certificate of the administrative officer as to the failure of the planning board to act shall be issued on request of the applicant, and it shall be sufficient in lieu of the written endorsement or other evidence of approval, herein required, and shall be so accepted by the county recording officer for purposes of filing subdivision plats.

Whenever review or approval of the application by the county planning board is required by section 5 of P. L. 1968, c. 285 (C. 40:27–6.3), in the case of a subdivision, or section 8 of P. L. 1968, c. 285 (C. 40:27–6.6), in the case of a site plan, the municipal planning board shall condition any approval that it grants upon timely receipt of a favorable report on the application by the county planning board or approval by the county planning board by its failure to report thereon within the required time period.

21. Section 52 of P. L. 1975, c. 291 (C. 40:55D–65) is amended to read as follows:

C. 40:55D-65 Contents of zoning ordinance.

52. Contents of zoning ordinance. A zoning ordinance may:

a. Limit and restrict buildings and structures to specified districts and regulate buildings and structures according to their type and the nature and extent of their use, and regulate the nature and

extent of the use of land for trade, industry, residence, open space or other purposes.

b. Regulate the bulk, height, number of stories, and size of buildings and the other structures; the percentage of lot or development area that may be occupied by structures; lot sizes and dimensions; and for these purposes may specify floor area ratios and other ratios and regulatory techniques governing the intensity of land use and the provision of adequate light and air.

c. Provide districts for planned developments; provided that an ordinance providing for approval of subdivisions and site plans by the planning board has been adopted and incorporates therein the provisions for such planned developments in a manner consistent with article 6 of this act. The zoning ordinance shall establish standards governing the type and density, or intensity of land use, in a planned development. Said standards shall take into account that the density, or intensity of land use, otherwise allowable may not be appropriate for a planned development. The standards may vary the type and density, or intensity of land use, otherwise applicable to the land within a planned development in consideration of the amount, location and proposed use of common open space; the location and physical characteristics of the site of the proposed planned development; and the location, design and type of dwelling units and other uses. Such standards may, in order to encourage the flexibility of housing density, design and type, authorize a deviation in various residential clusters from the density, or intensity of use, established for an entire planned development. The standards and criteria by which the design, bulk and location of buildings are to be evaluated, shall be set forth in the zoning ordinance and all standards and criteria for any feature of a planned development shall be set forth in such ordinance with sufficient certainty to provide reasonable criteria by which specific proposals for a planned development can be evaluated.

d. Establish, for particular uses or classes of uses, reasonable standards of performance and standards for the provision of adequate physical improvements including, but not limited to, off-street parking and loading areas, marginal access roads and roadways, other circulation facilities and water, sewerage and drainage facilities; provided that section 41 of this act shall apply to such improvements.

e. Designate and regulate areas subject to flooding (1) pursuant to P. L. 1972, c. 185 (C. 58:16A–55 et seq.) or (2) as otherwise necessary in the absence of appropriate flood hazard area designa-

tions pursuant to P. L. 1962, c. 19 (C. 58:16A–50 et seq.) or floodway regulations pursuant to P. L. 1972, c. 185 or minimum standards for local flood fringe area regulation pursuant to P. L. 1972, c. 185.

f. Provide for conditional uses pursuant to section 54 of this act.

g. Provide for senior citizen community housing.

h. Require that as a condition for any approval which is required pursuant to such ordinance and the provisions of this chapter, that no taxes or assessments for local improvements are due or delinquent on the property for which any application is made.

22. Section 56 of P. L. 1975, c. 291 (C. 40:55D–69) is amended to read as follows:

C. 40:55D-69 Zoning board of adjustment.

56. Zoning board of adjustment. Upon the adoption of a zoning ordinance, the governing body shall create, by ordinance, a zoning board of adjustment which shall consist of seven regular members and which may have not more than two alternate members. Notwithstanding the provisions of any other law or charter heretofore adopted, such ordinance shall provide the method of appointment of all such members. Alternate members shall be designated at the time of appointment by the authority appointing them as "Alternate No. 1" and "Alternate No. 2." The terms of the members first appointed under this act shall be so determined that to the greatest practicable extent, the expiration of such terms shall be distributed, in the case of regular members, evenly over the first 4 years after their appointment, and in the case of alternate members, evenly over the first 2 years after their appointment; provided that the initial term of no regular member shall exceed 4 years and that the initial term of no alternate member shall exceed 2 years. Thereafter, the term of each regular member shall be 4 years; and the term of each alternate member shall be 2 years. No member may hold any elective office or position under the municipality. No member of the board of adjustment shall be permitted to act on any matter in which he has, either directly or indirectly, any personal or financial interest. A member may, after public hearing if he requests it, be removed by the governing body for cause. A vacancy occurring otherwise than by expiration of term shall be filled for the unexpired term only.

The board of adjustment shall elect a chairman and vice-chairman from its members and select a secretary who may or may not be a member of the board of adjustment or a municipal employee.

Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote.

23. Section 57 of P. L. 1975, c. 291 (C. 40:55D–70) is amended to read as follows:

C. 40:55D-70 Powers.

57. Powers. The board of adjustment shall have the power to:

a. Hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by an administrative officer based on or made in the enforcement of the zoning ordinance;

b. Hear and decide in accordance with the provisions of any such ordinance, requests for interpretation of the zoning map or ordinance or for decisions upon other special questions upon which such board is authorized to pass by any zoning or official map ordinance in accordance with this act;

c. Where by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or by reason of exceptional topographic conditions, or by reason of other extraordinary and exceptional situation or condition of such piece of property the strict application of any regulation pursuant to article 8 of this act would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the developer of such property, grant, upon an application or an appeal relating to such property, a variance from such strict application of such regulation so as to relieve such difficulties or hardship, including a variance for a conditional use; provided, however, that no variance shall be granted under this subsection to allow a structure or use in a district restricted against such structure or use; and provided further that the proposed development does not require approval by the planning board of a subdivision, site plan or conditional use in conjunction with which the planning board shall review a request for a variance pursuant to subsection 47 a. of this act; and,

d. In particular cases and for special reasons, grant a variance to allow departure from regulations pursuant to article 8 of this act, including, but not limited to, allowing a structure or use in a district restricted against such structure or use, but only by affirmative vote of at least five members, in the case of a municipal board,

or ⅔ of the full authorized membership, in the case of a regional board pursuant to article 10 of this act.

No variance or other relief may be granted under the terms of this section unless such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and the purpose of the zone plan and zoning ordinance. An application under this section may be referred to any appropriate person or agency, including the planning board pursuant to section 17 of this act, for its report; provided that such reference shall not extend the period of time within which the zoning board of adjustment shall act.

24. Section 59 of P. L. 1975, c. 291 (C. 40:55D–72) is amended to read as follows:

C. 40:55D-72 Appeals and applications to board of adjustment.

59. Appeals and applications to board of adjustment. a. Appeals to the board of adjustment may be taken by any interested party affected by any decision of an administrative officer of the municipality based on or made in the enforcement of the zoning ordinance or official map. Such appeal shall be taken within 20 days by filing a notice of appeal with the officer from whom the appeal is taken specifying the grounds of such appeal. The officer from whom the appeal is taken shall immediately transmit to the board all the papers constituting the record upon which the action appealed from was taken.

b. A developer may file an application for development with the board of adjustment for action under any of its powers without prior application to an administrative officer.

25. Section 63 of P. L. 1975, c. 291 (C. 40:55D–76) is amended to read as follows:

C. 40:55D-76 Other powers.

63. Other powers. a. Sections 59 through 62 of this article shall apply to the power of the board of adjustment to:

(1) Direct issuance of a permit pursuant to section 25 of this act for a building or structure in the bed of a mapped street or public drainage way, flood control basin or public area reserved pursuant to section 23 of this act; or

(2) Direct issuance of a permit pursuant to section 27 of this act for a building or structure not related to a street.

b. The board of adjustment shall have the power to grant to the same extent and subject to the same restrictions as the planning

board subdivision or site plan approval pursuant to article 6 of this act or conditional use approval pursuant to section 54 of this act whenever the proposed development requires approval by the board of adjustment of a variance pursuant to subsection d. of section 57 of this act (C. 40:55D–70). The developer may elect to submit a separate application requesting approval of the variance and a subsequent application for any required approval of a subdivision, site plan or conditional use. The separate approval of the variance shall be conditioned upon grant of all required subsequent approvals by the board of adjustment. No such subsequent approval shall be granted unless such approval can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the zone plan and zoning ordinance. The number of votes of board members required to grant any such subsequent approval shall be as otherwise provided in this act for the approval in question, and the special vote pursuant to the aforesaid subsection d. of section 57 shall not be required.

c. Whenever an application for development requests relief pursuant to subsection b. of this section, the board of adjustment shall grant or deny approval of the application within 120 days after submission by a developer of a complete application to the administrative officer or within such further time as may be consented to by the applicant. In the event that the developer elects to submit separate consecutive applications, the aforesaid provision shall apply to the application for approval of the variance. The period for granting or denying any subsequent approval shall be as otherwise provided in this act. Failure of the board of adjustment to act within the period prescribed shall constitute approval of the application and a certificate of the administrative officer as to the failure of the board of adjustment to act shall be issued on request of the applicant, and it shall be sufficient in lieu of the written endorsement or other evidence of approval, herein required, and shall be so accepted by the county recording officer for purposes of filing subdivision plats.

Whenever review or approval of the application by the county planning board is required by section 5 of P. L. 1968, c. 285 (C. 40:27–6.3), in the case of a subdivision, or section 8 of P. L. 1968, c. 285 (C. 40:27–6.6), in the case of a site plan, the municipal board of adjustment shall condition any approval that it grants upon timely receipt of a favorable report on the application by the

county planning board or approval by the county planning board by its failure to report thereon within the required time.

An application under this section may be referred to any appropriate person or agency, including the planning board pursuant to section 17 of this act, for its report; provided that such reference shall not extend the period of time within which the zoning board of adjustment shall act.

26. Section 66 of P. L. 1975, c. 291 (C. 40:55D–79) is amended to read as follows:

C. 40:55D-79 Membership of regional boards.

66. Membership of regional boards. Every joint agreement creating a regional board under this article shall provide for a representative member on such board for each constituent municipality or county and may provide for additional representative members for any such constituent municipality or county. The representative member or members on a regional board for a constituent municipality shall be appointed by the mayor.

Any such member, after a public hearing if he requests one, may be removed for cause by the governing body of such constituent municipality. The representative member or members of a regional board for a constituent county shall be appointed by the board of chosen freeholders of such county. Any such member, after public hearing if he requests one, may be removed for cause by the board of chosen freeholders of such constituent county. In addition to such members, any regional planning board may adopt a resolution providing that the Commissioner of the Department of Environmental Protection appoint as a member of the regional planning board a representative of that department's Division of Parks and Forestry and an additional member who shall be a resident of the area served by the regional board but who shall not hold any public office or position excepting an appointive membership on a municipal or other planning board. Within 30 days of the adoption of such resolution the commissioner shall make the appointments as requested.

27. Section 1 of P. L. 1968, c. 285 (C. 40:27–6.1) is amended to read as follows:

C. 40:27-6.1 Definitions.

1. As used in this act and in chapter 27 of Title 40 of the Revised Statutes, unless the context otherwise requires:

"County master plan" and "master plan" means a composite of the master plan for the physical development of the county, with the accompanying maps, plats, charts and descriptive and explanatory matter adopted by the county planning board pursuant to Revised Statutes 40:27–2;

"County planning board" means a county planning board established by a county pursuant to R. S. 40:27–1 to exercise the duties set forth in such chapter, and means, in any county having adopted the provisions of the "Optional County Charter Law" (P. L. 1972, c. 154; C. 40:41A–1 et seq.), any department, division, board or agency established pursuant to the administrative code of such county to exercise such duties, but only to the degree and extent that the requirements specified in such chapter for county planning boards do not conflict with the organization and structure of such department, division, agency or board as set forth in the administrative code of such county;

"Official county map" means the map, with changes and additions thereto, adopted and established, from time to time, by resolution of the board of chosen freeholders of the county pursuant to R. S. 40:27–5;

"Site plan" means a plan of an existing lot or plot or a subdivided lot on which is shown topography, location of all existing and proposed buildings, structures, drainage facilities, roads, rights-of-way, easements, parking areas, together with any other information required by and at a scale specified by a site plan review and approval resolution adopted by the board of chosen freeholders pursuant to this act;

"Subdivision" means the division of a lot, tract, or parcel of land into two or more lots, tracts, parcels or other divisions of land for sale or development. The following shall not be considered subdivisions within the meaning of this act, if no new streets are created: (1) divisions of land found by the planning board or subdivision committee thereof appointed by the chairman to be for agricultural purposes where all resulting parcels are 5 acres or larger in size, (2) divisions of property by testamentary or intestate provisions, (3) divisions of property upon court order, including but not limited to judgments of foreclosure, (4) consolidation of existing lots by deed or other recorded instrument and (5) the conveyance of one or more adjoining lots, tracts or parcels of land, owned by the same person or persons and all of which are found and certified by the administrative officer to conform to the requirements of the municipal development regulations and are

shown and designated as separate lots, tracts or parcels on the tax map or atlas of the municipality. The term "subdivision" shall also include the term "resubdivision."

"Subdivision applications" means the application for approval of a subdivision pursuant to the "Municipal Land Use Law" (P. L. 1975, c. 291; C. 40:55D–1 et seq.) or an application for approval of a planned unit development pursuant to the "Municipal Land Use Law" (P. L. 1975, c. 291; C. 40:55D–1 et seq.).

28. This act shall take effect on the first day of the month immediately following 3 full calendar months after the date of approval thereof.

Approved October 11, 1979.

CHAPTER 217

AN ACT relating to transfer inheritance taxes and amending R. S. 54:35–19.

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

1. R. S. 54:35–19 is amended to read as follows:

Safe deposit companies and other institutions not to deliver assets of decedent without notice; small estates.

54:35–19. Unless the Director of the Division of Taxation consents in writing thereto, no safe deposit company, trust company, bank or other institution or corporation or person shall deliver or transfer any securities, deposits or other assets within its or his control or possession, including capital stock of or other interests in such safe deposit company, trust company, bank, institution or corporation, which belong to or stand in the name of a resident decedent or in the joint names of a resident decedent and one or more persons, to an executor, administrator or legal representative of a resident decedent, or upon his or their order or request, or, to the survivor or survivors when held in the joint names of a resident decedent and one or more persons, or upon his or their order or request, without:

a. Notice of the time and place of such intended delivery or transfer being served upon the Director of the Division of Taxation at least 10 days prior thereto, and

b. The retention by the safe deposit company, trust company, bank, institution, corporation or person of sufficient of the assets mentioned herein to pay any tax and interest which may be assessed on such delivery or transfer under authority of chapters 33 to 36 of this Title (§ 54:33–7 et seq.).

The Director of the Division of Taxation may, either personally or by representative, examine such securities, deposits or assets of a resident decedent.

Notwithstanding the foregoing provisions of this section, a safe deposit company, trust company, bank, institution, corporation or person may transfer not in excess of the amounts hereinafter provided of funds of a resident decedent, on deposit or otherwise in its or his control or possession, without the written consent of the Director of the Division of Taxation, to a surviving spouse $5,000.00, to any one other than the surviving spouse, $200.00 provided, such transferor shall first obtain from the transferee an affidavit, in such form as shall be prescribed by the director, establishing that the value of the gross estate, real and personal, of the decedent does not exceed $200.00 where the transferee is one other than the surviving spouse or $5,000.00 where the transferee is the surviving spouse, which affidavit, within 30 days after the transfer, shall be filed by the transferor with the director.

2. This act shall take effect 30 days after enactment.

Approved October 11, 1979.

CHAPTER 218

AN ACT concerning certain exclusions from gross income under the "New Jersey Gross Income Tax Act," and amending N. J. S. 54A:6–9 with respect to the gain derived from the sale of a principal residence.

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

1. N. J. S. 54A:6–9 is amended to read as follows:

Exemption for gains derived from the sale or exchange of principal residence.

54A:6–9. Exemption for Gains Derived from the Sale or Exchange of Principal Residence.

a. Rollover of gain on sale of principal residence. (1) If a taxpayer realizes a gain from the sale or exchange of his principal residence, the gain shall be excludable from gross income if the taxpayer purchased or received in exchange another principal residence to replace the residence sold, provided that such new residence had been acquired either 18 months before or 18 months after the date of the sale of the original residence except that where the taxpayer has constructed a new residence, the period prior to and after the date of sale shall be 24 months. Where the adjusted sales price of the residence sold exceeds the purchase price of the new residence, the taxpayer shall be required to include in his gross income that portion of the gain which is represented by the amount that the adjusted sales price of the old residence exceeds the cost of the new residence. To the extent that any gain shall be excludable under this section, the basis of the new residence shall be reduced.

(2) Limitation.

(a) This subsection a. shall not apply with respect to the sale of the taxpayer's residence if within 18 months before the date of such sale the taxpayer sold at a gain other property used by him as his principal residence, and any part of such gain was not recognized by reason of this subsection.

(b) Subsequent sale connected with commencing work at new place. Subparagraph (a) shall not apply with respect to the sale of the taxpayer's residence if

(i) Such sale was in connection with the commencement of work by the taxpayer as an employee or as a self-employed individual at a new principal place of work, and

(ii) If the residence so sold is treated as the former residence for Federal moving expense purposes, the taxpayer would satisfy the distance and period of employment conditions prescribed for qualifying the Federal moving expense deduction.

b. One-time exclusion of gain from sale of principal residence by individual who has attained age 55. (1) General. At the election of the taxpayer, gross income does not include gain from the sale or exchange of property if

(a) The taxpayer has attained the age of 55 before the date of such sale or exchange, and

(b) During the 5-year period ending on the date of the sale or exchange, such property has been owned and used by the taxpayer as his principal residence for periods aggregating 3 years or more.

(2) Limitations.

(a) Dollar Limitation. The amount of the gain excluded from gross income under subparagraph (1) shall not exceed $100,000.00 ($50,000.00 in the case of a separate return by a married individual).

(b) Application to only one sale or exchange. Subparagraph (1) shall not apply to any sale or exchange by the taxpayer if an election by the taxpayer or his spouse under subparagraph (1) with respect to any other sale or exchange is in effect.

(c) Additional election if prior sale was made on or before January 1, 1979. In the case of any sale or exchange after January 1, 1979, this subsection shall be applied by not taking into account any election made with respect to a sale or exchange on or before such date.

(3) Property held jointly by husband and wife. For purposes of this subsection, if

(a) Property is held by a husband and wife as joint tenants or tenants by the entirety,

(b) The husband and wife make a joint return for the taxable year of the sale or exchange, and

(c) One spouse satisfies the age, holding, and use requirements of subparagraph (1) with respect to the property, then both husband and wife shall be treated as satisfying the age, holding, and use requirements of subparagraph (1) with respect to the property.

(4) Property of deceased spouse. For purposes of this subsection, in the case of an unmarried individual whose spouse is deceased on the date of the sale or exchange of property, if

(a) The deceased spouse, during the 5-year period ending on the date of the sale or exchange, satisfied the holding and use requirements of subparagraph (1) (b) with respect to the property, and

(b) No election by the deceased spouse under this subsection is in effect with respect to a prior sale or exchange, then such individual shall be treated as satisfying the holding and use requirements of subparagraph (1) (b) with respect to the property.

c. Property used in part as a residence. In case of property only a portion of which has been owned and used by the taxpayer as his principal residence, this section shall apply with respect to so much of the sale or exchange of such property as is determined, under regulations prescribed by the director, to be attributable to the portion of the property so owned and used by the taxpayer.

d. The provisions of this section shall also be applicable with respect to qualified tenant-shareholders in cooperatives.

e. For purposes of this section, the destruction, theft, seizure, requisition, or condemnation of property shall be treated as the sale of such property.

2. This act shall take effect immediately and shall be applicable to sales and exchanges of residences on and after January 1, 1979.

Approved October 11, 1979.

CHAPTER 219

AN ACT concerning trusts; the effect to be given consent by holders of general powers of appointment upon beneficiaries, and supplementing Title 3A of the New Jersey Statutes.

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

C. 3A:2A-29.1 Approval of trustee's acts by holder of general power of appointment.

1. For the purpose of granting consent or approval with regard to the acts or accounts of a fiduciary or trustee, including relief from liability or penalty for failure to post bond, or to perform other duties, and for purposes of consenting to modification or termination of a trust or to deviation from its terms, the sole holder or all co holders of a presently exercisable general power of appointment, including one in the form of a power of amendment or revocation, are deemed to act for beneficiaries to the extent that the interests of the beneficiaries as objects, takers in default, or otherwise are subject to the power.

2. This act shall take effect immediately.

Approved October 11, 1979.

CHAPTER 220

AN ACT concerning semiwild and commercial shooting preserves, amending sections 23:3–29, 23:3–32, 23:3–36 and 23:3–37 of the Revised Statutes and repealing sections 23:3–30 and 23:3–35 of the Revised Statutes.

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

1. R. S. 23:3–29 is amended to read as follows:

License; fee.

23:3–29. A person desiring to engage in the business of raising and selling game birds or game animals, or both, in a wholly enclosed preserve of which he is the owner or lessee, or to have in captivity game birds or game animals, shall apply in writing to the division for a license to do so. The license fee shall be $5.00 per annum for each of the above purposes. A person desiring to propagate pheasants, partridge, or quail, or any of them, in a semiwild state on lands of which he is the owner or lessee, shall apply in writing to the division for a license to do so. The license fee shall be $50.00 per annum. No two or more noncontiguous tracts of land may be covered under the same license.

The division, when it appears that the application is made in good faith, and is in the public interest, may, upon the payment of the fee for each license, issue to the applicant such of the following license or licenses as may be applied for:

a. Propagating license permitting the licensee to propagate game birds or game animals, or both, in the wholly enclosed preserve the location of which is stated in the license and the application therefor, and to sell such propagated game birds or game animals, or both, and ship them from the State alive at any time and to kill the same and sell the carcasses for food subject to the conditions prescribed by sections 23:3–28 to 23:3–39 of this Title;

b. License to propagate pheasants, partridge, or quail, or any of them, in a semiwild state on lands of which the applicant is the owner or lessee, when the applicant shall have produced evidence satisfactory to the division that he will raise, or purchase for liberation, and liberate on the semiwild preserve at least one pheasant, quail, partridge or combination thereof for each acre

of land to be licensed or at least 200 pheasants, quail or partridge or combination thereof between November 1 of the year for which the license is issued and the following February 28;

c. License to keep game birds and animals in captivity; or

d. A person desiring to operate a "commercial pheasant, quail and partridge-shooting preserve" on lands of which he is the owner or bona fide lessee shall apply in writing to the division for a license so to do. The license fee shall be $200.00 per annum and the form of the application and license shall be determined by the division.

The division may, upon payment of the fee, issue to the applicant such a license when it appears that:

(1) The operation of such shooting preserve shall not conflict with a prior reasonable public interest; and

(2) The applicant shall have produced evidence satisfactory to the division that he will raise or purchase for liberation and liberate on the shooting preserve a total of at least 500 pheasants, quail and partridge or combination thereof between September 1 of the year for which the license was issued and the following March 15.

2. R. S. 23:3–32 is amended to read as follows:

Pheasants, partridge or quail; killing and shipping; tags.

23:3–32. No pheasants, partridge or quail propagated in a semiwild state shall be sold. No such pheasants, partridge or quail shall be taken, possessed or transported unless each bird shall have been tagged with the special tag prescribed by sections 23:3–28 to 23:3–39 of this Title. No licensee raising pheasants, partridge or quail in a semiwild state shall procure from the division during any year of operation more tags to be affixed to the dead bodies of pheasants, partridge or quail propagated in a semiwild state than the number of pheasants, partridge or quail to be liberated, between November 1 and February 28. The tags shall be of a special kind provided for the purpose and shall be allocated by species and number of game birds liberated. The number of birds taken in any year, either alive or dead, on lands on which pheasants, partridge or quail are propagated in a semiwild state shall not exceed the number of tags obtained for each species from the division. Pheasants, quail and partridge propagated in a semiwild state may be taken by shooting only from 9:00 a.m. on November 10 or such opening date as may otherwise be prescribed by the State Fish and Game Code to February 28

of the following year, unless otherwise prescribed by such code. Section 23:4–24 of this Title relating to hunting on Sunday shall not apply to any person authorized to shoot pheasants, quail, and partridge under sections 23:3–28 to 23:3–39 of this Title. No pheasants, partridge or quail propagated in a semiwild state shall be trapped without the written permission of the division.

Under a "commercial pheasant, quail and partridge-shooting preserve" license, pheasants, quail and partridge may be taken by shooting only on lands described in the application and license, without regard to sex and daily bag limit, by fully licensed hunters authorized by the licensee to shoot on said land between September 1 and the following March 15, both dates inclusive and during any further period, not exceeding 31 days, which the commissioner may, from time to time, designate for that purpose upon the recommendation of the Director of the Division of Fish, Game and Shell Fisheries.

No pheasants, quail or partridge shall be taken, possessed or transported, unless each bird shall have been tagged with a suitable tag or seal supplied by the division, and no licensee shall receive from the division, during any year of operation, more tags to be affixed to the bodies of pheasants, quail and partridge than one tag for each pheasant, quail and partridge liberated during the shooting period hereinbefore specified.

3. R. S. 23:3–36 is amended to read as follows:

Expiration of licenses; renewal of propagating license.

23:3–36. All licenses under sections 23:3–28 to 23:3–39 of this Title shall expire on March 15 of each year, except that if the time under which licensed hunters are authorized to shoot upon any preserve is extended beyond said date, pursuant to law, the license to operate such preserve shall not expire until the end of such extended period.

No renewal of a propagating license for pheasants, partridge or quail in a semiwild state or for a "commercial pheasant, quail and partridge-shooting preserve" license shall be granted until the required number of birds have been released as provided in section 23:3–29 of this Title, or until the applicant has produced evidence satisfactory to the division that the liberation requirements of 23:3–29 have been met.

4. R. S. 23:3–37 is amended to read as follows:

Display of license; records; copy forwarded to board.

23:3–37. Each holder of a propagating license issued pursuant to sections 28 through 39 of this chapter shall keep the license prominently displayed at the place of business specified therein, and shall keep accurate written records which shall include the total number of each species of game birds or animals possessed on the date of application for the license, the number of each species subsequently propagated or acquired by purchase or gift, and the name and address of each person or corporation from whom or to whom game birds or animals were purchased or sold alive or sold for food, and the date of each transaction. The holder of a semiwild or commercial shooting preserve shall keep such records as may be prescribed by the division. These records shall be kept permanently on the premises stated in the license and shall be open for inspection by any duly authorized representative of the division at all reasonable times. Each holder of such a propagating license shall send a certified copy of these records for the previous license year to the division not later than March 31. Failure to provide and maintain adequate records may be cause for the nonissuance of subsequent licenses.

Repealer.

5. R. S. 23:3–30 and R. S. 23:3–35 are hereby repealed.

6. This act shall take effect immediately.

Approved October 11, 1979.

CHAPTER 221

AN ACT concerning decedents' estates and amending and supplementing P. L. 1977, c. 412.

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

1. Section 6 of P. L. 1977, c. 412 (C. 3A:2A–6) is amended to read as follows:

C. 3A:2A-6 Self-proven will; form.

a. A will executed in compliance with section 4 of this act may be simultaneously executed, attested, and made self-proved, by acknowledgment thereof by the testator and affidavits of the

witnesses, each made before an officer authorized pursuant to R. S. 46:14–6, R. S. 46:14–7 or R. S. 46:14–8 to take acknowledgments and proofs of instruments entitled to be recorded under the laws of this State, in substantially the following from:

I, ..., the testator, sign my name to this instrument this ..... day of ....., 19...., and being duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my last will and that I sign it willingly (or willingly direct another to sign for me), that I execute it as my free and voluntary act for the purposes therein expressed, and that I am eighteen years of age or older, of sound mind, and under no constraint or undue influence.

.....
Testator

We, ..., the witnesses, sign our names to this instrument, and, being duly sworn, do hereby declare to the undersigned authority that the testator signs and executes this instrument as his last will and that he signs it willingly (or willingly directs another to sign for him), and that each of us, in the presence and hearing of the testator, hereby signs this will as witness to the testator's signing, and that to the best of our knowledge the testator is eighteen years of age or older, of sound mind, and under no constraint or undue influence.

.....
Witness

.....
Witness

The State of .....
County of .....

Subscribed, sworn to and acknowledged before me by ....., the testator and subscribed and sworn to before me by ....., and ....., witnesses, this ..... day of .....

(Signed) .....
.....
(Official capacity of officer)

b. A will executed in compliance with section 4 of this act may at any time subsequent to its execution be made self-proved by the acknowledgment thereof by the testator and the affidavits of the

witnesses, each made before an officer authorized pursuant to R. S. 46:14–6, R. S. 46:14–7 or R. S. 46:14–8 to take acknowledgments and proofs of instruments entitled to be recorded under the laws of this State, attached or annexed to the will in substantially the following form:

The State of .....
County of .....

We, ..., ..., and .....,
the testator and the witnesses, respectively, whose names are signed to the attached or foregoing instrument, being duly sworn, do hereby declare to the undersigned authority that the testator signed and executed the instrument as his last will and that he had signed willingly (or willingly directed another to sign for him), and that he executed it as his free and voluntary act for the purposes therein expressed, and that each of the witnesses, in the presence and hearing of the testator, signed the will as witness and that to the best of his knowledge the testator was at that time eighteen years of age or older, of sound mind and under no constraint or undue influence.

.....
Testator

.....
Witness

.....
Witness

Subscribed, sworn to and acknowledged before me by....., the testator, and subscribed and sworn to before me by....., and ....., witnesses, this ..... day of .....

(Signed) .....

.....
(Official capacity of officer)

2. Section 44 of P. L. 1977, c. 412 (C. 3A:2A–41) is amended to read as follows:

C. 3A:2A-41 Meaning of child and related terms.

44. If, for purposes of intestate succession, a relationship of parent and child must be established to determine succession by, through, or from a person.

a. The relationships and rights of an adopted minor child shall be those as provided by section 14 of P. L. 1977, c. 367 (C. 9:3–50),

and the relationships and rights of an adopted adult shall be as provided in N. J. S. 2A:22–3.

b. In cases not covered by a., a person born out of wedlock is a child of the mother. That person is also a child of the father, if:

(1) The natural parents, before or after the birth of the child, participated in a ceremonial marriage or shall have consummated a common-law marriage where such marriage is recognized as valid in the manner authorized by the law of the place where such marriage took place, even though the attempted marriage is void; or

(2) The paternity is established by an adjudication before the death of the father or is established thereafter by clear and convincing proof, except that the paternity established under this subparagraph is ineffective to qualify the father or his kindred to inherit from or through the child unless the father has openly treated the child as his, and has not refused to support the child.

3. Section 47 of P. L. 1977, c. 412 (C. 3A:2A–44) is amended to read as follows:

C. 3A:2A-44 Omitted spouse.

47. a. If a testator fails to provide by will for his surviving spouse who married the testator after the execution of the will, the omitted spouse shall receive the same share of the estate he would have received if the decedent left no will unless it appears from the will that the omission was intentional or the testator provided for the spouse by transfer outside the will and the intent that the transfer be in lieu of a testamentary provision is shown by statements of the testator or from the amount of the transfer or other evidence.

b. The share of any such spouse shall be taken from devisees under the will ratably in proportion to their respective interests therein.

c. This section shall apply only to wills executed on or after September 1, 1978.

4. Section 54 of P. L. 1977, c. 412 (C. 3A:2A–51) is amended to read as follows:

C. 3A:2A-51 Duties of personal representative; relation and liability to persons interested in estate; standing to sue; standard of care and performance.

54. a. A personal representative is under a duty to settle and distribute the estate of the decedent in accordance with the terms of any probated and effective will and applicable law, and as

expeditiously and efficiently as is consistent with the best interests of the estate. He shall use the authority conferred upon him by law, the terms of the will, if any, and any order in proceedings to which he is a party for the best interests of successors to the estate.

b. A personal representative shall not be surcharged for acts of administration or distribution if the conduct in question was authorized at the time. Subject to other obligations of administration, a probated will is authority to administer and distribute the estate according to its terms. An order of appointment of a personal representative is authority to distribute apparently intestate assets to the heirs of the decedent if, at the time of distribution, the personal representative is not aware of a pending proceeding to probate a will or to determine heirs, a proceeding to vacate an order entered in an earlier proceeding to probate a will, a formal proceeding questioning his appointment or fitness to continue. Nothing in this section affects the duty of the personal representative to administer and distribute the estate in accordance with the rights of claimants and others interested in the estate.

c. Except as to proceedings which do not survive the death of the decedent, a personal representative of a decedent domiciled in this State at his death has the same standing to sue and be sued in the courts of this State and the courts of any other jurisdiction as his decedent had immediately prior to death.

d. Except as otherwise provided by the terms of a decedent's will, the personal representative shall observe the standards in dealing with the estate assets that would be observed by a prudent man dealing with the property of another, and if the personal representative has special skills or is named personal representative on the basis of representations of special skills or expertise, he is under a duty to use those skills.

5. Section 57 of P. L. 1977, c. 412 (C. 3A:2A–54) is amended to read as follows:

C. 3A:2A-54 Duty of personal representative; possession of estate.

57. Except as otherwise provided by a decedent's will, every personal representative has a right to, and shall take possession or control of, the decedent's property, except that any real property or tangible personal property may be left with or surrendered to the person presumptively entitled thereto unless or until, in the judgment of the personal representative, possession of the property by him will be necessary for purposes of administration.

The request by a personal representative for delivery of any property possessed by an heir or devisee is conclusive evidence, in any action against the heir or devisee for possession thereof, that the possession of the property by the personal representative is necessary for purposes of administration. The personal representative shall pay taxes on, and take all steps reasonably necessary for the management, protection and preservation of, the estate in his possession. He may maintain an action to recover possession of property or to determine the title thereto.

6. Section 74 of P. L. 1977, c. 412 (C. 3A:2A–71) is amended to read as follows:

C. 3A:2A-71 Persons dealing with fiduciary; protection.

74. A person who in good faith either assists a fiduciary or deals with him for value is protected as if the fiduciary properly exercised his power. The fact that a person knowingly deals with a fiduciary does not alone require the person to inquire into the existence of a power or the propriety of its exercise. Except as to real property specifically devised, no provision in any will or order of court purporting to limit the power of a fiduciary is effective except as to persons with actual knowledge thereof. A person who in good faith pays, transfers or delivers to a fiduciary money or other property is not responsible for the proper application thereof by the fiduciary; and any right or title acquired from the fiduciary in consideration of such payment, transfer or delivery is not invalid in consequence of a misapplication by the fiduciary. The protection here expressed extends to instances in which some procedural irregularity or jurisdictional defect occurred in proceedings leading to the issuance of letters, including a case in which the alleged decedent is found to be alive. The protection here expressed is in addition to that provided by comparable provisions of the laws relating to commercial transactions and laws simplifying transfers of securities by fiduciaries.

7. Section 76 of P. L. 1977, c. 412 (C. 3A:2A–73) is amended to read as follows:

C. 3A:2A-73 Order of appropriating assets.

76. a. Except as provided in subsection b., shares of distributees abate, without any preference or priority as between real and personal property, in the following order: (1) property passing by intestacy; (2) residuary devises; (3) general devises; (4) specific devises. For purposes of abatement, a general devise charged on any specific property or fund is a specific devise to the extent of the

value of the property on which it is charged, and upon the failure or insufficiency of the property on which it is charged, a general devise to the extent of the failure or insufficiency. Abatement within each classification is in proportion to the amounts of property each of the beneficiaries would have received if full distribution of the property had been made in accordance with the terms of the will.

b. If the will expresses an order of abatement, or if the testamentary plan or the express or implied purpose of the devise would be defeated by the order of abatement stated in subsection a., the shares of the distributees abate as may be found necessary to give effect to the intention of the testator.

8. Section 79 of P. L. 1977, c. 412 (C. 3A:2A–76) is amended to read as follows:

C. 3A:2A-76 Distribution in kind; valuation; method.

79. a. The distributable assets of an intestate's estate or testator's estate shall, unless a contrary intention is indicated by the will, be distributed in kind to the extent reasonably possible through application of the following provisions:

(1) A specific devisee is entitled to distribution of the thing devised to him.

(2) Any devise payable in money or an intestate share may be satisfied by value in kind provided:

(a) The person entitled to the payment has not demanded payment in cash;

(b) The property distributed in kind is valued at fair market value as of the date of its distribution; and

(c) No residuary devisee has requested that the asset in question remain a part of the residue of the estate.

(3) For the purpose of valuation under paragraph (2) securities regularly traded on recognized exchanges, if distributed in kind, are valued at the price for the last sale of like securities traded on the business day prior to distribution, or if there was no sale on that day, at the median between amounts bid and offered at the close of that day. Assets consisting of sums owed the decedent or the estate by solvent debtors as to which there is no known dispute or defense are valued at the sum due with accrued interest or discounted to the date of distribution. For assets which do not have readily ascertainable values, a valuation as of a date not more than 30 days prior to the date of distribution, if otherwise reasonable, controls. For purposes of facilitating distribution, the personal

representative may ascertain the value of the assets as of the time of the proposed distribution in any reasonable way, including the employment of qualified appraisers, even if the assets may have been previously appraised.

(4) If the personal representative of either a testate or an intestate estate has, in the exercise of good faith and reasonable discretion, continued to hold in kind the distributable assets of an intestate estate or of the residue of a testate estate, the assets shall be distributed in kind if there is no objection to the proposed distribution and it is practicable to distribute undivided interests, otherwise those assets shall be converted into cash for distribution.

b. After the probable charges against the estate are known, the personal representative may mail or deliver a proposal for distribution to all persons who have a right to object to the proposed distribution. Such proposal shall notify all persons who have a right to object to the proposal of their right to object and that their objection must be in writing and received by the personal representative within 30 days after the mailing or delivery of the proposal. The right of any distributee to object to the proposed distribution on the basis of the kind or value of asset he is to receive, if not waived earlier in writing, terminates if he fails to object in writing received by the personal representative within 30 days after mailing or delivery of the proposal.

9. Section 81 of P. L. 1977, c. 412 (C. 3A:2A–78) is amended to read as follows:

C. 3A:2A-78 Distribution of assets.

81. Proof that a distributee has received an instrument or deed of distribution of assets in kind or payment in distribution, from a personal representative, is conclusive evidence that the distributee has succeeded to the interest of the estate in the distributed assets, as against all persons interested in the estate, except that the personal representative may recover the assets or their value if the distribution was improper.

10. Section 82 of P. L. 1977, c. 412 (C. 3A:2A–79) is amended to read as follows:

C. 3A:2A-79 Protection of purchasers or lenders.

82. If property distributed in kind or a security interest therein is acquired for value by a purchaser from or lender to a distributee who has received an instrument or deed of distribution from the personal representative, or is so acquired by a purchaser from or

lender to a transferee from such distributee, the purchaser or lender takes title free of rights of any interested person in the estate and incurs no personal liability to the estate, or to any interested person, whether or not the distribution was proper or supported by court order or the authority of the personal representative was terminated before execution of the instrument or deed. This section protects a purchaser from or lender to a distributee who, as personal representative, has executed a deed of distribution to himself, as well as a purchaser from or lender to any other distributee or his transferee. To be protected under this provision, a purchaser or lender need not inquire whether a personal representative acted properly in making the distribution in kind, even if the personal representative and the distributee are the same person, or whether the authority of the personal representative had terminated before the distribution. Any recorded instrument described in this section on which a State documentary fee is noted pursuant to section 3 of P. L. 1968, c. 49 (C. 46:15–7) shall be prima facie evidence that such transfer was made for value.

11. Section 84 of P. L. 1977, c. 412 (C. 3A:2A–81) is amended to read as follows:

C. 3A:2A-81 Agreements among successors; personal representative to abide by terms.

84. Subject to the rights of creditors and taxing authorities, competent successors may agree among themselves to alter the interests, shares, or amounts to which they are entitled under the will of the decedent, or under the laws of intestacy, in any way that they provide in a written contract executed by all who are affected by its provisions. The personal representative shall abide by the terms of the agreement subject to his obligation to administer the estate for the benefit of creditors, to pay all taxes and costs of administration, and to carry out the responsibilities of his office for the benefit of any successors of the decedent who are not parties. Personal representatives of decedent's estates are not required to see to the performance of trusts if the trustee thereof is another person who is willing to accept the trust. Accordingly, trustees of a testamentary trust are successors for the purposes of this section. Nothing herein relieves trustees of any duties owed to beneficiaries of trusts.

C. 3A:2A-48.1 Abatement of decedent's estate; order in which the debts paid.

12. (New section) Except as otherwise provided in a decedent's will, the property of a decedent's estate shall abate for the purposes

of paying debts and claims, without any preference or priority as between real and personal property, in the following order:

a. Property passing by intestacy;
b. Residuary devises;
c. General devises, and
d. Specific devises.

C. 3A:2A-85 Application of provisions of P. L. 1977, c. 412.

13. (New section) The provisions of P. L. 1977, c. 412, shall apply to any wills of decedents dying on or after September 1, 1978.

C. 3A:2A-86 Rights, duties and powers of personal representative; governence; exceptions.

14. (New section) The provisions of P. L. 1977, c. 412, shall govern the rights, duties and powers of personal representatives as well as all successors relating to the administration of all estates except that the validity and propriety of all acts done by a personal representative and all rights established in successors prior to September 1, 1978, shall be determined under the law as then in effect.

C. 3A:2A-6.1 Acknowledgment taken on or after September 1, 1978; validity.

15. (New section) An acknowledgment taken on or after September 1, 1978, but before the effective date of this act pursuant to R. S. 46:14–6, 46:14–7 or 46:14–8 to make a will self-proved under section 6 of P. L. 1977, c. 412 (C. 3A:2A–6) is a valid acknowledgment, notwithstanding that the certificate of acknowledgment does not have the officer's official seal affixed thereto.

16. This act shall take effect immediately.

Approved October 11, 1979.

CHAPTER 222

A SUPPLEMENT to the "Local Public Contracts Law," approved June 9, 1971 (P. L. 1971, c. 198).

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

C. 40A:11-40 Authorization to purchase specific materials at auction; procedure.

1. Notwithstanding any provisions of the act to which this act is a supplement to the contrary, the governing body may by resolution

authorize the purchasing agent of the contracting unit to purchase specific materials at auction for a price not to exceed 85% of the price of equivalent materials as determined pursuant to this section. Such resolution shall be adopted at least 10 days prior to the auction and shall be filed with the Director of the Division of Local Government Services within 3 days of its adoption. Any such auction shall be open to any person to attend and bid on such materials, shall be conducted pursuant to N. J. S. 12A:2–328 or N. J. S. 12A:6–108, and shall be conducted by a licensed auctioneer. Prior to adoption of the resolution, the purchasing agent shall solicit at least three written quotations of prices for which new materials equivalent to those to be purchased at auction were actually sold within the previous year. The lowest of the three prices so quoted shall be the determining price quotation for the authorization to purchase at auction for a price not to exceed 85% thereof. The authorizing resolution adopted by the governing body shall set forth the three price quotations so quoted and the sources thereof, and shall state that the expenditure of money for the purchase is not made in violation of N. J. S. 40A:4–57, and has been properly certified by the chief finance officer of the local unit.

Any purchasing agent who shall purchase materials at auction pursuant to this section shall, within 14 days of the occurrence of such auction, file a report with the clerk of the governing body and the director, setting forth: the nature, quantity and price of the materials so purchased; the three price quotations solicited prior to such auction, and the sources thereof; and, the name and license number of the auctioneer who conducted such auction.

2. This act shall take effect immediately.

Approved October 11, 1979.

CHAPTER 223

AN ACT to amend "An act to provide for the election of commissioners in water districts and defining their powers and duties," approved June 25, 1951 (P. L. 1951, c. 280).

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

1. Section 33 of P. L. 1951, c. 280 (C. 40:62–105.33) is amended to read as follows:

C. 40:62-105.33 Issuing details.

33. The legal voters of any such water district may, at the election at which such proposition is submitted, by the vote of a majority of those voting, authorize the board of water commissioners to issue bonds for the purpose set forth in section 30 of this act. Such bonds shall be serial bonds and shall be issued in the corporate name of such water district for such sums not exceeding the sum voted as aforesaid, and in such amounts and payable at such times as the legal voters so voting shall direct, with interest at a rate as such resolution or resolutions authorizing the issuance of such bonds shall provide, payable half-yearly. Said bonds shall mature within the period or average period of usefulness determined in the bond ordinance. Such bonds shall be signed by the president of the board of water commissioners and attested by the secretary of the board who shall affix the seal of said commissioners. Said bonds shall have coupons attached for the payment of interest, which coupons shall be signed by the clerk of the board of water commissioners, and shall be numbered to correspond to the several bonds to which they shall be severally attached. Bonds so issued shall be numbered and the proper registry thereof shall be kept by the clerk of said board of water commissioners. Such bonds may be sold at public or private sale for the best obtainable price, but not less than par and accrued interest.

2. This act shall take effect immediately.

Approved October 11, 1979.

CHAPTER 224

AN ACT concerning autocabs, limousines and livery services, amending various sections of the statutory law, repealing R. S. 48:16–15 and supplementing Chapter 3 of Title 39 of the Revised Statutes.

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

1. R. S. 48:4–1 is amended to read as follows:

Definitions.

48:4–1. The term "autobus" as used in this chapter means and includes, except as hereinafter noted, any motor vehicle or motorbus operated over public highways or public places in this State for the transportation of passengers for hire in intrastate business, notwithstanding such motor vehicle or motorbus may be used in interstate commerce.

Nothing contained herein shall be construed to include:

a. Vehicles engaged in the transportation of passengers for hire in the manner and form commonly called taxicab service unless such service becomes or is held out to be regular service between stated termini;

b. Hotel buses used exclusively for the transportation of hotel patrons to or from local railroad or other common carrier stations including local airport;

c. Buses operated for the transportation of enrolled children and adults only when serving as chaperons to or from a school, school connected activity, day camp, summer day camp, nursery school, child care center, pre-school center or other similar places of education, including "School Vehicle Type I" and "School Vehicle Type II" as defined in R. S. 39:1–1;

d. Any autobus with a carrying capacity of not more than 10 passengers operated under municipal consent upon a route established wholly within the limits of a single municipality or with a carrying capacity of not more than 20 passengers operated under municipal consent upon a route established wholly within the limits of not more than four contiguous municipalities within any county of the fifth or sixth class, which route in either case does not in whole or in part parallel upon the same street the line of any street railway or traction railway or any other autobus route;

e. Autocabs, limousines or livery services as defined in R. S. 48:16–13, unless such service becomes or is held out to be regular service between stated termini.

The word "person" as used in this chapter means and includes any individual, copartnership, association, corporation or joint stock company, their lessees, trustees, or receivers appointed by any court.

The word "street" as used in this chapter means and includes any street, avenue, park, parkway, highway, road or other public place.

The term "charter bus operation" as used in this chapter means and includes the operation of an autobus or autobuses by the person owning or leasing such bus or buses pursuant to a contract, agreement or arrangement to furnish an autobus or autobuses and a driver or drivers thereof to a person, group of persons or organization (corporate or otherwise) for a trip designated by such person, group of persons or organization for a fixed charge per trip, per autobus or per mile.

The term "special bus operation" as used in this chapter means and includes the operation by the owner or lessee of an autobus or autobuses for the purpose of carrying passengers for hire, each passenger paying a fixed charge for his carriage, on a special trip arranged and designated by such owner or lessee, which fixed charge may or may not include meals, lodging, entertainment or other charges.

2. R. S. 48:16–13 is amended to read as follows:

Definitions.

48:16–13. As used in this article:

"Autocab" means and includes any automobile or motor car with a carrying capacity of not more than nine passengers, not including the driver, used in the business of carrying passengers for hire which is held out, announced or advertised to operate or run or which is operated or run over any of the streets or public highways of this State, and which is hired by charter or for a particular contract, or by the day or hour or other fixed period, or to transport passengers to a specified place or places, or which charges a fare or price agreed upon in advance between the operator and the passenger. Nothing in this article contained shall be construed to include taxicabs, hotel buses or buses employed solely in transporting school children or teachers or autobuses which are subject to the jurisdiction of the Board of Public Utilities, or interstate autobuses required by Federal or State law or rules of the Board of Public Utilities to carry insurance against loss from liability imposed by law on account of bodily injury or death.

"Limousine or livery service" means and includes the business of carrying passengers for hire by autocabs.

"Person" means and includes any individual, copartnership, association, corporation or joint stock company, their lessees, trustees or receivers appointed by any court whatsoever.

"Street" means and includes any street, avenue, park, parkway, highway, or other public place.

3. R. S. 48:16–14 is amended to read as follows:

Insurance; amount.

48:16–14. No autocab, limousine or livery service shall be operated wholly or partly along any street in any municipality until the owner of the autocab, limousine or livery service shall have filed with the clerk of the municipality in which the owner has his principal place of business, an insurance policy of a company duly licensed to transact business under the insurance laws of this State in the sum of $50,000.00 against loss by reason of the liability imposed by law upon every autocab, limousine or livery service owner for damages on account of bodily injury or death suffered by any person as the result of an accident occurring by reason of the ownership, maintenance or use of the autocab, limousine or livery service upon any public street.

Such operation shall be permitted only so long as the insurance policy shall remain in force to the full and collectible amount of $50,000.00.

The insurance policy shall provide for the payment of any final judgment recovered by any person on account of the ownership, maintenance and use of such autocab, limousine or livery service or any fault in respect thereto, and shall be for the benefit of every person suffering loss, damage or injury as aforesaid.

Repealer.

4. R. S. 48:16–15 is repealed.

5. R. S. 48:16–16 is amended to read as follows:

Power of attorney.

48:16–16. The owner of the autocab, limousine or livery service shall execute and deliver to the clerk of the municipality, in which the owner has his principal place of business, concurrently with the filing of a policy or bond referred to in section 48:16–14 of this Title, a power of attorney, wherein and whereby the owner shall appoint the chief fiscal officer of the municipality his true and lawful attorney for the purpose of acknowledging service of any process out of a court of competent jurisdiction to be served against the insured by virtue of the indemnity granted under the insurance policy or bond filed.

6. R. S. 48:16–17 is amended to read as follows:

Certificate of compliance; filing and posting.

48:16–17. The clerk of the municipality, in which the owner has his principal place of business, upon the filing of the required

insurance policy or bond, shall issue a certificate in duplicate showing that the owner of the autocab, limousine or livery service has complied with the terms and provisions of this article.

The certificate shall recite the name of the insurance company, the number and date of expiration of the policy or bond, a description of every autocab, limousine or livery service insured thereunder, and the registration number of the same.

The duplicate certificate shall be filed with the Division of Motor Vehicles before any such car is registered as an autocab, limousine or livery service.

The original certificate shall be posted in a conspicuous place within the autocab, limousine or livery service.

7. R. S. 48:16–18 is amended to read as follows:

Operation in more than one municipality; filing of insurance policy.

48:16–18. Where an autocab, limousine or livery service operates in more than one municipality, the insurance policy or bond required by section 48:16–14 of this Title shall be filed with the clerk of the municipality in which the owner has his principal place of business.

8. R. S. 48:16–19 is amended to read as follows:

Exemption from insurance.

48:16–19. Any corporation organized under the laws of this State having a paid up cash capital of not less than $150,000.00 may carry its own liability insurance, if it can reasonably satisfy the Commissioner of Insurance as to the permanence and financial standing of its business.

If the commissioner shall by written order make such an exemption, the company in lieu of the insurance policy or bond provided for by section 48:16–14 of this Title, may file a copy of the order with a statement sworn to by its president, vice president, treasurer or assistant treasurer that the corporation is the owner of autocabs, limousine or livery services and that the copy of the order attached to the affidavit and filed therewith is a true copy of the original order and that the same has not been revoked.

The copy of the order of exemption and statement shall remain in lieu of an insurance policy or bond so long as the paid up cash capital of the corporation shall be not less than $150,000.00 and the order of the commissioner shall remain in force.

9. R. S. 48:16–20 is amended to read as follows:

Revocation of order of exemption.

48:16–20. If it shall appear to the Commissioner of Insurance, after a hearing, that the company no longer has a paid up cash capital of at least $150,000.00 and is no longer able to pay damages which may result from an accident occurring by reason of the ownership, maintenance or use of the autocabs, limousine or livery services owned by it, upon any public street, he shall revoke his order granting exemption. Thereupon the company shall immediately file an insurance policy or bond as required by section 48:16–14 of this Title.

10. R. S. 48:16–21 is amended to read as follows:

Applicability of other automobile laws.

48:16–21. Nothing in this article contained shall exempt any person owning or operating any autocab, limousine or livery service from complying with the law relating to the ownership, registration and operation of automobiles in this State.

11. R. S. 48:16–22 is amended to read as follows:

Penalty.

48:16–22. Any person who shall operate an autocab, limousine or livery service in any street in this State without complying with the provisions of this article shall be guilty of a misdemeanor.

C. 39:3-19.5 Special plates; issuance; fee.

12. (New section) a. Upon the application of any person who owns an autocab, a limousine or livery service, the Director of the Division of Motor Vehicles shall issue special registration plates bearing the word "livery" in addition to the registration number and other markings or identification otherwise prescribed by law.

b. The special registration plates authorized by this act shall be issued upon proof, satisfactory to the director, that the applicant has complied with the provisions of article 2 of chapter 16 of Title 48 of the Revised Statutes.

c. The fee for such special registration plates shall be $10.00 in addition to the fees otherwise prescribed by law for the registration of such motor vehicles.

13. This act shall take effect immediately.

Approved October 12, 1979.

CHAPTER 225

A SUPPLEMENT to "An act fixing fees to be imposed upon the recording of deeds transferring title to real property and providing penalties for the violation thereof," approved June 3, 1968 (P. L. 1968, c. 49; C. 46:15–5 et seq.).

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

C. 46:15-6.1 Sale of real property by sheriff; procedure; rules and regulations.

1. Whenever an application is made to the sheriff of any county for the sale of any real property, whether under execution or pursuant to any other writ, judgment or order, the sheriff shall not proceed with such sale unless and until the applicant shall furnish to the sheriff a statement, under oath, listing the names of all mortgagees and other holders of encumbrances and the current balance of all prior mortgages, liens or encumbrances constituting "consideration" as defined in section 1 (c) of the act to which this act is a supplement (C. 46:15–5 (c)), to which such sale shall be subject.

Upon the preparation of a deed for any real property sold as herein provided, the sheriff shall cause to be attached to such deed the statement of prior mortgages, liens or encumbrances furnished by the applicant.

Upon the recordation of any deed to real property executed by a sheriff as herein provided, the realty transfer fee shall be computed upon the amount bid for the property plus the remaining amount of any superior mortgages, liens or encumbrances constituting "consideration" as defined in the said section 1 (c) C. 46:15–5 (c)); provided, however, that nothing herein contained shall be construed to subject to the payment of a fee any deed excluded pursuant to section 6 of P. L. 1968, c. 49 (C. 46:15–10).

The director shall promulgate rules, regulations and forms of certification or otherwise, necessary to carry out the provisions of this act.

2. This act shall take effect on the first day of the second month following enactment.

Approved October 12, 1979.

CHAPTER 226

AN ACT to amend and supplement "The Banking Act of 1948" approved April 29, 1948 (P. L. 1948, c. 67).

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

1. Section 22 of P. L. 1948, c. 67 (C. 17:9A–22) is amended to read as follows:

C. 17:9A-22 Change of principal or branch office; application; approval.

22. Change of principal or branch office; application; approval.

A. Upon filing an application therefor in the department, and upon obtaining the approval of the commissioner thereto a bank or savings bank may change the location of its principal office or of a branch office to a location within the same municipality in which such principal office or such branch office is located, and may change the location of its principal office to a location in a municipality other than that in which it maintains its principal office, but not more than 30 miles distant from such principal office.

B. If it shall appear from the application, or if the commissioner shall find from such proof as he may require, or from such investigation as he may cause to be made, that the area which would be served by such office after its change in location would not be substantially different from the area theretofore served by such office, he shall approve the application.

C. If it shall appear to the commissioner, from the application, or from such proof as he may require, or from such investigation as he may cause to be made, that the proposed location will be so far removed from the place then occupied by such principal office or by such branch office that the area which would be served by such office after its change in location would be substantially different from the area theretofore served by it, he shall not approve such application unless, after such investigation or hearing, or both, as the commissioner may determine to be advisable, he shall find that the interests of the public will be served to advantage by such change in location, and that conditions in the locality to which removal is proposed afford reasonable promise of successful operation.

D. No bank shall change the location of its principal office pursuant to subsection C of this section unless, following the approval

of the commissioner, it shall amend its certificate of incorporation to effect such change. No savings bank shall change the location of its principal office pursuant to subsection C of this section unless, prior to making application to the commissioner for his approval, the change in location is approved by a vote of two-thirds of its board of managers then in office.

2. Section 71 of P. L. 1948, c. 67 (C. 17:9A–71) is amended to read as follows:

C. 17:9A-71 Definitions.

71. Definitions.

A. For the purposes of this article:

(1) "Controlling interest" means ownership or control of a majority of the issued and outstanding capital stock or securities of a corporation, having voting rights;

(2) "Corporation" means a corporation in which a director or an executive officer of a bank has a controlling interest or in which a director or an executive officer of a bank together with one or more other directors or executive officers of the bank has a controlling interest; "corporation" includes all subsidiaries of a corporation in which the corporation has a controlling interest;

(3) "Executive officer" means only those officers of a bank who participate in major policy-making functions of the bank otherwise than in the capacity of a director of the bank;

(4) "Partnership" means a partnership in which a director or an executive officer of a bank is a general or limited partner;

(5) "Liability" means indebtedness and liability to a bank of every kind and in every capacity, other than liability in a fiduciary capacity in which the fiduciary may lawfully incur such liability without personal responsibility therefore; "liable" means obligated for a liability;

(6) "Board of directors" means at least a majority of the members of the board of directors of a bank, and "executive committee" means at least a majority of the members of the executive committee of the board of directors;

(7) "Application" means a written, signed request by a director or an executive officer of a bank, or by a corporation or partnership, to be permitted to incur liability to the bank, and "applicant" means the signer of an application;

(8) Liability to a bank, payable on demand, shall be deemed to have a maturity 6 months from the date of incurring such liability;

(9) Any whole or part renewal or extension of any liability to a bank incurred pursuant to this article shall be deemed to be an initial incurring of liability to the bank.

(10) "Officer" means any officer other than an executive officer who participates in the operating management of a bank.

B. The commissioner may, from time to time, make, amend and repeal regulations, including (1) prescribing what constitutes "policy-making" within the meaning of paragraph (3) of subsection A of this section; and (2) increasing or decreasing the total amount in which an executive officer of a bank may become liable to the bank as prescribed by paragraph (2) of subsection B of section 72 (C. 17:9A–72); and (3) prescribing limitations on the liabilities to a bank which an officer who is not an executive officer of such bank may be permitted to incur to such bank. Regulations made pursuant to this article shall be directed toward creating and maintaining a substantial parity between banks and national banks in prescribing the amount in which a bank may permit an executive or other officer to become liable to it.

3. Section 72 of P. L. 1948, c. 67 (C. 17:9A–72) is amended to read as follows:

C. 17:9A-72 Prerequisites to incurring liability; amounts.

72. Prerequisites to incurring liability; amounts.

A. No bank shall permit a director or an executive officer of the bank or a corporation or partnership to become liable to the bank, and no such director, executive officer, corporation or partnership shall become liable to a bank, except as authorized by this article.

B. A bank may permit a director or an executive officer of the bank or a corporation or a partnership to become liable to the bank provided that:

(1) An application for the incurring of the proposed liability, containing such information as the commissioner may by regulation require, shall first be approved by resolution of the board of directors or of the executive committee; such resolution and the vote of each person thereon shall be recorded in the minutes of the meeting;

(2) If the applicant is an executive officer, the proposed liability will not cause the total of all liabilities of such officer to the bank to exceed $10,000.00, or such amount as is permitted by the Commissioner of Banking pursuant to subsection B. of section 71 of P. L. 1948, c. 67 (C. 17:9A–71); provided, however, that such

amount is consonant with the amount fixed by Federal law for national banks and establishes a substantial parity between those banks and State-chartered banks;

(3) If the applicant is a director, corporation or partnership, the bank shall be offered security having an ascertainable market value at least 20% greater than the amount of the proposed liability, or, if no such security or only partial security is offered, the proposed unsecured liability or the portion thereof for which no security is offered is, in the opinion of the board of directors or the executive committee, warranted by a written statement of the financial condition of the applicant;

(4) The proposed liability will not cause the total of

(a) The liabilities of a director or an executive officer, and

(b) The liabilities of each corporation in which such director or executive officer has a controlling interest, or in which such director or executive officer together with one or more other directors or executive officers has a controlling interest, and

(c) The liabilities of each partnership in which such director or executive officer is a partner to exceed 10% of the amount of the capital funds of the bank, as defined in section 60.

C. When an application is made by a director of a bank or by a corporation or partnership, the applying director and any director who alone or with any one or more other directors or executive officers of the bank has a controlling interest in the corporation, and any director who is a general or limited partner in the partnership shall not vote to grant such application.

D. When an application is approved by the executive committee, the application shall be presented and the approving resolution of the executive committee shall be read at the next meeting of the board of directors, and such presentation and reading shall be noted in the minutes of such meeting.

4. Section 73 of P. L. 1948, c. 67 (C. 17:9A–73) is amended to read as follows:

C. 17:9A-73 Overdrafts.

73. Overdrafts.

No bank shall permit a director, executive or other officer or employee of the bank or a corporation, or a partnership, to become liable to the bank by overdraft against a deposit account. This section shall not apply to extensions of credit made pursuant to "The Advance Loan Law of 1968," P. L. 1968, c. 64.

5. Section 74 of P. L. 1948, c. 67 (C. 17:9A–74) is amended to read as follows:

C. 17:9A-74 Exempt transactions.

74. Exempt transactions.

A. Any liability incurred prior to the effective date of this act which would, if incurred after the effective date of this act, be subject to this article, may from time to time be wholly or partly renewed to the extent and in the manner authorized by the law in effect when such liability was initially incurred.

B. Nothing in this article shall apply to a mortgage loan made by a bank to an executive officer of the bank or to him or her and his or her spouse, if (1) the mortgaged property has erected thereon a one or 2-family dwelling occupied or to be occupied wholly or partly by such officer, or (2) if the proceeds of the loan shall be used for the purpose of erecting upon the mortgaged property a one- or two-family dwelling to be so occupied; nor shall anything in this article apply (3) to any loan or loans made to an executive officer of the bank not exceeding in the aggregate $20,000.00 outstanding at any one time to finance the education of a child or children of such officer; or (4) to any liability to a bank incurred by any officer who is not an executive officer of such bank.

6. Section 75 of P. L. 1948, c. 67 (C. 17:9A–75) is amended to read as follows:

C. 17:9A-75 Violations; penalties; liability.

75. Violations; penalties; liability.

A. The following shall be guilty of misdemeanors:

(1) A director, or an executive officer of a bank who knowingly incurs liability to the bank in violation of subsections B and C of section 72;

(2) Any person who knowingly permits or aids a director, or an executive officer of a bank or a corporation or partnership to incur liability to a bank in violation of subsections B and C of section 72;

(3) A director of a bank who votes in favor of an application presented to the bank by such director or by a corporation in which such director alone, or with one or more directors or officers of the bank, has a controlling interest, or by a partnership of which such director is a general or limited partner, if,

pursuant to such application, liability is incurred in violation of subsections B and C of section 72;

(4) A director or an executive officer of a bank who, alone, or with one or more directors or executive officers of the bank, has a controlling interest in a corporation or who is a general or limited partner of a partnership which presents an application to the bank pursuant to which liability is incurred in violation of subsections B and C of section 72 and who, having knowledge of such application prior to its acceptance, fails to disclose his interest to the executive committee or the board of directors prior to such acceptance.

B. Each person described in paragraphs (2), (3), and (4) of subsection A of this section shall be personally liable on demand to the bank for the liability incurred in violation of subsections B and C of section 72, with interest, and, upon payment thereof, shall be subrogated to the rights of the bank.

7. Section 49 of P. L. 1948, c. 67 (C. 17:9A–49) is amended to read as follows:

C. 17:9A-49 Definitions.

49. Definitions. For the purposes of this article,

(1) "Reserve depositary" includes

(a) A Federal Reserve bank,

(b) A member of a Federal Reserve bank organized in a Federal Reserve district which includes all or any part of this State, which shall be approved by the commissioner as a reserve depositary,

(c) A bank which is not a member of the Federal Reserve System, but which shall be approved by the commissioner as a reserve depositary, and

(d) A member of a Federal Reserve bank organized in a Federal reserve district which does not include all or any part of this State; provided, such member is approved by the commissioner as a reserve depositary;

(2) "Immediate liabilities" shall include all deposits payable on demand, or in less than 30 days, or in less than 30 days after demand, and all other claims payable on demand;

(3) "Time liabilities" shall include all liabilities other than immediate liabilities;

(4) The commissioner, with the concurrence of the banking advisory board, may from time to time modify or supplement the

definitions of immediate liabilities and time liabilities as set forth in this section, except that demand deposits shall always be included in the definition of immediate liabilities and time deposits shall always be included in the definition of time liabilities.

C. 17:9A-24.9 Additional powers of banks.

8. (New section) In addition to the powers which banks and savings banks may otherwise exercise, every bank and savings bank, as defined in section 1 of The Banking Act of 1948, P. L. 1948, c. 67, shall have power to subscribe for, purchase and hold stock of one or more insurance companies organized under the laws of this State which have been or may hereafter be limited to insure banks, savings banks and other depository institutions (1) against loss from the defaults of persons in positions of trust, public or private, or against loss or damage on account of neglect or breaches of duty or obligations guaranteed by the insurer; and against loss of any bills of exchange, notes, checks, drafts, acceptances of drafts, bonds, securities, evidences of debt, deeds, mortgages, documents, gold or silver, bullion, currency, money, platinum and other precious metals, refined or unrefined and articles made therefrom, jewelry, watches, necklaces, bracelets, gems, precious and semi-precious stones, and also against loss resulting from damage, except by fire, to the insured's premises, furnishings, fixtures, equipment, safes and vaults therein caused by burglary, robbery, hold-up, theft or larceny, or attempt thereat. No such indemnity indemnifying against loss of any property as specified herein shall indemnify against the loss of any such property occurring while in the mail or in the custody or possession of a carrier for hire for the purpose of transportation, except for the purpose of transportation by an armored motor vehicle accompanied by one or more armed guards; and

(2) Against loss or damage by burglary, theft, larceny, robbery, forgery, fraud, vandalism or malicious mischief, or any one or more of such hazards; and against any and all kinds of loss or destruction of or damage to moneys, securities, currencies, scrip, coins, bullion, bonds, notes, drafts, acceptances of drafts, bills of exchange and other valuable papers or documents, except while in the custody or possession of and being transported by a carrier for hire or in the mail.

9. This act shall take effect immediately.

Approved October 12, 1979.

CHAPTER 227

AN ACT concerning the management of the eel resource in Delaware bay and its tributaries in this State, establishing a commercial eel fishing license and providing fees therefor, and supplementing chapter 3 of Title 23 of the Revised Statutes.

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

C. 23:3-72 License to take eels; fee.

1. No person shall take more than 25 American eels (anguilla rostrata) per day from the waters of Delaware bay and its tributaries in this State without first having obtained a valid commercial eel fishing license from the division. The fee for such license shall be $100.00 for residents of this State; for nonresidents, the fee for such license shall be the same as the fee charged to New Jersey residents by the state of residence of the license purchaser for a comparable license, but shall not be less than $100.00. Any license issued pursuant to this section shall be void after December 31 next succeeding its issuance.

C. 23:3-73 Rules and regulations.

2. The Director of the Division of Fish, Game and Shellfisheries, with the approval of the Commissioner of Environmental Protection, is hereby authorized to adopt, amend and repeal, pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.), such rules and regulations as are necessary and proper in order to provide for the conservation, protection and management of the eel resource in the waters of Delaware bay and its tributaries in this State.

C. 23:3-74 Violations; penalty.

3. Any person who violates any of the provisions of this act or of any rules or regulations promulgated pursuant hereto shall be liable to a penalty of not less than $25.00 nor more than $500.00 for each offense, to be recovered pursuant to the provisions of chapter 10 of Title 23 of the Revised Statutes.

4. This act shall take effect immediately.

Approved October 12, 1979.

CHAPTER 228

AN ACT to amend "An act to limit and regulate child labor in this State; to provide for examinations and inspections under the provisions of this act; to provide for the enforcement of this act and regulations made thereunder; to prescribe penalties for the violation thereof; and to repeal other acts," approved June 25, 1940 (P. L. 1940, c. 153).

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

1. Section 3 of P. L. 1940, c. 153 (C. 34:2–21.3) is amended to read as follows:

C. 34:2-21.3 Minors under 18 years of age; hours of employment.

3. Except as provided in section 15 and except for domestic service or messengers employed by communications companies subject to the supervision and control of the Federal Communications Commission, no minor under 18 years of age shall be employed, permitted, or suffered to work in, about, or in connection with any gainful occupation more than 6 consecutive days in any 1 week, or more than 40 hours in any 1 week, or more than 8 hours in any 1 day, nor shall any minor under 16 years of age be so employed, permitted, or suffered to work before 7 a.m. or after 6 p.m. of any day; nor shall any minor between 16 and 18 years of age be so employed, permitted or suffered to work before 6 a.m. or after 10 p.m. of any day; provided, that minors between 14 and 18 years of age may be employed in a concert or a theatrical performance up to 11 p.m.; and provided, further, that male minors between 16 and 18 years of age may be employed in any public bowling alley up to 11:30 p.m.; and provided, further, that male minors not less than 16 years of age and who are attending school may be employed as pin-setters only in public bowling alleys up to 11:30 p.m. during any regular school vacation season, but may not be so employed during the school term without a special written permit from the superintendent of schools or the supervising principal as the case may be, which permit must state that the boy has undergone a complete physical examination by the medical inspector, and, in the opinion of the superintendent or supervising principal may be so employed without injury to health or inter-

ference with progress in school, such special permits to be good for a period of 3 months only and are revocable in the discretion of the superintendent or supervising principal. Such permit may not be renewed until satisfactory evidence has been submitted to the superintendent or supervising principal showing that the boy has had a physical examination and his health is not being injured by said work; and provided, further, that male minors between 16 and 18 years of age may be employed until 11 p.m. during the regular school vacation seasons but not in or for a factory or in any occupation otherwise prohibited by law or by order or regulation made in pursuance of law. The combined hours of work and hours in school of children under 16 employed outside school hours shall not exceed a total of 8 per day; and provided, further, that minors between 16 and 18 years of age may be employed in any restaurant until 12 midnight unless such minors are regularly attending school in which case such minors may be employed until 12 midnight during any regular school vacation season and on such days which do not precede a regularly scheduled school day, but no such minor employed in any occupation in a restaurant shall be paid at a wage rate less than that provided pursuant to law for such occupation.

This section is not applicable to the employment of a minor between 16 and 18 years of age during the months of June, July, August or September by a summer resident camp, conference or retreat operated by a nonprofit or religious corporation or association, unless the employment is primarily general maintenance work or food service activities.

2. This act shall take effect immediately.

Approved October 12, 1979.

CHAPTER 229

AN ACT concerning education, providing scholarships for children and widowed spouses of police, firemen and first aid or rescue squad workers in certain cases and supplementing Title 18A of the New Jersey Statutes.

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

C. 18A:71-77 Payment of tuition by State for children and widowed spouses; eligibility.

1. Any child or widowed spouse of a member or officer of a volunteer fire company, volunteer first aid or rescue squad or municipal fire, police, county police or park police department, State Fire Service or of the Division of State Police, which member or officer was killed in the performance of his duties as a member of such company, squad or fire or police department or division, upon such child or widowed spouse being accepted to pursue a course of undergraduate study in any public institution of higher education of this State as enumerated in N. J. S. 18A:62–1, shall, while enrolled as an undergraduate student in good standing at such college, have his tuition paid by the State.

Eligibility for this program shall be limited to a period of 8 years, from the date of death of the member or officer, in the case of a widowed spouse, and 8 years following graduation from high school, in the case of a child pursuant to rules and regulations established by the State Board of Higher Education.

C. 18A:71-78 Appropriation.

2. There shall be appropriated to the Department of Higher Education in any general or supplemental appropriation act such sums as shall be necessary to carry out the purposes of this act.

3. This act shall take effect January 1 next following enactment; however, no tuition award shall be granted prior to September 1 next ensuing.

Approved October 13, 1979.

CHAPTER 230

AN ACT concerning counties and municipalities, enacting and adding chapter 10 to Title 40A of the New Jersey Statutes, and revising sections of the statutory law.

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

Section 1.

TITLE 40A
CHAPTER 10
INSURANCE

ARTICLE 1. INSURANCE AGAINST LOSS AND LIABILITY

40A:10–1 Power to insure.
40A:10–2 Providing insurance for certain volunteer organizations.

ARTICLE 2. COVERAGE FOR OPERATORS OF PUBLICLY OWNED MOTOR VEHICLES, EQUIPMENT OR APPARATUS

40A:10–3 Insurance for operators.
40A:10–4 Liability for failure to insure.
40A:10–5 Operator to give prompt notice of claim or demand.

ARTICLE 3. INSURANCE FUND

40A:10–6 Establishment of insurance fund; appropriations.
40A:10–7 Maximum and minimum amount of fund.
40A:10–8 Insurance fund commissioners; appointment; term; vacancies; compensation.
40A:10–9 Organization of commissioners.
40A:10–10 Powers and authority of commissioners.
40A:10–11 Sinking fund commissioners may act as insurance fund commissioners.

ARTICLE 4. WORKERS' COMPENSATION

40A:10–12 Payment of workers' compensation.
40A:10–13 Workers' compensation insurance fund.
40A:10–14 Annual appropriation to fund.
40A:10–15 Discontinuance of fund.

ARTICLE 5. GROUP INSURANCE PROGRAMS

A. EMPLOYEES GROUP INSURANCE PLANS

40A:10–16 Definitions.
40A:10–17 Contracts for group insurance.
40A:10–18 Exclusions from coverage.
40A:10–19 Limitations, exclusions, exceptions to be contained in contract.

40A:10–20 Discontinuance of coverage; exception.
40A:10–21 Payment of premiums; deduction of employee contributions.
40A:10–22 Continuance of coverage after retirement.
40A:10–23 Payment of premiums after retirement.
40A:10–24 Summary of coverage cost to be furnished employer.
40A:10–25 Filing copy of contract with State Employees Health Benefit Commission; report to Governor and Legislature.

B. Insurance for Volunteer First Aid Squads and Other Volunteer Squads

40A:10–26 Group life insurance plans.
40A:10–27 Other group insurance plans.
40A:10–28 Eligibility.

C. Insurance for Volunteer Firemen

40A:10–29 Group life insurance plans.
40A:10–30 Other group insurance plans.
40A:10–31 Eligibility.
40A:10–32 Coverage for members of Junior Firemen's Auxiliary.

D. Insurance for Auxiliary Police Volunteers

40A:10–33 Group life insurance.
40A:10–34 Eligibility.

Article 6. Repealer

40A:10–35 Statutes repealed.

Article 1. Insurance Against Loss and Liability

Power to insure.

40A:10–1. Power to insure. A local unit may insure with any insurance company authorized to do business in this State or by the insurance fund provided by Article 3 of this chapter:

a. Its property, motor vehicles, equipment or apparatus, or any property, motor vehicles, equipment or apparatus owned or under the control of any of its departments, boards, agencies or commissions against loss or damage however caused;

b. Any motor vehicles, equipment or apparatus owned by it or under its control, or owned by or under the control of any of its departments, boards, agencies or commissions, against all liability arising from the ownership, use or operation thereof;

c. Against liability for its negligence and that of its officers, employees or servants, whether or not compensated or part-time, who are authorized to perform any act or services, but not including an independent contractor within the limitations of the "New Jersey Tort Claims Act" (N. J. S. 59:1–1 et seq.).

Source: R. S. 40:26–1, 40:51–1; 40:51–2.

Providing insurance for certain volunteer organizations.

40A:10–2. Providing insurance for certain volunteer organizations. A municipality maintaining a volunteer fire department, or in which there are one or more incorporated volunteer fire companies affording fire protection in the municipality, or in which there exist one or more incorporated volunteer first aid, emergency, rescue or ambulance squads rendering services generally throughout the municipality, may effect and maintain insurance with any insurance company authorized to do business in this State, which the governing body of the municipality deems necessary or desirable for the protection, safety and welfare of the municipality, the volunteer fire department, incorporated volunteer fire companies or incorporated volunteer first aid, emergency, rescue or ambulance squad:

a. Covering their motor vehicles, equipment and apparatus against loss or damage however caused;

b. Against all liability arising from the ownership, use or operation of their motor vehicles, equipment and apparatus; or,

c. Both.

The governing body of the municipality may, in its discretion, pay the entire costs of such insurance or such portion thereof as it may consider to be advisable.

Source: N. J. S. 40A:14–38.

Article 2. Coverage for Operators of Publicly Owned Motor Vehicles, Equipment or Apparatus

Insurance for operators.

40A:10–3. Insurance for operators. Every local unit, other than one providing insurance coverage under Article 3 of this chapter, shall provide insurance coverage under this article for the op-

erators of all motor vehicles, equipment and apparatus owned by or under its control, or owned by or under the control of any of its departments, boards, agencies or commissions, against liability for damages to property, in any one accident, in an amount of not less than $5,000.00, and against liability for injuries or death of one person, in any one accident, in an amount of not less than $50,000.00, and against liability for injuries or death of more than one person, in any one accident, in an amount of not less than $100,000.00.

Source: R. S. 40:26–2 amended 1955, c. 152; 40:51–3 amended 1951, c. 307, s. 1; 1952, c. 180.

Liability for failure to insure.

40A:10–4. Liability for failure to insure. Any local unit, other than one providing insurance coverage under Article 3 of this chapter, failing to provide the insurance coverage as provided in N. J. S. 40A:10–3 shall be liable for payment of any judgment recovered in a court of competent jurisdiction against any operator of a motor vehicle, equipment or apparatus within the limits of the amount required for insurance coverage under N. J. S. 40A:10–3 for damages resulting in personal injury or death or damage to property caused by the authorized operation or use of such motor vehicles, equipment or apparatus.

Source: R. S. 40:26–2 amended 1955, c. 152; 40:51–3 amended 1951, c. 307, s. 1; 1952, c. 180.

Operator to give prompt notice of claim or demand.

40A:10–5. Operator to give prompt notice of claim or demand. The operator against whom a claim or demand is made or an action instituted, arising out of the operation or use of any motor vehicle, equipment or apparatus to which this article relates, shall promptly give written notice thereof to the governing body of the local unit. If an action is instituted against him he shall also move promptly as a third party plaintiff to name the local unit as third party defendant in that action. If the operator fails to so notify the local unit or name the local unit as a third party defendant in any such action, the local unit shall not be liable for any judgment recovered against him even though it failed to secure the insurance required by this article.

Source: R. S. 40:26–2 amended 1955, c. 152; 40:51–3 amended 1951, c. 307, s. 1; 1952, c. 180.

ARTICLE 3. INSURANCE FUND

Establishment of insurance fund; appropriations.

40A:10–6. Establishment of insurance fund; appropriations. The governing body of any local unit may establish an insurance fund for the following purposes:

a. To insure against any loss or damage however caused to any property, motor vehicles, equipment or apparatus owned by it, or owned by or under the control of any of its departments, boards, agencies or commissions;

b. To insure against liability resulting from the use or operation of motor vehicles, equipment or apparatus owned by or controlled by it, or owned by or under the control of any of its departments, boards, agencies or commissions;

c. To insure against liability for its negligence and that of its officers, employees and servants, whether or not compensated or part-time, who are authorized to perform any act or services, but not including an independent contractor within the limitations of the "New Jersey Tort Claims Act" (N. J. S. 59:1–1 et seq.).

The governing body may appropriate the moneys necessary for the purposes of this section.

Source: R. S. 40:26–3; 40:51–4.

Maximum and minimum amount of fund.

40A:10–7. Maximum and minimum amount of fund. The governing body of a local unit may designate the maximum or minimum amount of the fund, and from time to time provide for the disposition of any excess over and above the maximum amount fixed, or of the interest or profits arising therefrom when the fund shall have reached the maximum limit.

Source: R. S. 40:26–4; 40:51–4.

Insurance fund commissioners; appointment; term; vacancies; compensation.

40A:10–8. Insurance fund commissioners; appointment; term; vacancies; compensation. Upon establishment of an insurance fund, the officer or body of the local unit having the power to make appointments shall appoint three members of the governing body of the local unit as insurance fund commissioners. The commissioners shall hold office for 2 years or for the remainder of their term of office as members of the governing body, whichever shall be less, and until their successors shall have been duly appointed and qualified. The commissioners shall serve without compensation.

Vacancies in the office of insurance fund commissioners caused by any reason other than expiration of term as a member of the local unit governing body shall be filled for the unexpired term.
Source: R. S. 40:26–5; 40:51–5.

Organization of commissioners.

40A:10–9. Organization of commissioners. The commissioners shall, forthwith after their appointment, organize for the ensuing year by election from their membership of a chairman and a secretary, who shall serve for the year.
Source: R. S. 40:26–6.

Powers and authority of commissioners.

40A:10–10. Powers and authority of commissioners. The commissioners shall have the following powers and authority:

a. Employ necessary clerical assistants, whose compensation shall be fixed and paid by the governing body of the local unit in the same manner as is that of other employees of the local unit;

b. Invest the fund and all additions and accretions thereto in such securities as they shall deem best suited for the purposes of this article;

c. Adopt rules and regulations for the control and investment of the fund;

d. Keep on hand at all times sufficient money, or have the same invested in such securities as can be immediately sold for cash, for the payment of losses to any buildings or property of the local unit, or liability resulting from the operation of publicly owned motor vehicles, equipment or apparatus;

e. Fix reasonable rates of premium for all insurance carried by the insurance fund, and shall effect all insurance in the insurance fund or with any insurance company or companies authorized to do business in this State;

f. Premiums for insurance, whether carried in the insurance fund or placed with insurance companies, shall be paid to the commissioners by the board, commission, department, committee or officer having charge or control of the property insured;

g. All insurance upon property owned or controlled by a local unit or any of its departments, boards, agencies or commissions, shall be placed and effected by the commissioners.
Source: R. S. 40:26–6; 40:26–7; 40:51–7.

Sinking fund commissioners may act as insurance fund commissioners.

40A:10–11. Sinking fund commissioners may act as insurance fund commissioners. In any local unit in which sinking fund com-

missioners have been appointed, the management and investment of the insurance fund may be entrusted to them in lieu of the appointment of insurance fund commissioners, and they shall have the same powers and authority as if apppointed for that purpose.
Source: R. S. 40:51–6.

ARTICLE 4. WORKERS' COMPENSATION

Payment of workers' compensation.

40A:10–12. Payment of workers' compensation. A local unit may provide for the payment of workers' compensation under the provisions of chapter 15 of Title 34 of the Revised Statutes (Labor and Workmen's Compensation, R. S. 34:15–1, et seq.) by:

a. The creation of a workers' compensation fund as hereinafter provided; or

b. The placing of workers' compensation insurance with any insurance company authorized to do business in New Jersey; or

c. Paying workers' compensation in the same manner as provided by law.

Source: R. S. 40:26–9; 40:51–8; 40:51–11.

Workers' compensation insurance fund.

40A:10–13. Workers' compensation insurance fund. The governing body of a local unit may create and appropriate money for a fund to be designated and known as "The Workers' Compensation Insurance Fund." The money so appropriated shall be deposited in the name of the local unit in a National or State bank or trust company and remain there as a trust fund for the purpose of paying obligations of the local unit under the provisions of chapter 15 of Title 34 of the Revised Statutes (Labor and Workmen's Compensation, R. S. 34:15–1, et seq.).
Source: R. S. 40:26–9; 40:51–8.

Annual appropriation to fund.

40A:10–14. Annual appropriation to fund. The governing body of a local unit may annually appropriate to the fund such money as it may determine to be necessary for the purpose set forth in the preceding section.
Source: R. S. 40:26–10; 40:51–9.

Discontinuance of fund.

40A:10–15. Discontinuance of fund. The governing body of a local unit may determine to discontinue the fund, in which case the balance thereof shall become part of the surplus revenue of the local unit.
Source: R. S. 40:26–10; 40:51–10.

ARTICLE 5. GROUP INSURANCE PROGRAMS

A. EMPLOYEES GROUP INSURANCE PLANS

Definitions.

40A:10–16. Definitions. As used in this subarticle:

a. "Dependents" means an employee's spouse and the employee's unmarried children, including stepchildren, legally adopted children, and, at the option of the employer and the carrier, foster children, under the age of 19 who live with the employee in a regular parent-child relationship, and may also include, at the option of the employer and the carrier, other unmarried children of the employee under the age of 23 who are dependent upon the employee for support and maintenance, but shall not include a spouse or child while serving in the military service;

b. "Employees" may, at the option of the employer, include elected officials, but shall not include persons employed on a short-term, seasonal, intermittent or emergency basis, persons compensated on a fee basis, or persons whose compensation from the employer is limited to reimbursement of necessary expenses actually incurred in the discharge of their duties;

c. "Federal Medicare Program" means the coverage provided under Title XVIII of the Social Security Act as amended in 1965, or its successor plan or plans.

Source: N. J. S. 40A:9–13; 40A:9–14.

Contracts for group insurance.

40A:10–17. Contracts for group insurance. Any local unit or agency thereof, herein referred to as employers, may:

a. Enter into contracts of group life, accidental death and dismemberment, hospitalization, medical, surgical, major medical expense, or health and accident insurance with any insurance company or companies authorized to do business in this State, or may contract with a nonprofit hospital service or medical service corporation with respect to the benefits which they are authorized to provide respectively. The contract or contracts shall provide any one or more of such coverages for the employees of such employer and may include their dependents;

b. Enter into a contract or contracts to provide drug prescription and other health care benefits, or enter into a contract or contracts to provide drug prescription and other health care benefits as may be required to implement a duly executed collective negotiations agreement, or as may be required to implement a determina-

tion by a local unit to provide such benefit or benefits to employees not included in collective negotiations units.

Nothing herein contained shall be deemed to authorize coverage of dependents of an employee under a group life insurance policy or to allow the issuance of a group life insurance policy under which the entire premium is to be derived from funds contributed by the insured employees.

Source: N. J. S. 40A:9–13.

Exclusions from coverage.

40A:10–18. Exclusions from coverage. The contract shall exclude from eligibility:

a. Employees and dependents, active or retired, who are otherwise eligible for coverage but who, although they meet the age eligibility requirement of the Federal Medicare Program, are not covered by the complete Federal program;

b. Any class or classes of employees who are eligible for like or similar coverage under another group contract covering the class or classes of employees.

Source: N. J. S. 40A:9–13.

Limitations, exclusions, exceptions to be contained in contract.

40A:10–19. Limitations, exclusions, exceptions to be contained in contract. Any contract or contracts permitted under this subarticle shall contain limitations, exclusions or exceptions so as to avoid duplication of benefits or services otherwise available pursuant to accidental death and dismemberment, hospitalization, medical, surgical, major medical expense, or health and accident coverage under any other law of this State or the coverage afforded under the laws of the United States, such as the Federal Medicare Program, and at the option of the employer and the carrier, group insurance or any other arrangement of coverage for individuals in a group, whether on an insured or uninsured basis.

Any contract permitted under this subarticle may condition the eligibility of any employee upon satisfying a waiting period stated in the contract.

Source: N. J. S. 40A:9–13.

Discontinuance of coverage; exception.

40A:10–20. Discontinuance of coverage; exception. The coverage of any employee, and of his dependents, if any, shall cease upon the discontinuance of his employment or upon cessation of active full-time employment in the classes eligible for coverage subject to

such provision as may be made in any contract by his employer for limited continuance of coverage during disability, part-time employment, leave of absence other than leave for military service or layoff, and for continuance of coverage after retirement.

Source: N. J. S. 40A:9–13.

Payment of premiums; deduction of employee contributions.

40A:10–21. Payment of premiums; deduction of employee contributions. Any employer entering into a contract pursuant to this subarticle is hereby authorized to pay part or all of the premiums or charges for the contracts and may appropriate out of its general funds any money necessary to pay premiums or charges or portions thereof. The contribution required of any employee toward the cost of coverage may be deducted from the pay, salary or other compensation of the employee upon an authorization in writing made to the appropriate disbursing officer.

The employer may reimburse an active employee for his premium charges under Part B of the Federal Medicare Program covering the employee alone.

Nothing herein shall be construed as compelling an employer to pay any portion of the premiums or charges attributable to the contracts.

Source: N. J. S. 40A:9–14.

Continuance of coverage after retirement.

40A:10–22. Continuance of coverage after retirement. The continuance of coverage after retirement of any employee may be provided at rates and under the conditions as shall be prescribed in the contract subject, however, to the requirements set forth in N. J. S. 40A:10–23. The contribution required of any retired employee toward the cost of coverage may be paid by him to his former employer or in such manner as the employer shall direct.

Source: N. J. S. 40A:9–14.

Payment of premiums after retirement.

40A:10–23. Payment of premiums after retirement. Retired employees shall be required to pay for the entire cost of coverage for themselves and their dependents at rates which are deemed to be adequate to cover the benefits, as affected by Medicare, of the retired employees and their dependents on the basis of the utilization of services which may be reasonably expected of the older age classification; provided, however, that the total rate payable by a retired employee for himself and his dependents, for coverage

under the contract and for Part B of Medicare, shall not exceed by more than 25%, the total amount that would have been required to have been paid by the employee and his employer for the coverage maintained had he continued in office or active employment and he and his dependents were not eligible for Medicare benefits.

The employer may, in its discretion, assume the entire cost of such coverage and pay all of the premiums for employees who have retired after 25 years or more service with the employer, including the premiums on their dependents, if any, under uniform conditions as the governing body of the local unit shall prescribe.

Source: N. J. S. 40A:9–14; C. 40A:9–14.1 (1971, c. 421).

Summary of coverage cost to be furnished employer.

40A:10–24. Summary of coverage cost to be furnished employer. In the event an insurance company issues a group insurance policy to an employer which includes two or more of the coverages authorized hereby, the insurance company shall at the end of each policy year furnish to the employer a summary of the cost of each such coverage.

Source: N. J. S. 40A:9–14.

Filing copy of contract with State Employees Health Benefit Commission; report to Governor and Legislature.

40A:10–25. Filing copy of contract with State Employees Health Benefit Commission; report to Governor and Legislature. It shall be the duty of the executive officer of any employer who enters into a contract pursuant to this subarticle to file a copy thereof with the State Employees Health Benefits Commission. The commission shall prepare and file periodically, and not less than every 2 years, a report to the Governor and the Legislature as to the contracts being entered into by employers and shall make such recommendations concerning the contracts and the coverage thereunder as it deems appropriate to achieve uniformity of coverage and benefits for employees throughout the State.

Source: N. J. S. 40A:9–15.

B. Insurance for Volunteer First Aid Squads and Other Volunteer Squads

Group life insurance plans.

40A:10–26. Group life insurance plans. In addition to the insurance required pursuant to chapter 15 of Title 34 of the Revised Statutes, the governing body of a municipality, in which an incorporated volunteer first aid, emergency, rescue or ambulance

squad renders services throughout the municipality whose members have or shall form themselves into a group or groups for the purpose of obtaining a group life insurance plan with any insurance company authorized to do business in New Jersey, may appropriate moneys to defray the cost of such insurance and pay the premiums therefor.

A municipality shall not undertake the cost of any policy of group life insurance where the amount payable upon the death of each assured exceeds the amount of $10,000.00.

Source: C. 40:48–9.5 (1965, c. 174, s. 1).

Other group insurance plans.

40A:10–27. Other group insurance plans. In addition to the insurance required pursuant to the provisions of chapter 15 of Title 34 of the Revised Statutes and the coverage provided in N. J. S. 40A:10–26, the governing body of a municipality, in which an incorporated volunteer first aid, emergency, rescue or ambulance squad or squads exist rendering service generally throughout the municipality, may:

a. Effect and maintain group accidental death and dismemberment, hospitalization, medical, surgical, major medical expenses, or health and accident insurance with any insurance company authorized to do business in New Jersey, or with a nonprofit hospital service or medical service corporation with respect to the benefits which they are authorized to provide, which is determined to be necessary or desirable for the protection, safety and welfare of the members of an incorporated volunteer first aid, emergency, rescue or ambulance squad;

b. Effect and maintain a contract or contracts to provide drug prescription or other health care benefits which are determined to be necessary or desirable for the protection, safety and welfare of the members of an incorporated volunteer first aid, emergency, rescue or ambulance squad;

c. In the discretion of the governing body of the municipality, appropriate and pay all or any portion of the cost of such insurance or contract or both.

Source: C. 40:48–9.6 (1965, c. 174, s. 2).

Eligibility.

40A:10–28. Eligibility. A member of any incorporated volunteer first aid, emergency, rescue or ambulance squad shall not be ineligible to receive any of the benefits under N. J. S. 40A:10–26 and

40A:10–27 because he may otherwise receive any form of compensation or salary from the municipality.

Source: C. 40:48–9.7 (1965, c. 174, s. 3).

C. Insurance for Volunteer Firemen

Group life insurance plans.

40A:10–29. Group life insurance plans. In addition to the insurance required under chapter 15 of Title 34 of the Revised Statutes, a municipality maintaining a volunteer fire department, or in which there are one or more incorporated volunteer fire companies whose members have or shall form themselves into a group or groups for the purpose of obtaining a group life insurance plan with any insurance company authorized to do business in New Jersey, may appropriate moneys to defray the cost of such insurance and pay the premiums therefor.

A municipality shall not undertake the cost nor pay the premiums on any policy of group life insurance where the amount payable upon the death of each assured exceeds the amount of $10,000.00.

Source: N. J. S. 40A:14–37.

Other group insurance plans.

40A:10–30. Other group insurance plans. In addition to the insurance required pursuant to the provisions of chapter 15 of Title 34 of the Revised Statutes and the coverage provided in N. J. S. 40A:10–29, a municipality maintaining a volunteer fire department or in which there are one or more incorporated volunteer fire companies may:

a. Effect and maintain group accidental death and dismemberment, hospitalization, medical, surgical, major medical expenses, or health and accident insurance with any insurance company authorized to do business in New Jersey, or with a nonprofit hospital service or medical service corporation with respect to the benefits which they are authorized to provide, which is determined to be necessary or desirable for the protection, safety and welfare of the members of the volunteer fire department or the members of the incorporated volunteer fire companies;

b. Effect and maintain a contract or contracts to provide drug prescription or other health care benefits which is determined to to be necessary or desirable for the protection, safety and welfare of the members of the volunteer fire department or members of an incorporated volunteer fire company;

c. In the discretion of the governing body of the municipality, appropriate and pay all or any portion of the costs of such insurance or contract or both.

Source: N. J. S. 40A:14–38.

Eligibility.

40A:10–31. Eligibility. A volunteer fireman shall not be ineligible to receive any of the benefits under N. J. S. 40A:10–29 and 40A:10–30 because he may otherwise receive any form of compensation or salary from the municipality.

Source: N. J. S. 40A:14–39.

Coverage for members of Junior Firemen's Auxiliary.

40A:10–32. Coverage for members of Junior Firemen's Auxiliary. A municipality may provide members of a Junior Firemen's Auxiliary established as an auxiliary to a volunteer fire department or to an incorporated volunteer fire company with the same coverage as provided for the regular volunteer firemen of the municipality under N. J. S. 40A:10–29 and 40A:10–30.

Source: N. J. S. 40A:14–97.

D. Insurance for Auxiliary Police Volunteers

Group life insurance.

40A:10–33. Group life insurance. The governing body of a municipality may appropriate moneys to defray the cost of group life insurance contracts and pay the premiums thereon for auxiliary police volunteers authorized to render public service generally throughout the municipality.

A municipality shall not undertake the cost of any contract of group life insurance contract where the amount payable upon the death of each assured exceeds the amount of $10,000.00.

Source: C. 40A:14–146.5 (1975, c. 238).

Eligibility.

40A:10–34. Eligibility. An auxiliary police volunteer shall not be ineligible to receive any of the benefits under N. J. S. 40A:10–33 because he may otherwise receive any form of compensation or salary from the municipality.

Source: New.

ARTICLE 6. REPEALER

Statutes repealed.

40A:10–35. Statutes repealed. The following sections, chapters and acts, together with all amendments and supplements thereto are hereby repealed:

Chapters 26 and 51 of Title 40 of the Revised Statutes;
N. J. S. 40A:9–13 to 40A:9–16 inclusive;
N. J. S. 40A:14–40;
P. L. 1965, c. 174 (C. 40:48–9.5 to C. 40:48–9.9 inclusive);
P. L. 1971, c. 421 (C. 40A:9–14.1);
P. L. 1975, c. 238 (C. 40A:14–146.5).

2. N. J. S. 40A:14–37 is amended to read as follows:

Group life insurance for volunteer firemen.

40A:14–37. In any fire district maintaining a volunteer fire department, or wherein there shall exist one or more incorporated volunteer fire companies affording fire protection to said fire district, the membership whereof are serving under the jurisdiction of and with the consent of said fire district and have formed, or may hereafter form themselves into a group or groups, for the purpose of obtaining the advantages of the group plan of life insurance, in any of the plans now in vogue, or any plan which may hereafter be inaugurated, it shall be lawful for the board of commissioners of such fire district, by resolution, to appropriate moneys for the purpose of defraying the cost of such insurance and to pay the premiums therefor.

No board of commissioners of any fire district shall pay any premiums on account of any policy of group life insurance as provided herein where the amount payable upon the death of each assured under the terms of said policy exceeds the sum of $10,000.00.

3. N. J. S. 40A:14–38 is amended to read as follows:

Board of commissioners to enable continuance of insurance for volunteer firemen.

40A:14–38. In any fire district in this State maintaining a volunteer fire department, or wherein there shall exist one or more incorporated volunteer fire companies affording fire protection to said fire district, it shall be lawful for the board of commissioners of such fire district, in addition to the insurance provided in N. J. S. 40A:14–37, to effect, maintain and continue any and all forms of insurance covering the members of said volunteer fire department or incorporated volunteer fire company or companies, including group accidental death and dismemberment, hospitalization, medi-

cal, surgical, major medical expenses, or health and accident insurance with any insurance company authorized to do business in New Jersey, or with a nonprofit hospital service or medical service corporation with respect to the benefits which they are authorized to provide, a contract or contracts to provide drug prescription or other health care benefits, which the board of fire commissioners may determine to be necessary or desirable for the protection, safety and welfare of the members, and for the protection and safety of the equipment and apparatus of said volunteer fire department, or incorporated volunteer fire company or companies, or for the protection of said fire district, or against liability for its negligence and that of its officers, employees or servants, whether or not compensated or part-time, who is authorized to perform any act or service, but not including an independent contractor within the limitations of the "New Jersey Tort Claims Act" (C. 59:1-1, et seq.), and by resolution, to appropriate from time to time, and pay, such sums of money as may be required to cover the premiums and costs of said insurance, or such portion of the same as said board of fire commissioners, in its discretion, may consider proper and advisable.

4. N. J. S. 40A:14-97 is amended to read as follows:

Insurance coverage for members.

40A:14-97. A fire district may provide members of a Junior Firemen's Auxiliary established as an auxiliary to a volunteer fire department or to an incorporated volunteer fire company within the fire district with the same coverage as provided for the regular volunteer firemen of the fire district under N. J. S. 40A:14-37 and 40A:14-38.

5. This act shall take effect immediately.

Approved October 15, 1979.

CHAPTER 231

AN ACT authorizing certain municipal appropriations for nuclear emergency response plans and supplementing Title 40 of the Revised Statutes.

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

C. 40:48-9.13 Authorization to appropriate moneys for nuclear emergency response plans.

1. The governing body of any municipality wherein is located a nuclear-powered electric generating facility is hereby authorized to appropriate and grant to the governing body of the county wherein such municipality is situate, and to the governing body of any other county or municipality, which, in the judgment of the granting municipality, would be affected by an emergency at such facility, funds which shall be used for the preparation, testing and implementation of nuclear emergency response plans designed to prevent or minimize the loss of life or property resulting from an accident, malfunction, act of sabotage, act of God, or any other condition or circumstance occurring at such facility. Such funds shall be taken from any amount received by such municipality pursuant to the provisions of Chapter 30A of Title 54 of the Revised Statutes, and the total appropriations therefor by any one municipality shall not exceed $250,000.00 annually.

2. This act shall take effect immediately.

Approved October 22, 1979.

CHAPTER 232

AN ACT appropriating funds from the Clean Waters Fund for a loan for the planning and construction of water supply facilities.

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

1. There is appropriated to the Department of Environmental Protection, from the Clean Waters Fund pursuant to the "Clean Waters Bond Act of 1976," P. L. 1976, c. 92, the sum of $1,200,000.00 for the purpose of making a loan to the Township of Jackson for the planning and construction of water supply facilities to serve those residential dwellings of the township of Jackson with existing contaminated private wells utilized for water supply.

2. The residential dwellings eligible for water supply service by the Township of Jackson shall be determined by the governing body in consultation with the Department of Environmental Protection.

3. The loan shall be subject to such terms and conditions as shall be prescribed by the Commissioner of the Department of Environmental Protection to carry out the purpose of this act, provided the entire loan shall be repaid within 10 years from the date of the making of the loan. The loan shall be repaid at a rate of 5% simple interest per annum thereon.

4. The loan may be made for any amount up to $1,200,000.00 but not in excess of the entire cost of the planning and construction of the water supply facilities, but shall not be applied to any costs of engineering supervision or inspection during or after the construction of the proposed water supply facilities.

5. This act shall take effect immediately.

Approved October 22, 1979.

CHAPTER 233

AN ACT providing for exemption or abatement from taxation in certain instances, amending P. L. 1975, c. 104 and P. L. 1977, c. 284, and supplementing chapter 4 of Title 54 of the Revised Statutes.

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

C. 54:4-3.121 Legislature's findings.

1. The Legislature finds and declares that:

a. Article VIII, Section I, paragraph 6 of the Constitution authorizes the Legislature to enact general laws under which municipalities may adopt ordinances granting exemptions or abatements from taxation for limited periods of time not in excess of 5 years on buildings and structures in areas declared in need of rehabilitation in accordance with statutory criteria, within such municipalities and to the land comprising the premises upon which such buildings or structures are erected and which is necessary for the fair enjoyment thereof.

b. The deterioration of once-flourishing residential neighborhoods is a problem of enormous magnitude for the State of New Jersey, the solution of which has been, and should continue to be, an overriding public purpose of Federal, State and local governments.

c. The deterioration of such neighborhoods is in large measure the result of the unwillingness of the owners of, and investors in, residential properties to properly maintain and improve their properties arising out of fear of the resulting increase in property taxes, and from pragmatic and emotional decisions concerning the future viability of such neighborhoods.

d. In many such neighborhoods, particularly in urban centers, much of the existing housing is in the form of multiple dwelling structures, the deterioration of which has enormous psychological and financial impact upon owners of, and investors in, residential properties in the surrounding neighborhood and upon the relative tax burden borne by residents of the municipality.

e. Furthermore, in many urban municipalities a shortage of housing exists side-by-side with the existence of abandoned and deteriorating buildings and structures, including hotels and commercial buildings, which if converted into residential multiple dwellings would again shoulder a share of the municipal tax burden.

f. By exempting for a limited period improvements to existing multiple dwellings and the costs of converting other buildings and structures to multiple dwellings, and providing for the abatement of some portion of the assessed value of such buildings before improvement or conversion, a substantial incentive could be provided for owners and investors in multiple dwellings to rehabilitate and improve such properties and, incidentally, their respective neighborhoods and municipalities.

g. The cost of rehabilitating multiple dwellings and of converting other buildings and structures to use as multiple dwellings is so extaordinarily high, and yet the impact of the existence of deteriorating multiple dwellings on a neighborhood is so great, as to necessitate legislation specifically directed to the provision of tax incentives tailored especially to promoting the accomplishment of these purposes.

C. 54:4-3.122 Definitions.

2. As used in this act:

a. "Abatement" means that portion of the assessed value of a property as it existed prior to an improvement or conversion alteration which is exempted from taxation pursuant to subsection b. of section 4 of this act;

b. "Assessor" means the assessor, board of assessors or any other official or body of a taxing district charged with the duty of assessing real property for the purpose of general taxation;

c. "Completion" with respect to the conversion or improvement of any building or structure, means substantially ready for the use for which it was intended or converted;

d. "Conversion" or "conversion alteration" means the alteration or renovation of a nonresidential building or structure, or hotel, motel, motor hotel or guesthouse, in such manner as to convert such building or structure from its previous use to use as a multiple dwelling;

e. "Cost," when used with respect to an improvement or conversion alteration, means only the cost or fair market value of direct labor and materials used in improving a multiple dwelling, or in converting another building or structure to a multiple dwelling, including any architectural, engineering, and contractors' fees associated with the improvement or conversion, as the owner of the property shall cause to be certified to the governing body by an independent and qualified architect, following the completion of the project;

f. "Exemption" means any portion of the assessor's full and true value of any improvements or conversion alterations not regarded as increasing the taxable value of a property pursuant to subsection a. of section 4 of this act;

g. "Improvement" means a physical change in an existing multiple dwelling, other than ordinary painting, repairs and replacement of maintenance items, and other than the repair of fire or other damage to the property for which payment of a claim was received by any person from an insurance company at any time during the 3-year period immediately preceding the filing of an application pursuant to section 9 of this act, which improves the safety, sanitation, decency or attractiveness of such multiple dwelling as a place for human habitation, which involves a renovation, restoration or modernization which affects common areas or elements or three or more dwelling units within such multiple dwelling, and which does not change the size or permitted use of the multiple dwelling;

h. "Multiple dwelling" means any building or structure meeting the definition of "multiple dwelling" set forth in the "Hotel and Multiple Dwelling Law," P. L. 1967, c. 76 (C. 55:13A–1 et seq.);

i. "Horizontal property regime" means any property submitted to a horizontal property regime pursuant to the "Horizontal Property Act," P. L. 1963, c. 168 (C. 46:8A–1 et seq.); and

j. "Condominium" means any property created or recorded

as a condominium pursuant to the "Condominium Act," P. L. 1969, c. 257 (C. 46:8B–1 et seq.).

C. 54:4-3.123 Determination of areas in need of rehabilitation; regulations.

3. The governing body of any municipality may determine that areas within such municipality are in need of rehabilitation, and that one or more multiple dwellings located within such areas are in need of rehabilitation, or that one or more other buildings and structures located within such areas are in need of such rehabilitation and could advantageously be converted to multiple dwellings, or both. Any such determination shall be made in keeping with regulations which shall be promulgated by the Commissioner of the Department of Community Affairs pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.), which may take into consideration the following: existence of blighted areas in the municipality; deterioration of housing stock; age of housing stock; supply of and demand for housing in the municipality; and arrearage in real property taxes due on residential properties. The governing body may also permit the conversion of industrial properties to residential use to further the purpose of this act.

C. 54:4-3.124 Exemption from taxation; abatement; amount.

4. a. Any municipality making a determination as set forth in section 3 of this act may enact an ordinance providing for exemptions from taxation of improvements to multiple dwellings or for other buildings or structures converted to multiple dwelling use, or both. In granting such exemptions, the municipality may, in determining the value of real property for the purposes of taxation, regard up to the assessor's full and true value of such improvements or conversion alterations as not increasing the value of such property for a period of 5 years, notwithstanding that the value of the property to which such improvements or conversion alterations are made is increased thereby; provided, however, that during said period, the assessment on such property shall in no case, except that of an abatement as provided in subsection b. of this section, or damage through action of the elements sufficient to warrant a reduction, be less than the assessments thereon exiting immediately prior to such improvements or conversion alterations.

b. Any such ordinance granting such exemptions may also provide for the abatement of some portion of the assessed value of property receiving such an exemption as it existed immediately prior to the improvement or conversion alteration. Any such abatement for any single such property may be granted with respect to any such

property for a total of up to 5 years, but the total amount of abatements granted to any single such property shall not exceed the total cost of the improvement or conversion alteration. The amount of abatement to be granted in each year of the abatement period shall be specified in the adopting ordinance and shall not exceed the following:

(1) For the first year for which an abatement is granted, up to 30% of the cost of the improvement or conversion alteration;

(2) For the second year for which an abatement is granted, up to 25% of the cost of the improvement or conversion alteration;

(3) For the third year for which an abatement is granted, up to 20% of the cost of the improvement or conversion alteration;

(4) For the fourth year for which an abatement is granted, up to 15% of the cost of the improvement or conversion alteration; and,

(5) For the fifth year for which an abatement is granted, up to 10% of the cost of the improvement or conversion alteration.

Any exemption or abatement granted pursuant to an ordinance adopted in conformity with the provisions of this act shall terminate immediately upon the transfer of title of the property with respect to which such exemption or abatement was provided.

C. 54:4-3.125 Determination of true taxable value of improvement or conversion alteration; amount of tax.

5. The assessor of the local taxing district in which an ordinance adopted pursuant to this act is in force shall determine on October 1 of the year following the date of the completion of the improvement or conversion alteration the true taxable value of the improvement or conversion alteration. The amount of tax to be paid for the first tax year following the completion of the improvement or conversion alteration shall be based on the assessed valuation of the property for the previous tax year, plus any portion of the assessed valuation of the improvement or conversion alteration not allowed an exemption pursuant to subsection a. of section 4 of this act, minus the amount of the abatement, if any, allowed pursuant to subsection b. of section 4 of this act. Subject to the restrictions and amounts set forth in section 4 of this act, such property may continue to be so treated for each of the 5 tax years subsequent to the original determination by the assessor.

C. 54:4-3.126 Additional improvement; qualification for exemption and abatement.

6. Any ordinance adopting the provisions of this act may also provide that an additional improvement, completed on a property

granted a previous exemption or abatement pursuant to this act during the period in which such previous exemption or abatement is in effect, shall be qualified for an exemption, or exemption and abatement, just as if such property had not received a previous exemption or abatement. In such case, any such additional improvement shall be considered as a separate improvement for the purposes of calculating exemptions and abatements pursuant to this act, except that the assessed value of any previous improvements shall be added to the assessed valuation as it was prior to such previous improvements or conversion alterations, for the purpose of determining the assessed valuation of the property from which any additional abatement is to be subtracted. Unless provided by ordinance, no such additional improvement exemption or abatement shall be allowed.

C. 54:4-3.127 Horizontal property regimes and condominiums; eligibility for exemptions and abatements.

7. Horizontal property regimes and condominiums shall be eligible for exemptions and abatements authorized pursuant to this act, but only with respect to improvements to "general common elements" and "common elements" as defined pursuant to the "Horizontal Property Act," P. L. 1963, c. 168 (C. 46:8A–1 et seq.), and the "Condominium Act," P. L. 1969, c. 257 (C. 46:8B–1 et seq.).

C. 54:4-3.128 Exemption or abatement; when not granted.

8. No exemption or abatement shall be granted pursuant to this act with respect to any property for which property taxes are delinquent or remain unpaid, or for which penalties for nonpayment of taxes are due.

C. 54:4-3.129 Exemption or abatement; how granted.

9. No exemption or abatement shall be granted pursuant to this act except upon written application therefor filed with and approved by the assessor of the taxing district wherein such improvement or conversion alteration is made. Every such application shall be on a form prescribed by the Director of the Division of Taxation in the Department of the Treasury, and provided for the use of claimants by the governing body of the municipality constituting the taxing district, and shall be filed with the assessor within 30 days, including Saturdays and Sundays, following the completion of the improvement or conversion alteration. Every such application for exemption, or exemption and abatement, within a municipality adopting the provisions of this act which is filed within the time specified, shall be approved and allowed by the

assessor to the degree that such application is consistent with the provisions of such adopting ordinance, provided that the improvement or conversion alteration for which such application is made qualifies as an improvement or a conversion alteration pursuant to the provisions of this act. The granting of any such exemption, or exemption and abatement, shall be recorded and made a permanent part of the official tax records of the taxing district, which record shall contain a notice of the termination date of the exemption and the consequences of transfer of title.

10. Section 2 of P. L. 1975, c. 104 (C. 54:4–3.73) is amended to read as follows:

C. 54:4-3.73 Definitions.

2. As used in this act:

a. "Assessor" means the assessor, board of assessors or any other official or body of a taxing district charged with the duty of assessing real property for the purpose of general taxation.

b. "Completion" means substantially ready for the use for which it was intended.

c. "Dwelling" means any building or part of a building used, to be used or held for use as a home or residence, including accessory buildings located on the same premises, together with the land upon which such building or buildings are erected and which may be necessary for the fair enjoyment thereof, but shall not mean any building or part of a building, defined as a "multiple dwelling" pursuant to the "Hotel and Multiple Dwelling Law," P. L. 1967, c. 76 (C. 55:13A–1 et seq.). A dwelling shall include individual residences within a horizontal property regime or a condominium, but shall not include "general common elements" or "common elements" of such horizontal property regime or condominium as defined pursuant to the "Horizontal Property Act," P. L. 1963, c. 168 (C. 46:8A–1 et seq.), or the "Condominium Act," P. L. 1969, c. 257 (C. 46:8B–1 et seq.).

d. "Home Improvement" means the improvement of a dwelling which does not change its permitted use, and shall include the modernization, rehabilitation, renovation, alteration or repair of a dwelling.

e. "Qualified municipality" means any municipality in which residential neighborhoods have been declared by the county planning board or the Commissioner of the Department of Community Affairs to be in need of rehabilitation, pursuant to section 3 of this act.

11. Section 4 of P. L. 1975, c. 104 (C. 54:4–3.75) is amended to read as follows:

C. 54:4-3.75 Determination of value of real property; home improvement exemption.

4. In determining the value of real property for the purposes of taxation, qualified municipalities, after passage by the municipal governing body of a general ordinance providing for such exemptions either throughout the municipality or in designated residential neighborhoods to be specified in such ordinance, may regard the first $4,000.00 or $10,000.00, as may be specified by general ordinance, in assessor's full and true value of home improvements for each dwelling unit primarily and directly affected by a home improvement in any dwelling more than 20 years old, as not increasing the value of such property for a period of 5 years, notwithstanding that the value of the dwelling to which such improvements are made is increased thereby, provided, however, that during said period, the assessment on such dwelling shall in no case, except that of damage through action of the elements sufficient to warrant a reduction, be less than the assessment thereon existing immediately prior to such home improvements.

12. Section 7 of P. L. 1977, c. 284 (C. 54:4–3.79a) is amended to read as follows:

C. 54:4-3.79a Notice for taxpayers.

7. The Department of Community Affairs shall prepare, in sufficient quantity for distribution to residential property owners in municipalities electing to offer exemptions pursuant to this act, a notice for taxpayers describing the exemption program and the application procedure therefore. Any qualified municipality which has adopted a general ordinance providing for exemptions pursuant to this act shall include said notice in the mailing of annual property tax bills to each owner of residential property, including multi-family housing, in the municipality during the first year following adoption of said ordinance or, for municipalities which adopted such an ordinance prior to the effective date of this amendatory and supplementary act, during the first year following the effective date of said act.

13. Section 8 of P. L. 1977, c. 284 (C. 54:4–3.79b) is amended to read as follows:

C. 54:4-3.79b Amendment to ordinance.

8. Any municipality which has adopted an ordinance pursuant to this act declaring neighborhoods "endangered by blight" may

proceed, on the initiative of the governing body, to amend such ordinance declaring neighborhoods to be "in need of rehabilitation", provided, however, that any exemption granted and in force shall not be discontinued by virtue of such amended ordinance.

14. This act shall take effect immediately.

Approved October 30, 1979.

CHAPTER 234

AN ACT concerning farmland preservation, providing for the review and evaluation of alternative methods of preserving agricultural open space and making an appropriation therefor.

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

1. The Legislature finds and declares that:

a. The preservation of agricultural open space and the retention of agricultural activities would serve the best interests of all citizens of this State by insuring the numerous social, economic and environmental benefits which accrue from the continuation of agriculture in the Garden State.

b. Past and present policies and efforts of this State intended to promote such preservation and retention, while beneficial and worthy of continuation, have not fully insured the permanent existence of such activities.

c. It is both necessary and desirable to devote 1 year's further study to the various methods available to preserve farmland in this State.

d. The review and evaluation of alternative methods of preserving agricultural open space in this State is wholly compatible with the provisions of the "New Jersey Green Acres and Recreation Opportunities Bond Act of 1974" (P. L. 1974, c. 102).

2. a. The Departments of Agriculture and Environmental Protection shall review and evaluate alternative methods of preserving agricultural open space in this State, including but not necessarily limited to: the "Farmland Assessment Act of 1964," P. L. 1964, c. 48 (C. 54:4–23.1 et seq.); the State purchase of development easements, including but not limited to the program described in

the "Agricultural Preserve Demonstration Program Act," P. L. 1976, c. 50 (C. 4:1B–1 et seq.); the transfer of development rights; agricultural districting; agricultural zoning; or any feasible combination thereof.

b. The Division of Rural Resources of the Department of Agriculture shall have operating responsibility for the review and evaluation described in this section.

c. The Departments of Agriculture and Environmental Protection shall submit in writing a report on the results of this study to the Governor and to the Joint Legislative Oversight Committee created by section 10 of P. L. 1976, c. 50 (C. 4:1B–10) within 1 year of the effective date of this act. The results of this written review and evaluation shall in no way be construed as to affect the differential assessment of agricultural lands as provided by the "Farmland Assessment Act of 1964," P. L. 1964, c. 48 (C. 54:4–23.1 et seq.).

3. There is appropriated to the Department of Agriculture, from the State Recreation and Conservation Land Acquisition and Development Fund created pursuant to the "New Jersey Green Acres and Recreation Opportunities Bond Act of 1974" (P. L. 1974, c. 102), a sum of $75,000.00 to be utilized to defray the costs of the review and evaluation of alternative methods of preserving agricultural open space provided for by section 2 of this act.

4. This act shall take effect immediately.

Approved October 31, 1979.

CHAPTER 235

AN ACT providing for the taxation of gross receipts derived from the sale of electric energy produced in the State and sold out of State, providing for the establishing of a Utility Rate Stabilization Fund and the paying of subsidies to utility companies to reduce utility rate increases caused by the taxation of the sale of electric energy in New Jersey by other states.

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

C. 54:30A-80 Definitions.

1. As used in this act "electric light company, water power company and hydroelectric company" means any company organized or to be organized pursuant to the laws of any state for the purpose of constructing, maintaining and operating works for the supply and distribution of electricity for electric light, heat or power.

C. 54:30A-81 Payment of tax; reports; computation; time to file reports; application to municipalities.

2. a. Every electric light company, water power company and hydroelectric company now or hereafter incorporated or organized by or under any law of this State, or now or hereafter organized or incorporated by any other state or by the United States or any foreign government and doing business in this State, and every limited partnership, association, joint-stock association, copartnership, person or persons, engaged in electric light and power business, water power business and hydroelectric business in this State, shall pay to the State Treasurer, through the Division of Taxation, a tax of $0.045 upon each dollar of the gross receipts of the corporation, company or association, limited partnership, joint-stock association, copartnership, person or persons, received from the sales of electric energy produced in New Jersey and sold outside of New Jersey according to the following apportionment formula. The gross receipts from all sales of electricity of the producer shall be apportioned to the State of New Jersey by the ratio of the producer's operating and maintenance expenses in New Jersey and depreciation attributable to property in New Jersey to the producer's total operating and maintenance expenses and depreciation.

b. Payment of Tax; Reports. The said taxes imposed under subsection a. shall be paid annually commencing on or before April 15, 1980 and on or before April 15 of each year thereafter, and for the purpose of ascertaining the amount of the same, it shall be the duty of the treasurer or other proper officer of the said company, copartnership, limited partnership, association, joint-stock association or corporation, or person or persons, to transmit to the Division of Taxation on or before April 15, 1980 and on or before April 15 of each year thereafter an annual report, and under oath or affirmation, of the amount of gross receipts of the said companies, copartnerships, corporations, associations, joint-stock associations, limited partnerships, person or persons, derived from all sources, and of gross receipts from business

done wholly within this State and in the case of electric energy producers that transmit energy to other states, a compilation of the relevant information regarding operating and maintenance expenses and depreciation, during the period of 12 months immediately preceding January 1 of each year. It shall be the further duty of the treasurer or other proper officer of every such corporation or association and every individual liable by law to report or pay said taxes imposed under subsection a. except municipalities to transmit to the Division of Taxation within 60 days from the date of enactment of this act and on or before April 30 of each year thereafter, a tentative report in like form and manner for each 12-month period beginning January 1, of each year. The tentative report shall set forth (i) the amount of gross receipts received in the period of 12 months next preceding and reported in the annual report; or (ii) the gross receipts received in the first 3 months of the current period of 12 months; and (iii) such other information as the Division of Taxation may require.

c. Tax computation. Upon the date its tentative report is required to be made, for the year 1979 and each year thereafter the corporation, association or individual making a tentative report shall transmit such report to the Division of Taxation on account of the tax due for the current period of 12 months and compute and make payment of the tenative tax with such report. Such "tentative tax" shall be allowed as a credit on the annual report which shall be filed in the year next succeeding the year that the "tentative tax" is paid.

d. Time to file reports. The time for filing annual reports may be extended, estimated settlements may be made by the Division of Taxation if reports are not filed, and the penalties for failing to file reports and pay the taxes imposed under subsection a. shall be as prescribed by the laws defining the powers and duties of the Division of Taxation. In any case where the works of any corporation, company, copartnership, association, joint-stock association, limited partnership, person or persons are operated by another corporation, company, copartnership, association, joint-stock association, limited partnership, person or persons, the taxes imposed under subsection a. shall be apportioned between the corporation, companies, copartnerships, associations, joint-stock associations, limited partnerships, person or persons in accordance with the terms of their respective leases or agreements, but for the payment of the said taxes the State shall first look to the corporation, company, copartnership, association, joint-stock

association, limited partnership, person or persons operating the works, and upon payment by the said company, corporation, copartnership, association, joint-stock association, limited partnership, person or persons of a tax upon the receipts, as herein provided, derived from the operation thereof, no other corporation, company, copartnership, association, joint-stock association, limited partnership, person or persons shall be held liable for any tax imposed under subsection a. upon the proportion of said receipts received by said corporation, company, copartnership, association, joint-stock association, limited partnership, person or persons for the use of said works.

e. Application to municipalities. This act shall be construed to apply to municipalities, and to impose a tax upon the gross receipts derived from any municipality owned or operated public utility or from any public utility service furnished by any municipality, except that gross receipts shall be exempt from the tax, to the extent that such gross receipts are derived from business done inside the limits of the municipality, owning or operating the public utility or furnishing the public utility service.

C. 54:30A-82 Revenue collected; deposit in fund.

3. The revenue collected by the Division of Taxation pursuant to this act shall be deposited with the State Treasurer in a special Utility Rate Stabilization Fund established by the treasurer.

C. 54:30A-83 Increased costs due to taxes; payment of subsidy.

4. a. Whenever any electric light company, water power company or hydroelectric company applies to the Board of Public Utilities for a rate increase based in whole or in part on an increase in costs resulting from taxes paid to another state on the gross receipts from the sales of electricity produced in that state and sold in New Jersey, and the board verifies the authenticity of said increased costs, said company may apply to the State Treasurer for payment of a subsidy to offset such increased costs in whole or in part and shall be granted such subsidy from the Utility Rate Stabilization Fund in such percentage as the treasurer determines is equitable and as the amount deposited in the fund shall allow. The treasurer, after consultation with the Board of Public Utilities, may adopt appropriate regulations or take other necessary actions to insure that revenues provided from the fund are utilized for rate relief.

b. The amount of rate increase requested by any electric light company, water power company or hydroelectric company based

on an increase in costs due in whole or in part to an increase in taxes or set forth in subsection a. of this section shall be denied or reduced in direct proportion as the subsidy paid pursuant to subsection a. offsets the increase in costs resulting from the tax increase.

C. 54:30A-84 Tax deduction.

5. Any company subject to the gross receipts tax imposed by this act may deduct from their tax liability under this act, taxes they have paid on their gross receipts, within the same tax period, pursuant to P. L. 1940, c. 4 (C. 54:30A–16 et seq.) and P. L. 1940, c. 5 (C. 54:30A–49 et seq.).

C. 54:30A-85 Failure to file return; penalties and interest; extension.

6. a. Any taxpayer failing to file a return or to pay any tax to the director within the time required by this act shall be subject to penalties and interest as provided in the State Tax Uniform Procedure Law, Subtitle 9 of Title 54 of the Revised Statutes, but the director, if satisfied that the delay was excusable, may remit all or any part of such penalties, but not interest, at the rate of 9% per annum. Unpaid penalties and interest may be determined, assessed, collected and received in the same manner as the tax imposed by this act.

b. Any person failing to file a return required by this act, or filing or causing to be filed, or making or causing to be made, or giving or causing to be given any return, certificate, affidavit, representation, information, testimony or statement required or authorized by this act, which is willfully false, and such data in connection therewith as the director by regulation or otherwise may require, shall, in addition to any other penalties herein or elsewhere prescribed, be guilty of a misdemeanor, punishment for which shall be a fine of not more than $1,000.00 or imprisonment for not more than 1 year, or both such fine and imprisonment.

c. Where, before the expiration of the period prescribed herein for the assessment of an additional tax, a taxpayer has consented in writing that such period be extended the amount of such additional tax due may be determined at any time within such extended period. The period so extended may be further extended by subsequent consents in writing made before the expiration of the extended period.

C. 54:30A-86 Liability for tax.

7. Notwithstanding the provisions of P. L. 1945, c. 162, s. 3(e) (C. 54:10A–3(e)), any corporation which is subject to the tax

imposed under this act shall not be exempt from the tax imposed under the "Corporation Business Tax Act," P. L. 1945, c. 162 (C. 54:10A–1 et seq.).

C. 54:30A-87 Effective date.

8. This act shall take effect immediately and shall be applicable to gross receipts received on and after January 1, 1979 and shall remain in effect only as long as Public Law 340 (Act 100 of 1977) of the Commonwealth of Pennsylvania or comparable legislation remains in effect.

Approved November 1, 1979.

CHAPTER 236

AN ACT authorizing the State Registrar of Vital Statistics to issue certificates of birth for certain persons under certain circumstances and amending P. L. 1957, c. 154.

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

1. Section 1 of P. L. 1957, c. 154 (C. 26:8–40.10) is amended to read as follows:

C. 26:8-40.10 Recording birth certificate of child born outside of the United States.

1. The birth of any child which has occurred or which may hereafter occur outside of the United States, where such child is a citizen of the United States by reason of the citizenship of a parent or the parents of such child, and which is not recorded with the State registrar under the provisions of chapter 8 of Title 26 of the Revised Statutes or with the appropriate State official in any other state within the United States, may be recorded by filing a certificate of the birth of such child issued by a public official of the place where such child was born, accompanied by an affidavit setting forth the facts showing such citizenship and, in the case of a child adopted outside of this State or the United States, the decree or certificate of adoption of such child, which affidavit and decree or certificate shall be a part of the record of the birth. In case any such foreign birth certificate is or shall be in a foreign language, there shall be attached to it the translation into the English language of the same, verified by the affidavit of the person making the

translation. Any such birth certificate may be recorded as herein provided upon the request of a parent of such child or by any person on behalf of such child, provided that the parent or other person is a New Jersey resident, where the child is or shall become a resident of this State. The State registrar shall, upon the request of a parent of any such child who is adopted outside of this State or the United States or the request of any person on behalf of such child, issue a new certificate of birth for such child, showing (a) the name of such child as changed by the decree or certificate of adoption, if changed, (b) the date and place of birth, (c) the names of the adopting parents or parent, and (d) the date of recording of the foreign birth certificate.

2. This act shall take effect immediately.

Approved December 3, 1979.

CHAPTER 237

AN ACT to authorize the city of Union City in the county of Hudson to appoint Harry M. Calandrillo to the rank of sergeant in the police department of the city of Union City.

WHEREAS, Harry M. Calandrillo, a member of the police department of the city of Union City, has been so employed for 18 years; and

WHEREAS, In 1969 Mr. Calandrillo passed a civil service test for promotion to the rank of police sergeant; and

WHEREAS, In 1970 Mr. Calandrillo was elected to the governing body of the city of Union City, where he served until 1974; and

WHEREAS, That service on the city's governing body, by ruling of the Department of Civil Service, disqualified him from receiving a promotion to sergeant; and

WHEREAS, During said service the eligibility list certifying Mr. Calandrillo for promotion to the rank of sergeant expired; and

WHEREAS, There being vacancies in the rank of police sergeant in the city of Union City and Mr. Calandrillo having demonstrated his ability to qualify for said rank; now, therefore,

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

1. Pursuant to the provisions of P. L. 1948, c. 199 (C. 1:6–10 et seq.), under which a petition for a special law has been filed with the Legislature, the city of Union City, in the county of Hudson, is authorized to appoint Harry M. Calandrillo to the rank of sergeant in the police department of the city of Union City notwithstanding the civil service eligibility list certifying him for promotion to the rank of police sergeant has expired.

2. This act shall take effect upon due adoption of an ordinance of the city of Union City for the purpose of adopting same.

Approved December 3, 1979.

CHAPTER 238

AN ACT creating a commission, to be known as the Commission on Children's Services, to review and coordinate services for children offered by State, local and private agencies or organizations; and making an appropriation therefor.

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

1. The Governor's State Committee on Children and Youth, created pursuant to Executive Order of March 11, 1971, as amended by Executive Orders of September 29, 1972, June 18, 1975 and September 21, 1978, is hereby reestablished in the Executive Branch of State Government as the "Commission on Children's Services," to be allocated within the Department of Community Affairs but independent of any supervision or control of the department or any board or officer thereof. The commission shall review and coordinate services for children provided by State, local and private agencies or organizations, in order to strengthen such services, avoid duplication of effort and waste of resources, provide for unmet needs, and improve the delivery of such services.

As used in this act, "services" includes facilities, programs and activities that have been created, instituted or established to help, rehabilitate, correct, educate or otherwise benefit children; and

"children" includes infants, children and youth to the age of majority.

2. The commission shall consist of 21 members. The Governor shall appoint five representatives of State, local and private agencies or organizations providing services to children; five informed citizens to represent the public interest; two from among persons recommended by the chairperson of the Standing Reference Senate Institutions, Health and Welfare Committee and two from among persons recommended by the chairperson of the Standing Reference Assembly Institutions, Health and Welfare Committee. Each member shall serve for the life of the commission. Vacancies resulting from causes other than expiration of term shall be filled for the unexpired term and shall be filled in the same manner as the original appointments were made. The remaining seven members, serving ex-officio, shall be the Commissioners of the Departments of Community Affairs, Corrections, Education, Health, Human Services, the Public Advocate and the Administrative Director of the Courts, or their designees.

3. The members of the commission shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their duties.

4. The Governor shall select a chairperson from among the members who shall serve at the pleasure of the Governor. The commission shall select a secretary, who need not be a member of the commission.

5. The commission is authorized, empowered and directed to:

a. Identify and review all State, local and private services for children;

b. Identify the needs of children that are not being met by existing services or that are being met inadequately and recommend such new services or improvements in existing services, or legislation to provide such services or improvements, as the commission deems desirable;

c. Review any proposed new services or legislative proposals regarding services for children and make such recommendations for their improvement as the commission deem desirable;

d. Promote mechanisms for involving parents, service providers and interested parties in State and local planning and policy-making with regard to services for children;

e. Promote the development of services to children which strengthen families and which are provided in the communities where children and their families live;

f. Foster cooperation and communication among State, local and private agencies or organizations providing such services;

g. Promote public understanding of the importance of such services;

h. Work with the White House Conference staff, Administration for Children, Youth and Families, Department of Health, Education and Welfare; the National Council of State Committees for Children and Youth and the regional committee established at the decennial White House Conferences on Children and Youth and recommend to the Governor delegates from the State to the 1981 decennial White House Conference;

i. Employ such competent assistants, expert advisors and other personnel as may be required to properly accomplish the purposes of this act; provided, however, that the compensation to be paid to such persons shall be within the limits of the appropriation made for purposes of this act; and

j. Appoint such advisory committees as the commission deems desirable to advise and assist it in carrying out its responsibilities.

6. The commission shall report its findings and recommendations to the Governor and Legislature within 2 years of the effective date of this act, or so long as it may be necessary to prepare its reports; provided, however, that in no event shall such time exceed 2 years and 6 months from the effective date of this act, accompanying the same with any legislative bills which it may desire to recommend for adoption by the Legislature.

7. The Departments of Corrections, Education, Health and Human Services, and all other departments and agencies of the State which provide services to children, shall cooperate with the commission and shall furnish the office with such information as it shall request. In addition, the departments named above shall annually provide the following information to the commission:

a. A list of all services being provided to children;

b. A description of the goals of each service;

c. The characteristics of the children in each service;

d. Eligibility and entrance requirements for each service;

e. Client fees for each service, if any;

f. The budget for each service;

g. The mechanism for evaluating and monitoring each service, for providing technical assistance and promoting staff development for each service and program, and for parent participation; and

h. The location of each service and the geographic distribution of the children enrolled in each service.

8. There is hereby appropriated for the purposes of this act the sum of $60,000.00.

9. This act shall take effect July 1, 1979 and shall expire 30 months following the effective date.

Approved December 10, 1979.

CHAPTER 239

AN ACT concerning the fees and various fish and game licenses and amending parts of the statutory law.

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

1. R. S. 23:3–4 is amended to read as follows:

Licenses issued.

23:3–4. The licenses issued under this article shall be as follows:

a. A license issued to a person above 14 years of age, who has an actual and bona fide domicile in this State at the time of the application for the license and who has had an actual and bona fide domicile in this State for at least 6 months immediately prior thereto, provided that for a residents' trapping license the person shall be above 12 years of age. These licenses shall be of five kinds and designated as the residents' firearm hunting license, the residents' bow and arrow license, the residents' trapping license, the residents' fishing license and the residents' family fishing license. The Fish and Game Council in the Division of Fish, Game and Shell Fisheries of the Department of Environmental Protection shall have the authority to adopt and promulgate regulations for family fishing licenses.

The residents' firearm hunting license shall authorize its holder to hunt with hounds and firearms only, and a fee of $13.50 and an issuance fee of $0.50 shall be charged therefor, except that a person 14 or 15 years of age and a person above the age of 65 shall be charged a fee of $7.00 and an issuance fee of $0.50. The residents' bow and arrow license shall authorize its holder to hunt with bow and arrow only, and a fee of $15.00 and an issuance fee of $0.50

shall be charged therefor, except that a person 14 or 15 years of age and a person above the age of 65 shall be charged a fee of $8.00 and an issuance fee of $0.50. The residents' trapping license shall authorize its holder to trap only, and a fee of $20.00 and an issuance fee of $0.50 shall be charged therefor, except that a person 12, 13, 14 or 15 years of age shall be charged a fee of $10.00 and an issuance fee of $0.50. The residents' fishing license shall authorize its holder to fish only, and a fee of $9.00 and an issuance fee of $0.50 shall be charged therefor except that in any case where the applicant is 70 or more years of age and is otherwise qualified no fee shall be charged and a person 14 or 15 years of age and a person above the age of 65 shall be charged a fee of $5.00 and an issuance fee of $0.50.

The residents' family fishing license shall authorize the parents or guardians and their children, foster children or wards between the ages of 14 and 18, named therein, to fish only. The fee for the parent license permitting fishing only by the father or mother, or both, or the guardian shall be $12.00 with an issuance fee of $0.50; and each child, foster child or ward named therein shall be required to have and shall be issued an individual supplementary license as a member of such family at a fee of $1.00 and an issuance fee of $0.50. The license shall be invalid from the date of its issuance when issued to a person not entitled thereto. Any person, a resident of this State, who is afflicted with total blindness, upon application to the Division of Fish, Game and Shell Fisheries shall be entitled to a residents' fishing license without fee or charge.

b. A license issued to a person above 14 years of age not entitled to a residents' license, authorizing him to trap or to hunt. These licenses shall be designated as the nonresidents' firearm hunting license, the nonresidents' bow and arrow license, and the nonresidents' trapping license, and the nonresidents' 2-day small game firearm hunting license, except that a nonresidents' 2-day small game firearm hunting license shall not permit the taking, hunting or killing of deer.

The fee for the nonresidents' firearm hunting license and the nonresidents' bow and arrow license shall each be, $40.00 and an issuance fee of $0.50.

The fee for the nonresidents' trapping license shall be $100.00 and an issuance fee of $0.50. The fee for a nonresidents' 2-day small game firearm hunting license shall be $15.00 and an issuance fee of $0.50.

c. A license issued to a person above 14 years of age not entitled to a residents' license, authorizing him to fish only. These licenses shall be designated as the nonresidents' fishing license and the nonresidents' 7-day vacation fishing license valid for a period of 7 consecutive days. The fee for these licenses shall be $14.00 for the annual fishing license, together with an issuance fee of $0.50 and $7.00 and an issuance fee of $0.50 for the 7-day vacation fishing license.

Every license issued hereunder shall be void after December 31, next succeeding its issuance excepting the 1-day hunting license which shall expire on the date of issuance, the nonresidents' and 7-day fishing license which is valid only for 7 consecutive days after date of issuance, and the nonresidents' 2-day small game firearm hunting license which shall expire on the day after the date of issuance.

2. Section 2 of P. L. 1951, c. 226 (C. 23:3–4.1) is amended to read as follows:

C. 23:3-4.1 License to hunt for one day in certain licensed areas.

2. The division may, in its discretion, issue a license to a person above the age of 14 years authorizing him to hunt for 1 day only on areas licensed under subdivisions B. and D. of section 23:3–29, or at a shoot to kill field trial which is being held under a proper permit from the division. The fee for this license shall be $4.00, and an issuance fee of $0.50 shall be charged therefor. The fees collected hereunder shall be remitted to the State Treasurer, and placed to the credit of the "hunters' and anglers' license fund," and be disbursed by the State Treasurer on vouchers certified to by the division.

3. Section 1 of P. L. 1959, c. 37 (C. 23:3–56.1) is amended to read as follows:

C. 23:3-56.1 License fee; exemption.

1. When the Fish and Game Council has established a season for deer of either sex in an area so limited in size that the number of hunters participating in the harvest must be limited and has fixed a certain number of licenses to be issued for such harvest, the division is authorized to charge a fee of $10.00 for each license so issued, which fee shall be in addition to any other fees authorized by law. No such fee shall be required of the occupant of a farm in this State, who actually resides thereon, or the immediate members of his family who also reside thereon, provided

such person or persons are otherwise authorized to participate in such limited harvest. The exemption of this paragraph shall not apply to a person residing on the farm or in a tenant house thereon who is not a member of the occupant's family, nor to a servant of the occupant.

4. Section 3 of P. L. 1975, c. 117 (C. 23:3–61.3) is amended to read as follows:

C. 23:3-61.3 Fee.

3. The fee for this stamp shall be $15.00. The amounts remitted to the State Treasury for special pheasant and quail stamps shall be deposited to the credit of the "hunters' and anglers' license fund."

5. This act shall take effect January 1, 1980.

Approved December 11, 1979.

CHAPTER 240

AN ACT concerning the Department of Defense, its composition and the powers and duties of the Chief of Staff and supplementing chapter 3 of Title 38A of the New Jersey Statutes.

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

C. 38A:3-6.1 Additional powers of chief of staff.

1. In addition to any other powers, the Chief of Staff under the direction of the Governor shall have the authority to order to active duty, with or without pay, in State service, such members of the New Jersey National Guard, that in his judgment are necessary to provide aid to localities in circumstances which threaten or are a danger to the public health, safety or welfare. He may authorize the employment of any supporting vehicles, equipment, communications or supplies as may be necessary to support the members so ordered. No member shall be ordered to active duty without pay unless the member has consented to such service. Members serving without pay shall have all of the obligations, rights, benefits, privileges, protections and immunities as if ordered to active duty with pay.

2. This act shall take effect immediately.

Approved December 12, 1979.

CHAPTER 241

AN ACT providing for high school graduation standards and supplementing Title 18A of the New Jersey Statutes.

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

C. 18A:7C-1 Program of standards for graduation; establishment; contents.

1. By July 1, 1980 the Commissioner of Education with the approval of the State Board of Education shall establish a program of standards for graduation from secondary school. Such a program shall include, but not be limited to:

a. The development of a Statewide assessment test in reading, writing and computational skills to be administered to all secondary school pupils as provided herein;

b. Clear and explicit Statewide levels of proficiency in reading, writing and computational skills to be demonstrated as a minimum requirement for high school graduation;

c. Guidelines for the development of graduation standards by local boards of education;

d. Guidelines for remediation procedures for pupils who fail to meet graduation standards; and

e. Guidelines for graduation standards for those pupils classified pursuant to chapter 46 of Title 18A of the New Jersey Statutes.

C. 18A:7C-2 Standards for graduation.

2. By July 1, 1981, pursuant to guidelines established by the Commissioner of Education, each board of education shall establish standards for graduation from its secondary schools. Said standards shall be appropriate to local goals and objectives and shall include, but need not be limited to:

a. Satisfactory performance on the Statewide assessment test as provided for in section 1 of this act;

b. Demonstration of proficiencies in those subject areas and skills identified by the board as necessary for graduation other than those assessed by the Statewide assessment tests.

The Commissioner of Education shall monitor local plans for the assessment of proficiencies required for graduation including techniques and instruments to be used to determine pupil proficiency; required programs designed to provide the opportunity

for pupils to progress toward the mastery of proficiencies required for graduation; and remediation programs for pupils who fail to meet graduation proficiency standards in order to assure compliance with the requirement of this act.

The Commissioner of Education shall, upon request of the local board, provide such technical assistance as may be necessary to aid a district in the planning, implementation and evaluation of graduation standards.

C. 18A:7C-3 Additional remedial instruction for students who don't meet standards; comprehensive assessment.

3. For any student who does not meet the State and district examination standards for graduation by the end of tenth grade, the local board of education when appropriate shall provide additional remedial instruction specifically directed toward mastery of those proficiencies identified as necessary for the awarding of a diploma which may include but need not be limited to an extended school year, extended school day, or additional school years.

Any twelfth grade student who does not meet said requirements but who has met all the credit, curriculum and attendance requirements shall be eligible for a comprehensive assessment of said proficiencies utilizing techniques and instruments other than standardized tests, which techniques and instruments shall have been approved by the Commissioner of Education as fulfilling State and local graduation requirements.

C. 18A:7C-4 State endorsed diploma; approval by commissioner; basic skills test; performance transcript.

4. All students who meet State and local graduation requirements shall receive a State endorsed diploma; provided, however, that the Commissioner of Education shall approve any State endorsed diploma which utilizes the comprehensive assessment techniques as provided in section 3 of this act.

Local districts may not provide a high school diploma to students not meeting these standards. Any out-of-school youth or adult age 18 or over who has otherwise met the district graduation requirements but has failed to earn a State endorsed diploma may take a basic skills test which has been developed and administered under the auspices of the Commissioner of Education. Upon passing this test, a State endorsed diploma will be granted.

Each board of education shall provide, in a format approved by the Commissioner of Education, a performance transcript for each student leaving secondary school.

C. 18A:7C-5 Board's policy on graduation; distribution of copies to students and parents.

5. Upon adoption by the local board of education, each board of education shall provide each high school pupil and the parents or legal guardians of such pupil with a copy of said board's policy on graduation, including a clear statement of the proficiencies required for graduation and those programs available to assist in attaining those levels of proficiency.

C. 18A:7C-6 State graduation proficiency test; administration.

6. In the school year which begins in September 1981, and annually thereafter, the State graduation proficiency test shall be administered to all ninth grade pupils and to all other high school pupils who have previously failed to demonstrate mastery of State graduation proficiency standards on said test. The mastery of proficiencies required to fulfill local graduation standards shall be determined as appropriate under local board of education assessment plans.

C. 18A:7C-7 Report to local boards and commissioner; contents.

7. The local chief school administrators shall report annually to their local boards of education and to the Commissioner of Education the number of students who completed the twelfth grade course requirements and were denied a diploma and the number of students who received State endorsed diplomas;

a. By successfully completing the Statewide assessment tests and local requirements;

b. By using the comprehensive assessment techniques and meeting local requirements, and were not classified pursuant to chapter 46 of Title 18A of the New Jersey Statutes; and

c. By using the comprehensive assessment techniques, meeting local requirements, and were classified pursuant to chapter 46 of Title 18A of the New Jersey Statutes.

This report to the commissioner shall be included as a portion of the district annual report required under section 11 of P. L. 1975, c. 212 (C. 18A:7A–11).

C. 18A:7C-8 Rules and regulations; issuance of diplomas to students who completed adult program.

8. The Commissioner of Education shall also develop rules and regulations for and may issue State endorsed diplomas to those students who have successfully completed a State approved adult high school program.

C. 18A:7C-9 Review and evaluation of State and local programs; report to Governor and Legislature.

9. The Commissioner of Education shall monitor the results of the implementation of graduation requirements as provided herein, and shall from time to time, but at least once every 5 years review and evaluate State and local programs, and shall report the results of said review and evaluation to the Governor and the Legislature together with such recommendations for changes as may be appropriate to achieve the purposes of this act.

10. The graduation standards provided for in this act shall not apply to pupils who shall be scheduled to graduate from secondary school prior to the end of the 1984-85 school year.

11. This act shall take effect immediately for the purposes of the planning and development of graduation standards; however, no board of education shall be required to implement the program required herein prior to the school year which begins in September 1981.

Approved December 17, 1979.

CHAPTER 242

AN ACT concerning pension funds of employees of counties of the first class having a population of less than 800,000 and amending R. S. 43:10–1.

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

1. R. S. 43:10–1 is amended to read as follows:

Definitions.

43:10–1. "Be retired on half pay" means retired on a pension equal to one-half of the average annual salary during any 3 fiscal years, of the employee's membership, for which contributions were made, which years shall be selected in such manner as to provide for the largest possible benefit to the retirant, or surviving spouse or children, as the case may be; provided, however, that nothing in this amendatory act shall serve to reduce any employee's pension below the amount to which he would have been entitled had he been eligible to apply for his pension prior to the effective date of this amendatory act.

"Salary" or "average annual compensation," when used for the purpose of computing benefits under this act, means the average annual salary for which contributions are made during any 3 fiscal years of the employee's membership providing the largest possible benefit to the member or surviving spouse or children. If the total service is less than 3 years, the salary shall be that paid for the entire period of membership. "Salary" means the base compensation for services as an employee, including normal and longevity increments earned in accordance with the established salary policies of the employer for all employees in the same position, but shall not include individual salary adjustments which are granted primarily in anticipation of the member's retirement or additional remuneration for performing temporary or extra curricular duties beyond the regular workday or the regular work year. In cases where salary includes maintenance, the retirement system shall fix the value of that part of the salary not paid in money which shall be considered under this act.

"County employee" or "employee" means and includes all employees and officers in service in any county of the first class, and of any county board, body or commission maintained out of county funds in a county of the first class, including laborers recognized as permanent laborers, whether paid on an hourly, daily, monthly or annual basis (if being the intent to exclude transient labor from the operation of this article), but does not include any member of the police or fire department. The pension commission may determine whether or not the employment of an employee is permanent within the meaning of this article. Notwithstanding the provisions of section 43:1–1 of this Title, any person heretofore or hereafter accepting any employment in the county under the age of 45 years shall be eligible to join as a "county employee" or "employee" as hereinabove defined.

"Widow" means the woman to whom a member was married at least 5 years before the date of his death and to whom he continued to be married until the date of his death. The eligibility of such a widow to receive a pension provided in this act will be considered terminated by the marriage of the widow subsequent to the member's death. In the event of the payment of an accidental death benefit, the 5-year qualification shall be waived.

"Widower" means the man to whom a member was married at least 5 years before the date of her death and to whom she continued to be married until the date of her death. The eligibility of such a widower to receive a pension provided in this act will be

considered terminated by marriage of the widower subsequent to the death of the member. In the event of the payment of an accidental death benefit, the 5-year qualification shall be waived.

2. This act shall take effect immediately and be retroactive to December 27, 1973.

Approved December 17, 1979.

CHAPTER 243

AN ACT concerning wards in cities of the third class and repealing certain statutes.

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

R. S. 40:169-1 to R. S. 40:169-10 repealed.

1. The following statutes compiled and assigned section numbers in the Revised Statutes are repealed:

R. S. 40:169–1 to 40:169–4 inclusive;
R. S. 40:169–5 to 40:169–9 inclusive;
R. S. 40:169–10.

2. This act shall take effect immediately.

Approved December 19, 1979.

CHAPTER 244

AN ACT concerning the government of cities of the third class and repealing certain statutes.

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

R. S. 40:171-198 to R. S. 40:171-203 repealed.

1. The following statutes compiled and assigned section numbers in the Revised Statutes are repealed:

R. S. 40:171–198 to 40:171–203 inclusive.

2. This act shall take effect immediately.

Approved December 19, 1979.

CHAPTER 245

AN ACT concerning cities and repealing certain statutes.

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

R. S. 40:172-1 to R. S. 40:172-4 repealed.

1. The following statutes compiled and assigned section numbers in the Revised Statutes are repealed:

R. S. 40:172–1;
R. S. 40:172–2;
R. S. 40:172–3;
R. S. 40:172–4.

2. This act shall take effect immediately.

Approved December 19, 1979.

CHAPTER 246

AN ACT concerning cities of the third class and repealing certain statutes.

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

Repealer.

1. The following statutes compiled and assigned section numbers in the Revised Statutes are repealed:

R. S. 40:171–189 and 40:171–190;
R. S. 40:171–192;
R. S. 40:171–193 and 40:171–194;
R. S. 40:171–195;
R. S. 40:171–196;
R. S. 40:171–197;
R. S. 40:171–198 to 40:171–203 inclusive;
R. S. 40:171–204 and 40:171–205;
R. S. 40:171–206 to 40:171–211 inclusive;
R. S. 40:171–212;
R. S. 40:171–213;

R. S. 40:171–214 to 40:171–219 inclusive;
R. S. 40:171–220;
R. S. 40:171–221.

Repealer.

2. The following pamphlet laws are repealed:
P. L. 1949, c. 270 (C. 40:171–190.1);
P. L. 1960, c. 176 (C. 40:171–190.2 and C. 40:171–190.3);
P. L. 1965, c. 155 (C. 40:171–217.1 to C. 40:171–217.3).

3. This act shall take effect immediately.

Approved December 19, 1979.

CHAPTER 247

AN ACT concerning officers in cities and repealing certain statutes.

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

Repealer.

1. The following statutes compiled and assigned section numbers in the Revised Statutes are repealed:
R. S. 40:171–1 and 40:171–2;
R. S. 40:171–6;
R. S. 40:171–8 to 40:171–11 inclusive;
R. S. 40:171–12 to 40:171–16 inclusive;
R. S. 40:171–17 and 40:171–18;
R. S. 40:171–25 to R. S. 40:171–29 inclusive;
R. S. 40:171–30;
R. S. 40:171–31;
R. S. 40:171–32;
R. S. 40:171–33;
R. S. 40:171–34 to 40:171–38 inclusive;
R. S. 40:171–39 to 40:171–41 inclusive;
R. S. 40:171–42;
R. S. 40:171–43;
R. S. 40:171–44 to 40:171–46 inclusive;
R. S. 40:171–47;
R. S. 40:171–50 and 40:171–51;
R. S. 40:171–52;

R. S. 40:171–53;
R. S. 40:171–54;
R. S. 40:171–55 to 40:171–59 inclusive;
R. S. 40:171–60 and 40:171–61;
R. S. 40:171–62;
R. S. 40:171–63 and 40:171–64;
R. S. 40:171–65;
R. S. 40:171–66;
R. S. 40:171–67 to 40:171–69 inclusive;
R. S. 40:171–70 to 40:171–74 inclusive;
R. S. 40:171–75 to 40:171–80 inclusive;
R. S. 40:171–81;
R. S. 40:171–82 and 40:171–83;
R. S. 40:171–84 to 40:171–87 inclusive;
R. S. 40:171–88 to 40:171–90 inclusive;
R. S. 40:171–91 and 40:171–92;
R. S. 40:171–95;
R. S. 40:171–98 and 40:171–99;
R. S. 40:171–100 and 40:171–101;
R. S. 40:171–102;
R. S. 40:171–103;
R. S. 40:171–104;
R. S. 40:171–105 to 40:171–106A inclusive;
R. S. 40:171–107 and 40:171–108;
R. S. 40:171–109.

2. This act shall take effect immediately.

Approved December 19, 1979.

CHAPTER 248

AN ACT concerning officers in cities of the second class and repealing certain statutes.

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

Repealer.

1. The following statutes compiled and assigned section numbers in the Revised Statutes are repealed:

R. S. 40:171–139 to 40:171–141 inclusive;
R. S. 40:171–142 and 40:171–143;
R. S. 40:171–144;
R. S. 40:171–145 and 40:171–146;
R. S. 40:171–147;
R. S. 40:171–148 and 40:171–149;
R. S. 40:171–150;
R. S. 40:171–151 to 40:171–155 inclusive;
R. S. 40:171–156 to 40:171–161 inclusive;
R. S. 40:171–162 to 40:171–165 inclusive;
R. S. 40:171–166;
R. S. 40:171–167;
R. S. 40:171–168;
R. S. 40:171–169 and 40:171–170;
R. S. 40:171–171 and 40:171–172;
R. S. 40:171–173;
R. S. 40:171–174 and 40:171–175;
R. S. 40:171–176 and 40:171–177;
R. S. 40:171–178;
R. S. 40:171–179 and 40:171–180;
R. S. 40:171–181 and 40:171–182;
R. S. 40:171–183;
R. S. 40:171–184 to 40:171–186 inclusive;
R. S. 40:171–187 and 40:171–188.

Repealer.

2. The following pamphlet laws are repealed:
P. L. 1957, c. 170 (C. 40:171–141.1 to C. 40:171–141.3 inclusive);
P. L. 1938, c. 324, s. 2 (C. 40:171–174.1);
P. L. 1947, c. 193 (C. 40:171–180.1 to C. 40:171–180.8 inclusive).

3. This act shall take effect immediately.

Approved December 19, 1979.

CHAPTER 249

AN ACT concerning public improvements in cities and repealing certain statutes.

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

Repealer.

1. The following statutes compiled and assigned section numbers in the Revised Statutes are repealed:

R. S. 40:175–2 to 40:175–8 inclusive;
R. S. 40:175–22 to 40:175–34 inclusive;
R. S. 40:175–35;
R. S. 40:175–36 to 40:175–41;
R. S. 40:175–42.

Repealer.

2. The following pamphlet laws are repealed:

P. L. 1948, c. 386 (C. 40:175–22.1 to C. 40:175–22.3 inclusive).

3. This act shall take effect immediately.

Approved December 19, 1979.

CHAPTER 250

AN ACT concerning cities of the fourth class and repealing certain statutes.

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

Repealer.

1. The following statutes compiled and assigned section numbers in the Revised Statutes are repealed:

R. S. 40:171–222;
R. S. 40:171–223;
R. S. 40:171–224;
R. S. 40:171–225 to 40:171–229 inclusive;
R. S. 40:171–230 to 40:171–233 inclusive.

2. The following pamphlet laws are repealed:

P. L. 1951, c. 76, s. 3 (C. 40:171–234.1);
P. L. 1950, c. 55, s. 2 (C. 40:171–235);
P. L. 1955, c. 59 (C. 40:171–236 and C. 40:171–237).

3. This act shall take effect immediately.

Approved December 19, 1979.

CHAPTER 251

AN ACT concerning the incorporation of cities and repealing certain statutes.

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

Repealer.

1. The following statutes compiled and assigned section numbers in the Revised Statutes are repealed:

R. S. 40:168–1;

R. S. 40:168–2 to 40:168–5, inclusive.

2. Section 2 of P. L. 1961, c. 23 (C. 40:168–13) is repealed.

3. This act shall take effect immediately.

Approved December 19, 1979.

CHAPTER 252

AN ACT increasing membership of boards of trustees of county colleges and amending N. J. S. 18A:64A–8.

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

1. N. J. S. 18A:64A–8 is amended to read as follows:

Board of trustees for county colleges; apportionment of membership when established in more than one county.

18A:64A–8. For each county college there shall be a board of trustees, consisting of the county superintendent of schools and 10 persons, appointed by the appointing authority of the county with the advice and consent of the board of chosen freeholders, at least two of whom shall be women. In addition, the student body of each county college shall be entitled to elect from the graduating class one representative to serve as a nonvoting member on the board of trustees for a term of 1 year commencing at the next organization of said board following graduation of his class.

When a county college is established by more than one county, the board of trustees shall be increased by two members for each addi-

tional participating county. The membership of the board of trustees shall be apportioned by the chancellor among the several counties as nearly as may be according to the number of inhabitants in each county as shown by the last Federal census, officially promulgated in this State. Each apportionment shall continue in effect until a reapportionment shall become necessary by reason of the official promulgation of the next Federal census or the enlargement of the board by the admission of one or more additional counties as provided for in N. J. S. 18A:64A-24. Each county shall be entitled to have at least one member and the county superintendent of the schools of said county on the board of trustees.

2. This act shall take effect immediately.

Approved December 19, 1979.

CHAPTER 253

AN ACT concerning certain loans, and amending R. S. 31:1-1 and P. L. 1968, c. 54.

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

1. R. S. 31:1-1 is amended to read as follows:

Contract rate; rate of interest; determination.

31:1-1. (a) Except as herein and otherwise provided by law, no person shall, upon contract, take, directly or indirectly for loan of any money, wares, merchandise, goods and chattels, above the value of $6.00 for the forbearance of $100.00 for a year.

(b) The Commissioner of Banking may by regulations adopted, amended and rescinded from time to time, provide that the value which may be taken for any such loans shall be a value more than $6.00 but not more than the Monthly Index of Long Term United States Government Bond Yields, compiled by the Board of Governors of the Federal Reserve System and as published by said Board of Governors in the monthly Federal Reserve Bulletin, for the second preceding calendar month plus an additonal 8% per annum rounded off to the nearest quarter of 1% per annum. Within the limits as provided by this subsection, and if he finds it to be in the best interests of the citizens and economy of this State, the commissioner may establish:

(1) A rate of interest on loans secured by a first lien on real property on which there is erected or to be erected a structure containing one, two, three, four, five or six dwelling units, a portion of which structure may be used for nonresidential purposes. The commissioner may establish different rates for such loans based upon the ratio of the loan to the appraised value of the real property. With respect to loans covered by this subsection, the commissioner may by regulation provide that any mortgage commitment outstanding as of the date of an increase in the rate set by the commissioner shall be extended from that date for a period not to exceed 60 days, provided that such extension shall not apply to any commitment which expires beyond the extension period so established.

(2) A rate of interest on all loans not included within paragraph (1) of this subsection, except as otherwise provided by law.

If for any reason no such index of long term bonds is compiled or published for any 1 or more months, the commissioner shall determine and publish such an index based upon available statistics.

In the case of a loan secured by a first lien on real property as described in subsection (1) of this section, beginning in the calendar year following the date of the mortgage loan, and annually thereafter, the mortgagee shall notify the mortgagor of the interest rate ceilings established by the commissioner as of the fifteenth day of the month preceding. Such notification shall be given at the same time as the mortgagee gives notice to the mortgagor for Federal Income Tax purposes of the interest paid on the loan in the preceding calendar year.

(c) When, however, pursuant to any such contract, interest on discount is taken or reserved for a period of less than 1 year, or when interest is required to be paid at intervals of less than 1 year, such interest or discount may be computed on a daily basis, or on a monthly basis, or on a combination of both such bases when the period for which interest or discount is taken or reserved contains 1 or more months and 1 or more days; and, in any such case, a day shall be deemed to be a 1/360 part of a year, and a month shall be deemed to be a 1/12 part of a year, regardless of the number of days contained in such month. Any computation of interest or discount made on any such basis shall constitute a compliance with this section, and any such basis may be applied regardless whether the principal debt is payable in more than or less than 1 year from the time of making the loan.

(d) In making, amending and rescinding regulations pursuant to subsection (b) of this section, the Commissioner of Banking shall consider the general state of the economy, the discount rates prescribed by the Federal Reserve Bank of New York and the Federal Reserve Bank of Philadelphia, the advance rate as prescribed by the Federal Home Loan Bank of New York, the availability of funds for loans, studies and statistics published by the Federal Home Loan Bank Board and other agencies of the United States and of this State, and such other factors and bases for determination as the commissioner may deem pertinent. The rate established by any such regulations shall reasonably reflect prevailing market conditions, regionally and nationally, based upon the studies, statistics and factors considered, and shall remain in force until such time as such regulation is rescinded or such rate is increased or decreased by a subsequent regulation. Any such regulation shall have prospective effect only, and any rate established in excess of 8% shall apply only to loans secured by real estate on which there is erected or to be erected a structure containing one, two, three, four, five or six dwelling units, a portion of which structure may also be used for nonresidential purposes.

(e) Notwithstanding the provisions of paragraph (a) or (b) of this section, contracts for the following classes or types of loans may provide for any rate of interest which the parties agree upon, and interest at any such rate may be taken, notwithstanding that it exceeds a rate limited by paragraph (a) or (b) of this section:

(1) Loans in the amount of $50,000.00 or more, except loans where the security given is a first lien on real property on which there is erected or to be erected a structure containing one, two, three, four, five or six dwelling units, a portion of which structure may be used for nonresidential purposes. The rate of interest stated in such contract upon the origination of such loans may be taken notwithstanding that payments thereon reduce the amount outstanding to less than $50,000.00;

(2) Loans or advances of credit made by savings and loan association, banking institutions, or any Department of Housing and Urban Affairs or Federal Housing Administration approved mortgagees which are subsequently purchased, in whole or in part, by the Federal Housing Administration, Veterans Administration, Farmers Home Administration, Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, and any successor thereof or by any organization authorized by the Emergency Home Finance

Act of 1970 to purchase such loans or by any State or Federal Governmental or quasi-governmental organizations.

If such loan is not purchased within 395 days from the date the loan instruments are executed, the maximum rate of interest which may be charged on such loan shall not be in excess of that authorized by the commissioner under the provisions of this section and such rate of interest, if in excess of that rate, shall be reduced to the rate in effect at the date of the execution of the loan instruments. No such reduction shall change the maturity date of the loan without the written consent of the borrower nor shall such reduction affect the lien of the mortgage which secures the loan.

(f) Any provision in a mortgage commitment contracted prior to the effective date of this act providing for an increase in interest rates to be charged based on the highest lawful interest rate shall be null and void.

2. Section 2 of P. L. 1968, c. 54 (C. 46:10B–2) is amended to read as follows:

C. 46:10B-2 Prepayment of mortgage loan.

2. Prepayment of a mortgage loan may be made by or on behalf of a mortgagor at any time without penalty.

3. This act shall take effect immediately.

Approved December 21, 1979.

CHAPTER 254

AN ACT to amend and supplement "An act creating a temporary State Commission of Investigation; prescribing its functions, powers and duties; making an appropriation therefor," approved September 4, 1968 (P. L. 1968, c. 266).

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

1. Section 1 of P. L. 1968, c. 266 (C. 52:9M–1) is amended to read as follows:

C. 52:9M-1 State Commission of Investigation; creation; membership; appointment; terms; qualifications; chairman; compensation; vacancies.

1. There is hereby created a temporary State Commission of Investigation. The commission shall consist of four members, to be known as commissioners.

Two members of the commission shall be appointed by the Governor. One each shall be appointed by the President of the Senate and by the Speaker of the General Assembly. Each member shall serve for a term of 3 years and until the appointment and qualification of his successor. The Governor shall designate one of the members to serve as chairman of the commission.

The members of the commission appointed by the President of the Senate and the Speaker of the General Assembly and at least one of the members appointed by the Governor shall be attorneys admitted to the bar of this State. No member or employee of the commission shall hold any other public office or public employment. Not more than two of the members shall belong to the same political party.

Each member of the commission shall receive an annual salary of $15,000.00 until January 1, 1980, when each member of the commission shall receive an annual salary of $18,000.00. Each member shall also be entitled to reimbursement for his expenses actually and necessarily incurred in the performance of his duties, including expenses of travel outside of the State.

Vacancies in the commission shall be filled for the unexpired term in the same manner as original appointments. Vacancies in the commission shall be filled by the appropriate appointing authority within 90 days. If the appropriate appointing authority does not fill a vacancy within that time period, the vacancy shall be filled by the Chief Justice of the Supreme Court within 60 days. A vacancy in the commission shall not impair the right of the remaining members to exercise all the powers of the commission.

Any determination made by the commission shall be by majority vote. "Majority vote" means the affirmative vote of at least three members of the commission if there are no vacancies on the commission or the affirmative vote of at least two members of the commission if there is a vacancy.

C. 52:9M-1.1 Terms of office.

2. (New section) Notwithstanding the provisions of section 1 of this act (C. 52:9M–1) and in order to effect the staggering of the terms of members of the commission notwithstanding the term for which they were originally appointed, the terms of the members appointed after December 1, 1978 shall be as follows: the first member appointed by the Governor, 36 months; the second member appointed by the Governor, 18 months; the member appointed by the President of the Senate, 30 months; the member appointed by

the Speaker of the General Assembly, 24 months. Thereafter, the terms of the members shall be as provided in P. L. 1968, c. 266, S. 1 (C. 52:9M–1).

3. Section 3 of P. L. 1968, c. 266 (C. 52:9M–3) is amended to read as follows:

C. 52:9M-3 Investigations requested by the Governor or Legislature.

3. At the direction of the Governor or by concurrent resolution of the Legislature the commission shall conduct investigations and otherwise assist in connection with:

a. The removal of public officers by the Governor;

b. The making of recommendations by the Governor to any other person or body, with respect to the removal of public officers;

c. The making of recommendations by the Governor to the Legislature with respect to changes in or additions to existing provisions of law required for the more effective enforcement of the law.

d. The Legislature's consideration of changes in or additions to existing provisions of law required for the more effective administration and enforcement of the law.

4. Section 4 of P. L. 1968, c. 266 (C. 52:9M–4) is amended to read as follows:

C. 52:9M-4 Investigations of State agencies.

4. At the direction or request of the Legislature by concurrent resolution or of the Governor or of the head of any department, board, bureau, commission, authority or other agency created by the State, or to which the State is a party, the commission shall investigate the management or affairs of any such department, board, bureau, commission, authority or other agency; provided, however, that if the commission determines that the requests for investigations from the Legislature, the Governor or the head of any department, board, bureau, commission, authority or other agency created by the State, or to which the State is a party, exceed the commission's capacity to perform such investigations, they may, by resolution, ask the Governor or the Attorney General or the Legislature in the case of a legislative request, to review those requests upon which it finds itself unable to proceed.

C. 52:9M-4.1 Public hearings; review of subject matter; referral to committee.

5. (New section) Within 5 days after the adoption of a resolution authorizing a public hearing and not less than 7 days prior to that public hearing, the commission shall advise the President of the Senate and the Speaker of the General Assembly that such

public hearing has been scheduled. The President and the Speaker shall, after reviewing the subject matter of the hearing, refer such notice to the appropriate standing committee of each house.

C. 52:9M-4.2 Public hearing; time for holding; recommendations for administrative or legislative action.

6. (New section) The commission shall, within 60 days of holding a public hearing, advise the Governor and the Legislature of any recommendations for administrative or legislative action which they have developed as a result of the public hearing.

C. 52:9M-4.3 Advise to sponsor of bill or resolution prior to recommendations.

7. (New section) Prior to making any recommendations concerning a bill or resolution pending in either house of the Legislature, the commission shall advise the sponsor of such bill or resolution and the chairman of any standing legislative committee to which such bill or resolution has been referred of such recommendations.

C. 52:9M-19 Joint committee to review commission's activities; composition of committee.

8. (New section) Commencing in 1982 and every 4 years thereafter, at the first annual session of a 2-year Legislature, within 30 days after the organization of the Legislature, a joint committee shall be established to review the activities of the State Commission of Investigation for the purpose of: (a) determining whether or not P. L. 1968, c. 266 (C. 52:9M–1 et seq.) should be repealed, or modified, and (b) reporting thereon to the Legislature within 6 months unless the time for reporting is otherwise extended by statute. The joint committee shall be composed of seven members, two members to be appointed by the President of the Senate, no more than one of whom is to be of the same political party, two members to be appointed by the Speaker of the General Assembly, no more than one of whom is to be of the same political party, and three members to be appointed by the Governor, no more than two of whom shall be of the same political party.

C. 52:9M-12.1 Requirements to appear at hearing; counsel; record; sworn statement; persons adversely affected by hearing; further rights and privileges of witnesses.

9. (New section) a. No person may be required to appear at a hearing or to testify at a hearing unless there has been personally served upon him prior to the time when he is required to appear, a copy of P. L. 1968, c. 266 as amended and supplemented, and a general statement of the subject of the investigation. A copy of the resolution, statute, order or other provision of law authorizing

the investigation shall be furnished by the commission upon request therefor by the person summoned.

b. A witness summoned to a hearing shall have the right to be accompanied by counsel, who shall be permitted to advise the witness of his rights, subject to reasonable limitations to prevent obstruction of or interference with the orderly conduct of the hearing. Counsel for any witness who testifies at a public hearing may submit proposed questions to be asked of the witness relevant to the matters upon which the witness has been questioned and the commission shall ask the witness such of the questions as it may deem appropriate to its inquiry.

c. A complete and accurate record shall be kept of each public hearing and a witness shall be entitled to receive a copy of his testimony at such hearing at his own expense. Where testimony which a witness has given at a private hearing becomes relevant in a criminal proceeding in which the witness is a defendant, or in any subsequent hearing in which the witness is summoned to testify, the witness shall be entitled to a copy of such testimony, at his own expense, provided the same is available, and provided further that the furnishing of such copy will not prejudice the public safety or security.

d. A witness who testifies at any hearing shall have the right at the conclusion of his examination to file a brief sworn statement relevant to his testimony for incorporation in the record.

e. The commission shall notify any person whose name the commission believes will be mentioned at a public hearing. Any person whose name is mentioned or will be mentioned or who is specifically identified and who believes that testimony or other evidence given at a public hearing or comment made by any member of the commission or its counsel at such a hearing tends to defame him or otherwise adversely affect his reputation shall have the right, either in private or in public or both at a reasonably convenient time to be set by the commission, to appear personally before the commission, and testify in his own behalf as to matters relevant to the testimony or other evidence complained of, or in the alternative, to file a statement of facts under oath relating solely to matters relevant to the testimony or other evidence complained of, which statement shall be incorporated in the record.

f. Nothing in this section shall be construed to prevent the commission from granting to witnesses appearing before it, or to persons who claim to be adversely affected by testimony or other

evidence adduced before it, such further rights and privileges as it may determine.

10. Section 8 of P. L. 1968, c. 266 (C. 52:9M–8) is amended to read as follows:

C. 52:9M-8 Reference of evidence to certain officials.

8. Whenever the commission or any employee of the commission obtains any information or evidence of a reasonable possibility of criminal wrongdoing, or it shall appear to the commission that there is cause for the prosecution for a crime, or for the removal of a public officer for misconduct, the information or evidence of such crime or misconduct shall be called to the attention of the Attorney General as soon as practicable by the commission, unless the commission shall, by majority vote, determine that special circumstances exist which require the delay in transmittal of the information or evidence. However, if the commission or any employee of the commission obtains any information or evidence indicating a reasonable possibility of an unauthorized disclosure of information or a violation of any provision of this act, such information or evidence shall be immediately brought by the commission to the attention of the Attorney General.

11. Section 12 of P. L. 1968, c. 266 (C. 52:9M–12) is amended to read as follows:

C. 52:9M-12 Performance of commission's functions; reimbursement of witnesses.

12. With respect to the performance of its functions, duties and powers and subject to the limitation contained in paragraph d. of this section, the commission shall be authorized as follows:

a. To conduct any investigation authorized by this act at any place within the State; and to maintain offices, hold meetings and function at any place within the State as it may deem necessary;

b. To conduct private and public hearings, and to designate a member of the commission to preside over any such hearing; no public hearing shall be held except after adoption of a resolution by majority vote, and no public hearing shall be held by the commission until after the Attorney General and the appropriate county prosecutor or prosecutors shall have been given at least 7 days written notice of the commission's intention to hold such a public hearing and afforded an opportunity to be heard in respect to any objections they or either of them may have to the commission's holding such a hearing;

c. To administer oaths or affirmations, subpena witnesses, compel their attendance, examine them under oath or affirmation,

and require the production of any books, records, documents or other evidence it may deem relevant or material to an investigation; and the commission may designate any of its members or any member of its staff to exercise any such powers;

d. Unless otherwise instructed by a resolution adopted by a majority of the members of the commission, every witness attending before the commission shall be examined privately and the commission shall not make public the particulars of such examination. The commission shall not have the power to take testimony at a private hearing or at a public hearing unless at least two of its members are present at such hearing, except that the commission shall have the power to conduct private hearings, on an investigation previously undertaken by a majority of the members of the commission, with one commissioner present, when so designated by resolution;

e. Witnesses summoned to appear before the commission shall be entitled to receive the same fees and mileage as persons summoned to testify in the courts of the State.

If any person subpenaed pursuant to this section shall neglect or refuse to obey the command of the subpena, any judge of the superior court or of a county court or any municipal magistrate may, on proof by affidavit of service of the subpena, payment or tender of the fees required and of refusal or neglect by the person to obey the command of the subpena, issue a warrant for the arrest of said person to bring him before the judge or magistrate, who is authorized to proceed against such person as for a contempt of court.

12. Section 17 of P. L. 1968, c. 266 (C. 52:9M–17) is amended to read as follows:

C. 52:9M-17 Witness's refusal to testify; procedure; immunity from prosecution; exception.

17. a. If, in the course of any investigation or hearing conducted by the commission pursuant to this act, a person refuses to answer a question or questions or produce evidence of any kind on the ground that he will be exposed to criminal prosecution or penalty or to a forfeiture of his estate thereby, the commission may order the person to answer the question or questions or produce the requested evidence and confer immunity as in this section provided. No order to answer or produce evidence with immunity shall be made except by majority vote and after the Attorney General and the appropriate county prosecutor shall have been given at least

7 days written notice of the commission's intention to issue such order and afforded an opportunity to be heard in respect to any objections they or either of them may have to the granting of immunity.

b. If upon issuance of such an order, the person complies therewith, he shall be immune from having such responsive answer given by him or such responsive evidence produced by him, or evidence derived therefrom used to expose him to criminal prosecution or penalty or to a forfeiture of his estate, except that such person may nevertheless be prosecuted for any perjury committed in such answer or in producing such evidence, or be prosecuted for willful refusal to give an answer or produce evidence in accordance with an order of the commission pursuant to section 13, or held in contempt for failing to give an answer or produce evidence in accordance with the order of the commission pursuant to section 11; and any such answer given or evidence produced shall be admissible against him upon any criminal investigation, proceeding or trial against him for such perjury, or upon any investigation, proceeding or trial against him for such contempt or willful refusal to give an answer or produce evidence in accordance with an order of the commission.

c. If the commission proceeds against any witness for contempt of court for refusal to answer, subsequent to a grant of immunity, said witness may be incarcerated at the discretion of the Superior Court; provided, however, that (1) no incarceration for civil contempt shall exceed a period of 5 years of actual incarceration exclusive of releases for whatever reason; (2) the commission may seek the release of a witness for good cause on appropriate motion to the Superior Court; and (3) nothing contained herein shall be deemed to limit any of the vested constitutional rights of any witness before the commission.

C. 52:9M-17.1 Refusal to testify; penalty; stay of trial; credit for period of incarceration.

13. (New section) a. Any person who shall willfully refuse to answer a question or questions or produce evidence after being ordered to do so by the State Commission of Investigation in accordance with the act to which this act is a supplement P. L. 1968, c. 266 (C. 52:9M–1 et seq.) is guilty of a high misdemeanor until September 1, 1979, when such person shall be guilty of a crime of the second degree. Notwithstanding any other provision of law, no person imprisoned pursuant to this section shall be eligible for parole or reconsideration of sentence except upon a showing that

after imposition of the sentence he testified or furnished the required evidence at a time when the commission's needs were substantially met. Action against such person shall ensue upon a complaint signed by the chairman upon resolution of the commission. Such complaint shall be referred for prosecution to the Attorney General.

b. The trial of a defendant for an indictment made pursuant to this act shall be stayed pending the disposition of any review on appeal of the commission's order to testify and the indictment shall be dismissed if the order to testify is set aside on appeal or if, within 30 days after the order to testify is sustained on appeal, the defendant notifies the commission that he will comply with the order and does so promptly upon being afforded an opportunity to do so.

c. Any period of incarceration for contempt of an order of the commission shall be credited against any period of imprisonment to which a defendant is sentenced pursuant to subsection a. of this section.

14. Section 15 of P. L. 1968, c. 266 (C. 52:9M–15) is amended to read as follows:

C. 52:9M-15 Disclosure of information by participant in investigation; limitation; penalty.

15. a. Any person conducting or participating in any examination or investigation who shall disclose or any person who, coming into possession of or knowledge of the substance of any examination or investigation, shall disclose, or any person who shall cause, encourage or induce a person, including any witness or informant, to disclose, other than as authorized or required by law, to any person other than the commission or an officer having the power to appoint one or more of the commissioners the name of any witness examined, or any information obtained or given upon such examination or investigation, except as directed by the Governor or commission, or any person other than a member or employee of the commission or any person entitled to assert a legal privilege who, coming into possession of or knowledge of the substance of any pending examination or investigation who fails to advise the Attorney General and the commission of such possession or knowledge and to deliver to the Attorney General and the commission any documents or materials containing such information, shall be guilty of a misdemeanor until September 1, 1979 when such person shall be guilty of a crime of the third degree. Any member or employee of the commission who shall violate this

section shall be dismissed from his office or discharged from his employment.

b. Any statement made by a member of the commission or an employee thereof relevant to any proceedings before or investigative activities of the commission shall be absolutely privileged and such privilege shall be a complete defense to any action for libel or slander.

c. Nothing contained in this section shall in any way prevent the commission from furnishing information or making reports, as required by this act, or from furnishing information to the Legislature, or to a standing reference committee thereof, pursuant to a resolution duly adopted by a standing reference committee or pursuant to a duly authorized subpena or subpena duces tecum, provided, however, that nothing herein shall be deemed to preclude the commission from seeking from a court of competent jurisdiction a protective order to avoid compliance with such subpena or duces tecum.

15. Section 20 of P. L. 1968, c. 266 is amended to read as follows:

20. This act shall take effect immediately and remain in effect until December 31, 1984.

16. This act shall take effect immediately.

Approved December 21, 1979.

CHAPTER 255

AN ACT concerning cemeteries, amending N. J. S. 8A:3–14 and N. J. S. 8A:4–3, and supplementing Title 8A of the New Jersey Statutes.

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

1. N. J. S. 8A:3–14 is amended to read as follows:

Permit to construct and erect structure intended to hold or contain dead bodies; approval; process of construction and erection.

8A:3–14. a. No person shall build, construct or erect, wholly or partially above or below the surface of the ground, a public mausoleum, vault, crypt or other structure intended to hold or contain dead bodies, without obtaining a permit from the construc-

tion official of the municipality in which it is proposed to build or erect said structure. A denial or failure to issue said permit shall be reviewable by the Board of Appeals established pursuant to the "State Uniform Construction Code Act" (P. L. 1975, c. 117; C. 52:27D–119 et seq.), and thereafter in the Superior Court by a proceeding in lieu of prerogative writ. The provisions of this section shall have application to every cemetery company, religious corporation and religious society.

b. Full detailed plans and specifications of said structure shall be presented to the State Department of Community Affairs for its examination and approval before the commencement of the erection thereof. Before approving the plans and specifications the State Department of Community Affairs shall be satisfied that the mausoleum proposed to be constructed can be operated and maintained without constituting a hazard to public health or safety.

The approval of the plans and specifications by the State Department of Community Affairs shall be evidenced by a certificate in writing, properly signed, which certificate with the detailed plans and specifications so approved shall, before work is begun on the structure, be filed in the office of the municipal enforcing agency wherein the structure is to be erected and there remain as a public record.

c. The process of construction and erection of the structure shall be at all times under the supervision of the said construction official, whose duty it shall be to see that the approved plans and specifications are complied with in every particular as to kind, quality, character and quantity of all materials. No departure or deviation from the original plans and specifications shall be permitted, except upon the approval of the State Department of Community Affairs evidenced and filed in like manner and form as the approval of the original plans and specifications.

d. No structure erected under the provisions of this section shall be used for the purpose of interring or depositing therein any dead body until there shall have been obtained a certificate signed by the construction official of the municipality in which the structure shall have been erected, which certificate shall show that the plans and specifications as filed have been complied with fully.

e. No structure constructed or erected under the provisions of this section shall be used for the interment or depositing therein of a dead body until a trust fund shall have been established and set apart in accordance with the laws regulating trust funds in this State, of not less than 10% of the total cost of the structure.

The interest on the trust fund, and the interest only, shall be used for the perpetuation of the structure. This provision shall not apply to private mausoleums or temporary receiving vaults.

f. This section shall not apply to a public mausoleum, vault, crypt or other structure intended to hold or contain dead bodies, constructed or erected or in the course of construction or erection prior to March 21, 1916.

g. Any officer, manager or director of a cemetery failing to comply with the provisions of this section shall be personally liable to a penalty which shall be levied and collected by the commissioner or the municipality, as the case may be, in accordance with the applicable provisions of the "State Uniform Construction Code Act".

C. 8A:3-14.1 Rules and regulations.

2. (New section) The Department of Community Affairs shall within 90 days of the effective date of this act promulgate rules and regulations regulating the construction of public mausoleums or columbariums. To the extent applicable, such rules and regulations shall be the standards adopted in the subcodes of the Uniform Construction Code, or other national model code or standard. If the commissioner shall, after a public hearing, determine that such do not adequately protect the public interest, the commissioner may promulgate additional standards. Any local ordinance heretofore or hereafter enacted regulating the construction of said structures shall be of no force or effect; provided, however, that any municipality may enact zoning ordinances which provide for reasonable height and setback requirements in keeping with such standards established for property immediately abutting a cemetery. Any rule or regulation promulgated by the department contrary to the provisions of such zoning ordinance shall not be enforceable within said municipality.

3. N. J. S. 8A:4–3 is amended to read as follows:

Trust fund; deposit; exception; second trust fund; release of corpus.

8A:4–3. Any cemetery company incorporated after the effective date of this act shall, as a condition for the issuance to it of a certificate of authority to operate a cemetery, cause to be deposited in a banking institution authorized by law to maintain trust accounts and having and maintaining a principal place of business within this State, the sum of $25,000.00 in trust, and shall designate such banking institution as trustee of the fund so deposited; provided, however, that any cemetery company operating a crema-

tory physically separated from a cemetery and functioning exclusively as a crematory shall not be required to provide for the $25,000.00 initial trust fund deposit. Any such cemetery company operating a crematory wholly independent and physically separated from any cemetery which has heretofore made such a $25,000.00 initial trust deposit may make application to the New Jersey Cemetery Board for an order terminating such trust and providing for the refund of said moneys to the cemetery company. The New Jersey Cemetery Board shall, upon application of said cemetery company and upon being satisfied that said cemetery company operates said crematory wholly independent of and physically separated from any cemetery, issue an authorization to the banking institution acting as trustee of the Initial Balance Fund directing the release of the said fund to the cemetery company which established the fund. The income received from a trust account shall be paid to the cemetery company to be used for maintenance and preservation of the cemetery. The fund so deposited shall be called Initial Balance Fund.

Within 1 month after the issuance of a certificate of authority and before it shall dispose of any interment space, the cemetery company shall cause to be established a second trust fund in a banking institution authorized by law to maintain trust accounts and having and maintaining a place of business within this State. This second fund shall be called the Maintenance and Preservation Fund and shall be augmented from time to time as set forth in this act.

Whenever the cemetery company shall have deposited in its Maintenance and Preservation Fund a sum amounting to $50,000.00, it shall submit proof thereof to the board and the board shall thereupon issue an authorization to the banking institution acting as trustee of the Initial Balance Fund directing the release of the corpus of said fund to the cemetery company which established the fund.

4. This act shall take effect immediately.

Approved December 21, 1979.

CHAPTER 256

AN ACT to amend the "Local Tax Authorization Act of 1970," approved December 23, 1970 (P. L. 1970, c. 326).

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

1. Section 5 of P. L. 1970, c. 326 (C. 40:48C–5) is amended to read as follows:

C. 40:48C-5 Limitation.

5. No tax shall be imposed under any ordinance adopted pursuant to this article with respect to alcoholic beverages delivered to a taxpayer on or after January 1, 1982.

2. Section 8 of P. L. 1970, c. 326 (C. 40:48C–8) is amended to read as follows:

C. 40:48C-8 Limitation.

8. No tax shall be imposed under any ordinance adopted pursuant to this article with respect to parking services provided on or after January 1, 1982.

3. Section 12 of P. L. 1970, c. 326 (C. 40:48C–12) is amended to read as follows:

C. 40:48C-12 Limitation.

12. No tax shall be imposed under any ordinance adopted pursuant to this article with respect to sales of motor fuels on or after January 1, 1982.

4. Section 19 of P. L. 1970, c. 326 (C. 40:48C–19) is amended to read as follows:

C. 40:48C-19 Limitation.

19. No tax shall be imposed under any ordinance adopted pursuant to this article with respect to services performed prior to January 1, 1971, in a calendar quarter prior to that in which the ordinance is adopted on or after January 1, 1982, but any such ordinance shall remain in effect with respect to the right of the municipality to receive reports and enforce and collect taxes due thereunder for any period prior to January 1, 1982.

5. Section 26 of P. L. 1970, c. 326 (C. 40:48C–26) is amended to read as follows:

C. 40:48C-26 Limitation.

26. No tax shall be imposed under any ordinance adopted pursuant to this article with respect to rental for use or occupancy of commercial premises on or after January 1, 1982.

6. Section 32 of P. L. 1970, c. 326 (C. 40:48C–32) is amended to read as follows:

C. 40:48C-32 Limitation.

32. No tax shall be imposed under any ordinance adopted pursuant to this article with respect to transactions taking place on or after January 1, 1982.

7. This act shall take effect immediately.

Approved December 24, 1979.

CHAPTER 257

AN ACT concerning municipal courts and amending N. J. S. 2A:8–5.

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

1. N. J. S. 2A:8–5 is amended to read as follows:

Judges of the municipal courts; appointment; terms.

2A:8–5. Each judge of the municipal court shall serve for a term of 3 years from the date of his appointment and until his successor is appointed and qualified. Any appointment to fill a vacancy caused other than by expiration of term shall be made for the unexpired term only; provided, however, that if a municipality shall by ordinance require the judge of the municipal court to devote full time to his duties, the first appointment after such ordinance shall be for a full term of 3 years. Each judge of a municipal court of a single municipality shall be appointed as follows:

In municipalities governed by a mayor-council form of government, by the mayor with the advice and consent of council; provided, that in municipalities governed under the borough law (chapters 86 to 94 of Title 40 of the Revised Statutes), if the mayor fails to nominate a judge within 30 days after the office becomes vacant, or the council fails to confirm any nomination

made by the mayor within 30 days after the same is made, then the council shall appoint the judge; and

In all other municipalities, by the governing body of the municipality.

Each judge of a municipal court of two or more municipalities shall be nominated and appointed by the Governor with the advice and consent of the Senate.

2. This act shall take effect immediately.

Approved December 24, 1979.

CHAPTER 258

AN ACT to amend the "Savings and Loan Act (1963)," approved August 30, 1963 (P. L. 1963, c. 144).

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

1. Section 48 of P. L. 1963, c. 144 (C. 17:12B–48) of which this act is amendatory is amended to read as follows:

C. 17:12B-48 Specific powers.

48. Specific powers. Without limiting the generality of the foregoing, every association shall have power to:

(1) Have succession by its corporate name for the period limited in its charter or certificate of incorporation, and when no period is limited, perpetually.

(2) Sue and be sued in any court.

(3) Adopt and use a corporate seal and alter the same.

(4) Purchase and otherwise acquire, hold, mortgage, pledge, lease, exchange, sell, convey and otherwise dispose of, any real and personal property, necessary or incidental to its operations and consistent with its powers and purposes.

(5) Insure its members' accounts with the Federal Savings and Loan Insurance Corporation, and comply with conditions necessary to obtain and maintain such insurance.

(6) Become a member of or stockholder in a Federal Home Loan Bank and to that end to comply with all conditions of membership therein.

(7) Act as agent for the United States or the State of New Jersey or any instrumentality of either of them, when designated for that purpose, and perform such reasonable duties as such agent as may be required of it.

(8) Join any cooperative league organized for the purpose of protecting and promoting the welfare of associations and their members and comply with all conditions of membership therein.

(9) Borrow money from any source in or out of the State, on the note, bond and mortgage or other obligation of the association upon such terms and conditions as the board may from time to time prescribe by resolution adopted by at least a majority of all the members of the board and duly recorded on the minutes and to pledge, assign or transfer mortgages, owned by the association and the obligation secured by such mortgages, together with the shares, if any, pledged as collateral security therefor, or any real or other personal property, as security for the repayment of money so borrowed. No association shall borrow money if by doing so the aggregate of its indebtedness for borrowed money other than to the Federal Home Loan Bank will exceed 20% of its capital, except with the approval of the commissioner.

(10) (Deleted by amendment.)

(11) Require an advance payment of interest for a period of 1 month on any loan; and accept advance payments of interest, if made at the option of the debtor, for any period on any loan. None of such payments shall be deemed usurious.

(12) Where shares are issued, charge an admission fee, not to exceed $0.25 per share, which shall include the cost of membership or share certificate and account book.

(13) Impose charges upon a member for failure to make any payment to the association when due, but only as provided in this paragraph. Where the association issues installment share accounts it may impose such charge upon any member holding such an account or any borrower upon a sinking fund mortgage not in excess of 1% a month upon the amount in arrears, except for the first month's arrearage or the amount by which such first month's arrearage may be increased by subsequent arrearage in which case a charge not in excess of 5% may be imposed. Such charges shall be subject to the further limitations that no such charge shall be deducted from any amount actually paid by a member upon an account nor shall the total of any such charges against any account in any fiscal year exceed the amount that may be charged for failure to make any pay-

ments for a 6-month period nor shall any charge for default be made on a charge for default. Otherwise an association may impose a charge for failure to make any required payment to it when due upon any loan or contract for the resale of real estate to a member not to exceed 4% of the amount of each payment in arrears but no more than one such charge may be made with respect to any one payment in arrears. An association may impose a reasonable service charge against any member who tenders to such association, for collection or as payment, a check or other instrument of any type which subsequently is not honored by the institution or person upon which such check or other instrument is drawn. None of such charges shall be deemed usurious.

(14) Compute interest upon any direct reduction loan, on designated payment dates, and add the same to the unpaid balance of such loan.

(15) Act as agent for any person where such agency will further the interests of the association and its members, subject to such limitations as may be prescribed by the commissioner.

(16) Upon application to and approval by the commissioner, to act as custodian or trustee within the contemplation of the Federal Self-Employed Individuals Tax Retirement Act of 1962, as amended and supplemented, and the Employee Retirement Income Security Act of 1974 as amended and supplemented, and as custodian, trustee or manager of any such investment fund the authorized investments of which include, but need not be limited to, savings accounts or real estate loans, and the beneficial interests in which may be represented by transferable shares or certificates. Associations exercising the powers authorized by the subsection shall segregate all funds held in such fiduciary capacities from the general assets of the association and shall keep a separate set of books and records showing in detail all transactions made under authority of this subsection. If individual records are kept for each self-employed individual's retirement plan and each such investment fund, then all such funds held in such fiduciary capacities by an association may be commingled for appropriate purposes of investment. No funds held in such fiduciary capacities shall be used by an association in the conduct of its business; however, such funds may be invested in savings accounts of the association in the event that the custodial, trust or other plan does not prohibit such investment. In granting or refusing the association's application the commissioner shall take into consideration the investment policies, amount, type and adequacy of

reserves, fidelity bonds and any legally required deposits of the applicant and other pertinent facts and circumstances.

(17) Upon compliance with subsection (5) of this section, accept from its members accounts to be repaid upon such terms, not inconsistent with this act, as are approved by the Commissioner of Banking, by regulation or otherwise, provided that no account shall exceed the limitations established by section 78 of P. L. 1963, c. 144 (C. 17:12B–78), and provided further that no account shall be accepted or issued in the name of any corporation, association or partnership or in the name of any individual for use in trade or business. An association issuing such accounts may honor demands for withdrawal of such accounts in the form of negotiable checks, drafts or orders in the form of electronic fund transfers and may become a member of a clearing facility and satisfy reasonable conditions required for its qualification and pay reasonable expenses therefore. Such accounts may be either interest-bearing or noninterest-bearing; provided, however, that the payment of interest on such accounts be permitted by Federal law. An association accepting accounts pursuant to this subsection shall, at all times, maintain reserves against such accounts as shall be prescribed in regulations issued by the commissioner in accordance with the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.) but such reserves shall be equal in nature and amount to those required of savings banks in this State against similar accounts. Such reserves shall be maintained in cash or deposits in one or more reserve depositories as authorized by the Commissioner of Banking. Regulations of the commissioner may also provide that associations issuing such type of accounts maintain a general reserve account, Federal insurance reserve account and undivided profits of specified minimum amounts and provide for minimum standards of office facilities in connection therewith. An insured association may impose a reasonable service charge for providing and maintaining such accounts for the benefits of its members.

2. This act shall take effect immediately.

Approved December 24, 1979.

CHAPTER 259

A SUPPLEMENT to the "Judicial Retirement System Act," approved May 22, 1973 (P. L. 1973, c. 140; C. 43:6A–1 et seq.).

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

C. 43:6A-9.6 Pension to judges.

1. Any judge of the several courts who shall have served at least 4 years successively as such judge and shall have served at least 25 years in the aggregate in office, position, or employment of this State or of a county, municipality, board of education or public agency of this State, including such service as a judge, shall upon attaining the age of 70 years and upon making application to the State House Commission within 1 year following the effective date of this act be eligible to receive an annual pension during the remainder of his life in an amount equal to one-half of his final salary. Any judge who accepts a judicial pension pursuant to this act shall waive for himself, his heirs and his beneficiaries all of his rights under any other public pension system established under any law of this State.

2. This act shall take effect immediately.

Approved December 28, 1979.

CHAPTER 260

AN ACT concerning the lawful age for selling, purchasing and consuming alcoholic beverages, amending P. L. 1972, c. 81.

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

1. Section 1 of P. L. 1972, c. 81 (C. 9:17B–1) is amended to read as follows:

C. 9:17B-1 Legislature's findings.

1. The Legislature finds and declares and by this act intends, pending the revison and amendment of the many statutory provisions involved, to:

a. Extend to persons 18 years of age and older the basic civil and contractual rights and obligations heretofore applicable only to persons 21 years of age or older, including the right to contract, sue, be sued and defend civil actions, apply for and be appointed to public employment, apply for and be granted a license or authority to engage in a business or profession subject to State regulation, serve on juries, marry, adopt children, attend and participate in horse race meetings and parimutuel betting and other legalized games and gaming, sell alcoholic beverages, act as an incorporator, registered agent or director of a corporation, consent to medical and surgical treatment, execute a will, and to inherit, purchase, mortgage or otherwise encumber and convey real and personal property.

b. Extend to persons 19 years of age and older, heretofore applicable only to persons 18 years of age and older, the right to purchase and consume alcoholic beverages, except that any one attaining the age of 18 years prior to the effective date of this act shall be able to purchase and consume alcoholic beverages. Nothing in this act shall preclude any licensee under R. S. 33:1–1 et seq. from making purchases in the regular course of his licensed activities.

c. Abolish the right of a person between the ages of 18 and 21 years to disaffirm and be relieved of contractual obligations by reason of age.

2. This act shall take effect upon the enactment of all of the following bills which are currently pending before the Legislature: Assembly Bills Nos. 3260, 3265 and Senate Bill No. 3044.

Approved January 2, 1980.

CHAPTER 261

AN ACT concerning motor vehicle drivers' licenses, amending R. S. 39:3–10 and supplementing chapter 3 of Title 39 of the Revised Statutes.

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

C. 39:3-10f Licenses with color photograph.

1. In addition to the requirements for the form and content of a motor vehicle driver's license under R. S. 39:3–10, each initial

New Jersey license issued to a person under the age of 21 after the effective date of this act shall have a color photograph of the licensee. Any other initial licensee shall have the option of obtaining a license with his color photograph on it.

To replace an initial photo-license for a licensee who is temporarily out of this State, the director may issue a "valid without photo" photo-license for the unexpired term of the license.

C. 39:3-10g Rules and regulations.

2. The director is authorized, empowered and directed to promulgate rules and regulations governing the size, type and other essential characteristics of the color photograph and its affixation to the driver's license. The fee for such photograph shall be fixed by the director based upon the actual cost incurred by the Division of Motor Vehicles in the implementation and administration of this act, but shall not exceed $1.50 for each license or renewal thereof, and shall be in addition to the fee presently authorized for the issuance of a driver's license pursuant to R. S. 39:3–10.

C. 39:3-10h Process of issuance.

3. The director shall provide for the use of a process or processes in the issuance of licenses with photographs that prevent, to the extent possible, the alteration, duplication, counterfeiting, photographing, forging or other modification of the license and prevent the superimposition of a photograph other than the authorized original on such license.

C. 39:3-10i Option of obtaining a license with color photograph.

4. Any person licensed prior to the effective date of this act shall, at the time of renewal, have the option of obtaining a license with a color photograph affixed.

5. R. S. 39:3–10 is amended to read as follows:

Drivers' licenses; examination; classifications; issuance; license periods; fees; renewals; refusal to grant license; violations.

39:3–10. No person shall drive a motor vehicle on a public highway in this State unless licensed to do so in accordance with this article. No person under 17 years of age shall be licensed to drive motor vehicles, nor shall a person be licensed until he has passed a satisfactory examination as to his ability as an operator. The examination shall include a test of the applicant's vision, his ability to understand traffic control devices, his knowledge of safe driving practices, his knowledge of such portions of the mechanism of motor vehicles as is necessary to insure the safe operation of a vehicle of the kind or kinds indicated by the applicant and of the

laws and ordinary usages of the road and a demonstration of his ability to operate a vehicle of the class designated.

The director shall create classified licensing of drivers covering the following classifications:

a. Motorcycles;

b. Omnibuses as classified by R. S. 39:3–10.1 and school buses classified under N. J. S. 18A:39–1 et seq.;

c. Articulated vehicles means a combination of a commercial motor vehicle registered at a gross weight in excess of 18,000 pounds and one or more motor-drawn vehicles joined together by means of a coupling device.

d. All motor vehicles not included in classifications a., b. and c. A license issued pursuant to this classification d. shall be referred to as the "basic driver's license."

Every applicant for a license under classification b. or c. must be a holder of a basic driver's license. Any issuance of a license under classification b. or c. shall be by endorsement on the basic driver's license.

A driver's license for motorcycles may be issued separately, but if issued to the holder of a basic driver's license, it shall be by endorsement on the basic driver's license.

The director, upon payment of the lawful fee and after he or an inspector of his has examined the applicant and is satisfied of the applicant's ability as an operator, may, in his discretion, license the applicant to drive a motor vehicle. The license shall authorize him to drive any registered vehicle, of the kind or kinds indicated, and shall expire on the last day of the twenty-fourth calendar month following the calendar month in which such license was issued, provided, however, that in the case of a license bearing a photograph of the licensee as provided by law, such license shall expire on the last day of the thirty-sixth calendar month following the calendar month in which such license was issued. The director may, at his discretion and for good cause shown, issue licenses which shall expire on a date fixed by him. The fee for such licenses shall be fixed by the director in amounts proportionately less or greater than the fee herein established.

The required fee for a license for the 24-month period shall be as follows:

Motorcycle license or endorsement	$4.00
Omnibus or school bus endorsement	$8.00
Articulated vehicle endorsement	$4.00
Basic driver's license	$8.00

The required fee for a license for the 36 month period shall be as follows:

Motorcycle license or endorsement	$6.00
Omnibus or school bus endorsement	$12.00
Articulated vehicle endorsement	$6.00
Basic driver's license	$12.00

The driver's license shall have the legal name of the licensee endorsed thereon in his own handwriting. For purposes of this section, legal name shall mean the name recorded on a birth certificate unless otherwise changed by marriage, divorce or order of court. The director may require that only the legal name be recorded on the driver's license. A licensee whose name is changed due to marriage, divorce, or by judgment of court, shall notify the director of the change in name within 2 weeks after the change is made. A person who violates this provision shall be subject to a penalty of not more than $10.00.

The director shall issue licenses for the following license period on and after the first day of the calendar month immediately preceding the commencement of such period, such licenses to be effective immediately.

All applications for renewals of licenses shall be made on forms prescribed by the director and in accordance with procedures established by him.

The director in his discretion may refuse to grant a license to drive motor vehicles to a person who is, in his estimation, not a proper person to be granted such a license, but no defect of the applicant shall debar him from receiving a license unless it can be shown by tests approved by the Director of the Division of Motor Vehicles that the defect incapacitates him from safely operating a motor vehicle.

A person violating this section shall be subject to a fine not exceeding $500.00 or imprisonment in the county jail for not more than 60 days.

Nothing in this section shall be construed to alter or extend the expiration of any license issued prior to the date this amendatory and supplementary act becomes operative.

6. Sections 1, 2, 3 and 5 of this act shall take effect 9 months following enactment and section 4 shall take effect 2 years following enactment.

Approved January 2, 1980.

CHAPTER 262

A SUPPLEMENT to "An act making appropriations for the support of the State Government and the several public purposes for the fiscal year ending June 30, 1980 and regulating the disbursement thereof," approved June 30, 1979 (P. L. 1979, c. 178).

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

1. There is appropriated out of the General Treasury the following:

DEPARTMENT OF LAW AND PUBLIC SAFETY

11100. Regulation of Motor Vehicles

Extraordinary:

For the purpose of implementing and administering the provisions of P. L. 1979, c. .... with respect to motor vehicle driver's licenses with color photographs (Now pending before the Legislature as Senate No. 3044 (2 OCR)) $70,000.00

Any balances remaining in this account on June 30, 1980 are hereby reappropriated.

2. This act shall take effect immediately.

Approved January 2, 1980.

CHAPTER 263

AN ACT concerning instructional programs on the nature and effects of alcohol and alcoholism and programs relative to alcohol-related problems in schools, amending N. J. S. 18A:35–4 and N. J. S. 18A:26–8 and supplementing Title 18A of the New Jersey Statutes.

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

1. N. J. S. 18A:35–4 is amended to read as follows:

Course in nature and effect of alcoholic drinks and narcotics.

18A:35–4. The nature of alcoholic drinks and narcotics and their effects upon the human system shall be taught in all schools supported wholly or in part by public moneys in such manner as may be adapted to the age and understanding of the pupils and shall be emphasized in appropriate places of the curriculum sufficiently for a full and adequate treatment of the subject. The commissioner shall, with the approval of the State Board, in cooperation with the educational improvement centers and in consultation with the Department of Health, prepare and update as necessary curriculum guidelines to assist boards of education in fulfilling this requirement. Each board of education shall make provisions in its annual educational program to fulfill this requirement and with respect to the requirement concerning the teaching of the nature of alcoholic drinks and their effects upon the human system, each board shall consult with a local organization involved with the prevention, detection, and treatment of alcoholism approved by the Department of Health.

C. 18A:35-4a Policies and procedures for evaluation and treatment of pupils.

2. (New section) Each board of education shall adopt and implement, in accordance with rules and regulations promulgated by the State board, policies and procedures for the evaluation and treatment of pupils involved in incidents of possession or consumption of alcoholic beverages on school property or at school functions, or who show significant symptoms of intoxication or of alcoholism on school property or at school functions. In adopting and implementing these policies and procedures, the board shall consult and work closely with a local organization involved with the prevention, detection and treatment of alcoholism approved by the Department of Health.

C. 18A:4-28.20 Study of incidence of consumption of alcoholic beverages by school pupils; comprehensive plan; contents.

3. (New section) The commissioner, under the direction of the State Board of Education, shall make an in-depth study of the incidence of consumption of alcoholic beverages by school pupils and the degree to which consumption of alcoholic beverages by school pupils is causing educational, disciplinary or other problems for school districts, and of the effectiveness of current laws and regulations relative to the teaching of the nature and effects of alcoholic beverages and the training of teachers with respect to the nature and effects of alcoholic beverages. Based upon the

study and after consultation with the commissioner, the State board shall establish a comprehensive plan designed to insure that effective instructional programs on the nature of alcoholic beverages and their effect upon the human body, and on the physiological, psychological and sociological effects of alcoholism, and effective programs for handling pupils who are involved in incidents of possession or consumption of alcoholic beverages, or who show significant symptoms of intoxication or of alcoholism, on school property or at school functions, are provided in the public schools. The plan shall provide for, but is not limited to:

a. Goals, objectives and standards for alcohol education;

b. Identification of appropriate places in the curriculum and appropriate grade levels for effective alcohol education;

c. Preparation and updating of curriculum guidelines;

d. General qualifications for all teachers in public schools to insure that all teachers are adequately trained in and aware of the nature and effects of alcoholic beverages and alcoholism so that they may identify alcohol-related problems in pupils and assist in resolving alcohol-related problems in the schools or in providing effective alcohol education;

e. Specific qualifications for teachers providing instruction in the nature and effects of alcohol and alcoholism;

f. Appropriate in-service training programs for teachers to provide them with the opportunity to meet the general or specific qualification requirements under the plan within a reasonable period of time after it takes effect, and to maintain their proficiency and update their knowledge relative to alcohol education as necessary;

g. Guidelines for policies and procedures of boards of education for handling pupils involved in alcohol-related incidents or with alcohol-related problems;

h. A uniform system for the collection of data on incidents involving possession or consumption of alcoholic beverages, and on pupils with alcohol-related problems, on school property or at school functions.

In making the study and preparing and implementing the plan, the commissioner and the State board shall consult and work closely with the Department of Health. The study and plan shall be completed within 3 years after the effective date of this act, and shall be submitted to the Governor and the Legislature.

4. N. J. S. 18A:26–8 is amended to read as follows:

Prerequisite for issuance of certificate.

18A:26-8. No certificate to teach in the public schools shall be issued to any teaching staff member who has not passed a satisfactory examination in physiology and hygiene with special reference to the nature of alcoholic drinks and narcotics and their effects upon the human system.

5. This act shall take effect immediately.

Approved January 2, 1980.

CHAPTER 264

AN ACT concerning certain alcoholic beverage offenses by persons under the legal age to purchase alcoholic beverages and supplementing chapter 33 of Title 2C of the New Jersey Statutes.

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

C. 2C:33-15 Consumption of alcoholic beverages by persons under legal age; penalty.

1. a. Any person under the legal age to purchase alcoholic beverages who knowingly possesses without legal authority or who knowingly consumes any alcoholic beverage in any school, public conveyance, public place, or place of public assembly, or motor vehicle, is guilty of a disorderly persons offense, and shall be fined not less than $100.00.

b. Whenever this offense is committed in a motor vehicle, the court may, in addition to the sentence authorized for the offense, suspend or postpone for up to 30 days the driving privilege of the defendant.

c. In addition to the general penalty prescribed for a disorderly persons offense, the court may require any person who violates this act to participate in an alcohol education or treatment program, authorized by the Department of Health, for a period not to exceed the maximum period of confinement prescribed by law for the offense for which the individual has been convicted.

d. Nothing in this act shall apply to possession of alcoholic beverages by any such person while actually engaged in the performance of employment pursuant to an employment permit issued by the Director of the Division of Alcoholic Beverage Control, or

for a bona fide hotel or restaurant, in accordance with the provisions of R. S. 33:1–26.

2. This act shall take effect upon the effective date of Title 2c, the New Jersey Code of Criminal Justice (P. L. 1978, c. 95).

Approved January 2, 1980.

CHAPTER 265

AN ACT concerning the retail sale of alcoholic beverages and amending R. S. 33:1–81.

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

1. R. S. 33:1–81 is amended to read as follows:

Unlawful acts by persons under legal age; violation of act; penalty.

33:1–81. It shall be unlawful for (a) a person under the legal age for purchasing alcoholic beverages to enter any premises licensed for the retail sale of alcoholic beverages for the purpose of purchasing, or having served or delivered to him or her, any alcoholic beverage; or

(b) a person under the legal age for purchasing alcoholic beverages to consume any alcoholic beverage on premises licensed for the retail sale of alcoholic beverages, or to purchase, attempt to purchase or have another purchase for him or her any alcoholic beverage; or

(c) any person to misrepresent or misstate his or her age, or the age of any other person for the purpose of inducing any licensee or any employee of any licensee, to sell, serve or deliver any alcoholic beverage to a person under the legal age for purchasing alcoholic beverages; or

(d) any person to enter any premises licensed for the retail sale of alcoholic beverages for the purpose of purchasing, or to purchase alcoholic beverages, for another person who does not because of his age have the right to purchase and consume alcoholic beverages.

Any person who shall violate any of the provisions of this section shall be deemed and adjudged to be a disorderly person, and upon conviction thereof, shall be punished by a fine of not less than $100.00. In addition to the general penalty prescribed for an offense, the court may:

(1) suspend or postpone for up to 30 days the driving privileges for any violator of this section;

(2) require any person under the legal age to purchase alcoholic beverages who violates this act to participate in an alcohol education or treatment program authorized by the Department of Health for a period not to exceed the maximum period of confinement prescribed by law for the offense for which the individual has been convicted.

2. This act shall take effect immediately.

Approved January 2, 1980.

CHAPTER 266

AN ACT to amend "An act relating to affirmative action in relation to discrimination in connection with certain public contracts and supplementing the 'Law Against Discrimination,' approved April 16, 1945 (P. L. 1945, c. 169)," approved June 23, 1975 (P. L. 1975, c. 127).

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

1. Section 6 of P. L. 1975, c. 127 (C. 10:5–36) is amended to read as follows:

C. 10:5-36 Powers of State Treasurer.

6. In carrying out his responsibilities under this act, the State Treasurer, in addition to and without limitation of other powers which he may have by law, shall have the following powers:

a. To investigate and determine the percentage of population of minority groups in the State or areas thereof from which the work force for public works contracts is or may be drawn;

b. To establish and promulgate such percentages as guidelines in determining the adequacy of affirmative action programs submitted for approval pursuant to section 2 of this act;

c. To require all State and local agencies awarding public works contracts to submit for approval their affirmative action programs;

d. To prescribe those affirmative action program provisions to be included in all public works contracts;

e. To provide guidelines to assist governmental agencies in the formulation of and the administration and enforcement of affirmative action programs;

f. To require State and local agencies awarding public works contracts to designate appropriate officers or employees to maintain liaison with and assist the State Treasurer in the implementation of this act and affirmative action programs adopted pursuant thereto;

g. To prescribe appropriate administrative procedures relating to prequalification of bidders, bidding practices and contract awards to assure equal employment opportunities;

h. To provide staff and technical assistance to public bodies, contractors and subcontractors in furtherance of the objectives of this act;

i. To levy on contractors and subcontractors fees and charges found by him to be reasonable and necessary to accomplish the objectives of this act;

j. To refer to the Attorney General or his designee circumstances which may constitute violations of the "Law Against Discrimination";

k. To issue, amend and rescind rules and regulations in accordance with the "Administrative Procedure Act" (C. 52:14B–1 et seq.);

l. To enforce in a court of law the provisions of this act or to join in or assist any enforcement proceeding initiated by any aggrieved person;

m. To make and execute contracts and all other instruments with other public agencies and private firms or individuals necessary or convenient for the exercise of their powers and functions hereunder, including contracts with consultants for rendering professional or technical assistance and advice;

n. To contract for or accept any gifts or grants or loans of funds or property or financial or other aid in any form from the Federal government or any agency or instrumentality thereof, or from the State or any agency or instrumentality thereof, or from any other source and to comply, subject to the provisions of this act, with the terms and conditions thereof.

o. To issue rules and regulations that will expand business opportunities for socially and economically disadvantaged contractors and vendors seeking to provide materials and services for State contracts.

2. This act shall take effect immediately.

Approved January 3, 1980.

CHAPTER 267

AN ACT to amend and supplement the "General Public Assistance Law," approved May 13, 1947 (P. L. 1947, c. 156).

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

1. Section 8 of P. L. 1947, c. 156 (C. 44:8–114) is amended to read as follows:

C. 44:8-114 Public assistance to eligible persons; performance of public work, requirements; public work programs; refusal to work; penalty.

8. Every municipality shall provide public assistance to the persons eligible thereto, residing therein or otherwise when so provided by law, which shall be administered by a local assistance board according to law and in accordance with this act and with such rules and regulations as may be promulgated by the commissioner.

As hereinafter provided, employable persons receiving public assistance shall be required, except when good cause exists, to perform such public work as shall be assigned to them by the New Jersey Employment Service or, in the manner described herein, by the director of welfare of the municipality providing public assistance.

The New Jersey Employment Service shall provide for the establishment of public work programs for the assignment of employable persons in receipt of public assistance. Public work may include the performance of work for the municipality providing public assistance, or the performance of work in the operation of or in an activity of a nonprofit agency or institution pursuant to a contract with the municipality. Public work projects to which employable persons are assigned by the New Jersey Employment Service may include work for other levels of government besides the municipality, and shall be approved by the Commissioner of the Department of Labor and Industry. If a recipient is injured while performing work assigned by the New Jersey Employment Service or a municipal welfare director pursuant to this act, liability for such injury shall be assumed by the State, pursuant to the Workers' Compensation Act, R. S. 34:15–1 et seq. No State agency, municipality or any governmental or nonprofit agency or institution which has contracted with the New Jersey Employment Ser-

vice or a municipality pursuant to this act, or its employees, shall be liable in a civil suit for damages for any injury sustained by a recipient while performing work required by this act.

The director of welfare in the municipality shall notify the New Jersey Employment Service of persons in receipt of public assistance who, in his judgment, and in accordance with the regulations established by the Commissioner of Human Services, are able to perform work. From the time that he has so notified the New Jersey Employment Service until such time as the New Jersey Employment Service shall assign such persons to a public work project, the director of welfare shall assign such employable persons to perform public work if such work is available, and shall notify the New Jersey Employment Service. The New Jersey Employment Service may approve any such employment assigned by the director of welfare without further need for assignment or reassignment or may make another assignment. In assigning public work, the director of welfare or the New Jersey Employment Service, as the case may be, shall be satisfied that such employable persons will not be used to replace any regular employees of any department or unit of such municipality.

In assigning persons to public work in a nonprofit agency or institution, the New Jersey Employment Service or the director of welfare, as the case may be, shall also be satisfied that such assignment will not result in the displacement of regular employees of the agency or institution.

The Commissioner of Labor and Industry shall establish regulations concerning the appropriateness of worksite assignments.

Persons performing such work assigned by the New Jersey Employment Service or the director of welfare shall work only the number of hours equal to the amount of their grant divided by an hourly wage rate commensurate with beginning regular employees similarly employed. Performance of such work shall result in payment to the person of his public assistance grant.

Any person who refuses without good cause to report for or to perform work to which he has been assigned by the director of welfare or the New Jersey Employment Service, shall thereupon become ineligible for public assistance until he reports for and performs work to which he has been assigned or shows his willingness to do so according to regulations established by the Commissioner of Human Services in consultation with the Commissioner of Labor and Industry.

Good cause for refusal to report for or to perform work shall include, but shall not be limited to: working conditions which are a substantial risk to health and safety; physical inability to engage in a particular type of work; or lack of a reasonable means of transportation.

2. This act shall take effect on the first day of the fourth month following enactment.

Approved January 3, 1980.

CHAPTER 268

A SUPPLEMENT to "An act to place limits on expenditures by counties and municipalities and supplementing Title 40A of the New Jersey Statutes," approved August 18, 1976 (P. L. 1976, c. 68, C. 40A:4-45.1 et seq.).

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

C. 40A:4-45.3a Referendum to increase municipal budget; when held.

1. The provisions of any other law to the contrary notwithstanding, any referendum conducted by a municipality pursuant to subsection i. of section 3 of P. L. 1976, c. 68 (C. 40A:4-45.3i.), for the purpose of requesting approval for increasing the municipal budget by more than 5% over the previous year's final appropriations, shall be held on the last Tuesday in the month of February of the year in which the proposed increase is to take effect. The municipal budget proposing such increase shall be introduced and approved in the manner otherwise provided in N. J. S. 40A:4-5 at least 20 days prior to the date on which such referendum is to be held, and shall be published in the manner otherwise provided in N. J. S. 40A:4-6 at least 12 days prior to said referendum date.

2. This act shall take effect immediately.

Approved January 3, 1980.

CHAPTER 269

A SUPPLEMENT to "An act making appropriations for the support of the State Government and the several public purposes for the fiscal year ending June 30, 1980 and regulating the disbursement thereof," approved ..... (P. L. 1979, c. ....), (now awaiting action by the Governor as Senate Bill No. 3200).

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

1. The sum of $97,475.00 is appropriated as a supplement to the municipal aid appropriation for fiscal year 1980.

2. In addition to the municipal aid payments made by the State in fiscal year 1980 pursuant to P. L. 1978, c. 14 (C. 52:27D–178 et seq.) and the State appropriation act for the fiscal year ending June 30, 1980, the State Treasurer shall pay to Asbury Park, from the municipal aid appropriation for fiscal year 1980, as supplemented by this act, the amount which the Director of the Division of Local Government Services shall certify as equal to the apportionment which Asbury Park received pursuant to P. L. 1978, c. 14 (C. 52:27D–178 et seq.) in calendar year 1978.

3. This act shall take effect immediately.

Approved January 3, 1980.

CHAPTER 270

AN ACT to amend "An act to create a commission to study sex discrimination in the statutes, prescribing its membership, powers and duties and making an appropriation therefor," approved July 6, 1978 (P. L. 1978, c. 68).

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

1. Section 11 of P. L. 1978, c. 68 is amended to read as follows:

11. This act shall take effect immediately and shall expire on January 12, 1982.

2. This act shall take effect immediately.

Approved January 3, 1980.

CHAPTER 271

AN ACT concerning juries and jury lists, amending N. J. S. 2A:70–4, and supplementing Title 2A of the Revised Statutes.

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

1. N. J. S. 2A:70–4 is amended to read as follows:

Selection of jurors.

2A:70–4. For the purpose of making up the jury lists, the jury commissioners shall have access to and may copy registry lists of the several municipalities and election districts of their county and lists, which shall be compiled by the Division of Motor Vehicles, of the names and addresses of the holders of motor vehicle driver licenses who are residents of their county. The commissioners shall use these lists to compile a single list from which all jurors shall be selected.

C. 2A:70-4.1 Monitoring compliance and report to Legislature.

2. (New section) The Director of the Administrative Office of the Courts shall monitor compliance with the provisions of this act, and prepare and furnish to the Legislature, on an annual basis, a report on the operation of the jury system in New Jersey, accompanying the same with any recommendations it may desire to recommend for adoption by the Legislature.

3. This act shall take effect 6 months following enactment.

Approved January 3, 1980.

CHAPTER 272

Note: In approving the following act certain items, designated by *, were deleted or reduced by the Governor. See Statement appended following the text of the act.

AN ACT establishing a Physician-Dentist Loan Redemption Program for students of the College of Medicine and Dentistry of New Jersey and the Fairleigh Dickinson University School of Dentistry and making an appropriation therefor.

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

C. 18A:72D-1 Short title.

1. This act shall be known and may be cited as the "Physician-Dentist Loan Redemption Program Act."

C. 18A:72D-2 Legislature's findings.

2. The Legislature finds:

a. Some communities and institutions in New Jersey currently face serious problems in attracting and maintaining sufficient medical and dental manpower particularly in the area of primary care and family medicine.

b. That there is a serious shortage of primary care physicians and dentists to satisfy the demands for health services of the populations of such areas.

C. 18A:72D-3 Definitions.

3. As used in this act:

a. "Physician-Dentist Loan Redemption Program" means a program which shall provide for the redemption of a portion of the indebtedness of its participants, which has been incurred through programs operated under authority granted to the New Jersey Higher Education Assistance Authority pursuant to N. J. S. 18A:72–10, and including those loans for students in medicine or dentistry for which the Federal Government has provided a loan insurance program.

b. "Resident" means a person who resides or has resided in New Jersey at such time or for such period of time as defined by the New Jersey Higher Education Assistance Authority.

c. "Primary care" includes the practice of family medicine, general internal medicine, general pediatrics, and general obstetrics, gynecology and other areas of medicine which the Commissioner of Health may define as primary care. Primary care also includes the practice of general dentistry and pedodontics.

d. "Eligible indebtedness" means all or part of the debt incurred by students to meet expenses associated with their undergraduate years of medical or dental education at the College of Medicine and Dentistry of New Jersey, or the Fairleigh Dickinson University School of Dentistry, the repayment of which has been guaranteed by the State or Federal Government. The Chancellor of Higher Education may establish a limit on the total amount of eligible indebtedness which may be redeemed for participants under the benefits of the program, provided that the total redemption of eligible indebtedness does not exceed $30,000.00.

e. "Undergraduate medical and dental education" means the period of time between entry into medical or dental school and the award of the medical (M.D., D.O.) or dental (D.M.D.) degree.

f. "Board eligible" means that a physician or dentist has successfully fulfilled the requirements for taking the certifying examinations of recognized specialty boards.

g. "Board certified" means that a physician or dentist has passed the qualifying exam of the specialty board and has fulfilled all the requirements leading to the formal certification of the physician or dentist by the specialty board and is so certified.

h. "Fifth Pathway" means a program approved by the Board of Higher Education for foreign medical graduates who completed their pre-medical training in an accredited United States college or university to assist them in gaining access to American Medical Association approved internships and residencies.

i. "Net income" means income from salaries or fees charged for services less expenses incurred in the delivery of these services.

C. 18A:72D-4 Physician-dentist loan redemption program; procedure for participation; redemption of loans; percentage of maximum redemption; criteria for determination.

4. a. There is hereby created a Physician-Dentist Loan Redemption Program within the Department of Higher Education for students of the College of Medicine and Dentistry of New Jersey and the Fairleigh Dickinson University School of Dentistry.

b. Medical students of the College of Medicine and Dentistry of New Jersey who are eligible and interested in participating in the loan redemption program shall sign a non-binding agreement with the Department of Higher Education upon completion of the final year of medical undergraduate training. At the end of their second year of residency training the participating physician shall be required to enter into contractual agreement with the Department of Higher Education. Dental students shall be requested to sign a non-binding agreement at the end of the third year or sixth semester of their undergraduate training and a binding agreement during their seventh semester of undergraduate training. This agreement shall specify the length of service and the total amount of the debt to be redeemed by the State in return for said services.

c. Maximum redemption of loans as provided under the loan redemption program shall amount to 30% of principal and interest of maximum eligible indebtedness, as defined by the Chancellor of Higher Education in return for 1 full year of service in a designated underserved area, an additional 30% for a second full year

of service, and an additional 25% for a third full year of service for a total redemption of eligible indebtedness of up to, but not to exceed, 85% or a maximum of $30,000.00.

d. The percentage of the maximum redemption of loans as defined by this section to be repaid in any one year on behalf of a participant in this program shall be contingent upon the net income of the participant in the same year. The annual amount of the loan to be redeemed will be determined on the basis of criteria set forth below:

(1) A participant with a net income of less than $30,000.00 will be entitled to 100% of the annual amount eligible for redemption.

(2) A participant with a net income of $30,000.00 but less than $35,000.00 will be entitled to 75% of the annual amount eligible for redemption.

(3) A participant with a net income of $35,000.00 but less than $40,000.00 will be entitled to 50% of the annual amount eligible for redemption.

(4) A participant with a net income of $40,000.00 but less than $45,000.00 will be entitled to 25% of the annual amount eligible for redemption.

(5) A participant with a net income of $45,000.00 but less than $50,000.00 will be entitled to 12.5% of the annual amount eligible for redemption.

(6) A participant with a net income of $50,000.00 or more will not be entitled to the annual amount eligible for redemption.

e. Prior to repayment of the annual amounts of eligible indebtedness, participants in the program shall be required to submit proof of net income to the Chancellor of Higher Education.

f. Service in an underserved area shall begin immediately upon graduation in the case of dentists who are participating in the loan redemption program or after residency if such training is required in a primary care dental specialty.

g. Service in an underserved area shall begin immediately after completion of residency in the case of physicians who are participating in the loan redemption program.

h. Physicians or dentists who have previously entered into contracts with the Department of Higher Education may nullify their agreement by notifying in writing the Department of Higher Education and assuming full responsibility for repayment of principal and interest at the appropriate market rate of the

full amount of their eligible indebtedness or that portion of the loan which has not been redeemed by the State in return for partial fulfillment of the contract. In no event shall service in an underserved area for less than the full calendar year of each period of service entitle the participant to any benefits under the loan redemption program. The participant seeking to nullify the contract shall be required to pay the unredeemed portion of indebtedness in not more than 10 years following termination of the contract minus the years of service already served under the contract.

i. In case of a program participant's death, total or permanent disability, the Chancellor of Higher Education shall nullify the service obligation of the student, thereby terminating the student's obligation to repay the unpaid balance of the redeemable portion of the loan and the accrued interest thereon, or where continued enforcement of the contract may result in extreme hardship, the chancellor may nullify or suspend the service obligation of the student.

j. In case of a program participant's conviction of a felony or misdemeanor or an act of gross negligence in the performance of service obligations or where the license to practice has been revoked, the chancellor shall have the authority to terminate the participant's service in the program and request repayment of the outstanding debt.

k. Students who are participating in Federal programs of a similar nature, which provide financial support for students in return for service in underserved areas of the Nation, shall not be eligible for participation in this loan redemption program unless after review and consideration, the chancellor finds that the student has extraordinary financial responsibilities making it essential for the student to use the loan resources of both Federal and State programs. Such cases shall be reviewed and approved by the chancellor on an individual basis. In such cases, the period of service to the State of New Jersey may be served simultaneously with the Federal service obligations if that obligation is being discharged by service within this State. Only that portion of the debt which has been guaranteed under the New Jersey Higher Education Assistance Authority or by the Federal Government shall qualify for redemption under the loan redemption program.

C. 18A:72D-5 Technical advisory committee on health data; appointment; membership; designation of underserved areas; criteria; regulations.

5. a. The designation of underserved areas shall be the responsibility of the Commissioner of Health with the assistance of the Technical Advisory Committee on Health Data. This committee shall be appointed by the Commissioner of Health and shall as a minimum include representatives from the State Departments of Health, Higher Education, Human Services, Law and Public Safety, College of Medicine and Dentistry of New Jersey, Fairleigh Dickinson University—School of Dentistry, New Jersey Medical Society, New Jersey Association of Osteopathic Physicians and Surgeons, New Jersey Dental Association, New Jersey Hospital Association, local health planning agencies, a medical and dental student, and nongovernment experts in the field of health manpower and health services planning.

b. An underserved area may be designated as a physician or dentist shortage area.

c. The Commissioner of Health shall be required annually to transmit the list of designated underserved areas and the number of positions needed in each area to the Chancellor of Higher Education, and shall, within the criteria set forth in section 5, subsections d. and e., rank undeserved areas by greatest need.

d. For purposes of the loan redemption program, a medically underserved area shall be defined as:

(1) an urban or rural area which need not conform to the geographic boundaries of a political subdivision within the State but which shall be defined in terms of census tracts, if possible, which is a rational area for the delivery of health services and whose residents the Commissioner of Health determines have a medical manpower shortage, or;

(2) a population group which the commissioner determines has a medical manpower shortage, or;

(3) a public or non-profit private health care facility or other facility which is so designated.

e. For the purpose of the loan redemption program, a dental designated underserved area shall be defined as a public or nonprofit private health care facility or other facility which the Commissioner of Health determines has a dental manpower shortage.

f. The criteria used by the Commissioner of Health in designating underserved areas shall include but not be limited to the following:

(1) the supply of primary care physicians and dentists by specialty relative to the population under consideration with a goal toward meeting current standards for physician and dentist to population ratios in primary care medical and dental specialties;

(2) the financial resources of the population under consideration;

(3) the population's access to medical and dental services;

(4) factors indicative of a need for such service with special consideration to relevant vital statistics;

(5) appropriate physician and dentist staffing ratios of State, county, municipal and private non-profit health care facilities;

(6) the percentage of physicians and dentists who are not graduates of American medical schools, Fifth Pathway programs or are not board eligible or board certified, serving such areas, population groups or health care facilities; and,

g. The Commissioner of Health shall have authority to establish such regulations as are necessary to assure that participants in the Loan Redemption Program are being utilized most effectively to best serve the patients and to enhance the skills of the participants within health care facilities in underserved areas.

h. Prior to repayment of the annual amount eligible for redemption, program participants who have established or are employed in private practices or institutions within a shortage area as defined by sections 5(d) and 5(e) must submit evidence to the Chancellor of Higher Education that he or she is in fact serving those area residents or that population having such a shortage as determined by the Commissioner of Health. The Chancellor of Higher Education shall have the authority to establish regulations to assure the collection of appropriate data for this purpose.

C. 18A:72D-6 New program positions; basis for determination; minimum criteria for student selection; combined maximum number of program positions.

6. a. The Chancellor of Higher Education shall annually determine the number of new program positions available on the basis of:

(1) the need for physicians, dentists or both in underserved areas as determined by the Commissioner of Health and,

(2) the fiscal impact on the State of the cost of implementing the program.

b. Once the number of positions available in the program for a given year has been determined the Chancellor of Higher Education with the assistance of an advisory committee shall assume the responsibility for selecting students. The Board of Higher Education shall determine by regulation the composition of said advisory committee. A lottery system may be employed to select program participants after an eligible pool of students has been determined on the basis of criteria set forth here and in rules and regulations.

c. Minimum criteria for student selection should where applicable include:

(1) That the student is a resident of the State of New Jersey;

(2) Graduation from the College of Medicine and Dentistry of New Jersey or Fairleigh Dickinson University School of Dentistry;

(3) Financial need;

(4) Demonstrated interest in serving in underserved areas of the State;

(5) Demonstrated interest in the practice of primary care medicine;

(6) Demonstrated interest in the practice of general dentistry and pedodontics.

(7) In those specialties where residency training is required, first priority in student selection shall be given to students who serve in New Jersey residency programs approved by the Liaison Committee on Graduate Medical Education or the Office of Education of the American Osteopathic Association.

d. The combined maximum number of program positions shall not exceed 135 in any 1 year.

C. 18A:72D-7 Authorization to match program participants to underserved areas.

7. The chancellor with the advice of the Commissioner of Health is authorized to match program participants to underserved areas based upon the ranking of underserved areas established by the Commissioner of Health and on the basis of participant preference.

C. 18A:72D-8 Contributions to programs.

8. The Chancellor of Higher Education is authorized to receive contributions from communities, public and non-profit health care agencies or individuals who benefit from the program, which contributions shall be turned over to the general fund to help defray the costs of the program.

C. 18A:72D-9 Impact of program on manpower needs and health status; evaluation.

9. The impact of the Physician-Dentist Loan Redemption Program on the manpower needs and the health status of the State's population shall be evaluated by the Chancellor of Higher Education and the Commissioner of Health.

C. 18A:72D-10 Rules and regulations.

10. The Chancellor of Higher Education and the Commissioner of Health may promulgate such rules and regulations as are necessary to carry out the purposes of this act.

C. 18A:72D-11 Limit on appropriations.

11. Appropriations under this act shall not exceed $1,400,000.00 in any year.

12. There is appropriated †$30,000.00 for administrative costs for the fiscal year 1980.

13. This act shall take effect immediately.

Approved January 3, 1980.

† This $30,000.00 item is reduced to $15,000.00 by line item veto of the Governor.

STATEMENT TO
ASSEMBLY BILL NO. 263 (4th OCR)

To the Assembly:

Pursuant to Article V, Section 1, Paragraph 15 of the Constitution, I am signing Assembly Bill No. 263 (4th OCR) but reducing the fiscal year 1980 appropriation from $30,000.00 to $15,000.00 because only one-half year of fiscal year 1980 remains.

On page 8, section 12, line 2: $30,000.00 for administrative costs for the fiscal year 1980 is reduced to $15,000.00.

Respectfully,

/s/ BRENDAN BYRNE,
Governor.

Attest:
/s/ HAROLD L. HODES,
Chief of Staff, Secretary.

CHAPTER 273

AN ACT to establish a fund within the State Treasury to provide State Aid for County Improvement Authority bonds in certain cases, amending and supplementing P. L. 1947, c. 71, and amending the "Sales and Use Tax Act," approved April 27, 1966 (P. L. 1966, c. 30).

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

1. Section 2 of P. L. 1947, c. 71 (C. 40:48–8.16) is amended to read as follows:

C. 40:48-8.16 Definitions.

2. As used in this act:

"Retail sale" or "sale at retail" means and includes

(1) Any sale in the ordinary course of business for consumption of whiskey, beer or other alcoholic beverages by the drink in restaurants, cafes, bars, hotels and other similar establishments;

(2) Any cover charge, minimum charge, entertainment, or other similar charge made to any patron of any restaurant, cafe, bar, hotel or other similar establishment;

(3) The hiring, with or without service, of any room in any hotel, inn, rooming or boarding house;

(4) The hiring of any rolling chair, beach chair or cabana; and

(5) The granting or sale of any ticket, license or permit for admission to any theatre, moving picture exhibition or show, pier, exhibition, or place of amusement.

"Vendor" means any person selling or hiring property or services to another person upon the receipts from which a tax is imposed.

"Purchaser" means any person purchasing or hiring property or services from another person, the receipts from which are taxable.

2. Section 3 of P. L. 1947, c. 71 (C. 40:48–8.17) is amended to read as follows:

C. 40:48-8.17 Tax rate.

3. Any such ordinance may impose such tax at a rate not to exceed 5% through June 30, 1980; at a rate not to exceed 4% from

July 1, 1980 through June 30, 1981; and a rate not to exceed 3% on and after July 1, 1981.

3. Section 7 of P. L. 1947, c. 71 (C. 40:48–8.21) is amended to read as follows:

C. 40:48-8.21 Apportionment of revenues; schedule.

7. All revenues collected under any such ordinance shall be apportioned according to the following schedule:

(a) Through June 30, 1981, all such revenues shall be deposited in the general fund of the municipality and may be used for general municipal purposes, including the reduction and liquidation of bonded indebtedness, the payment of salaries, construction, reconstruction, maintenance and repair of municipal buildings, installations and properties, and for such other purposes as may be provided by existing ordinances or ordinances hereafter enacted for general municipal purposes;

(b) From July 1, 1981 through June 30, 1982, 66⅔% of such revenues shall be deposited and used as provided in subsection (a) of this section and 33⅓% of such revenues shall be paid over to the State Treasurer by the officer of the municipality designated for collection of such revenues for deposit in the fund established pursuant to the provisions of section 5 of this amendatory and supplementary act, to be used and distributed according to the terms herein provided;

(c) On and after July 1, 1982, all such revenues shall be paid over to the State Treasurer for deposit in the fund established pursuant to section 5 of this amendatory and supplementary act and distributed according to the terms herein provided.

C. 40:48-8.29 Adoption of provisions of act by municipal ordinance.

4. (New section) In any municipality in which the provisions of the act of which this act is amendatory and supplementary are presently operative pursuant to an ordinance and referendum thereon approving the same heretofore adopted and held in accordance with the provisions of said act, any ordinance to adopt the provisions of this amendatory and supplementary act shall, upon adoption, become operative within the municipality without any requirement to submit the same to the voters for their approval or disapproval. Such municipality may also provide and covenant by ordinance that the ordinance authorizing such tax will not be amended so as to repeal or reduce such tax while bonds entitled to the benefits of this Act are outstanding with the holders of such bonds, unless the resolution authorizing such bonds shall provide

otherwise. Such covenant shall constitute a valid and legally binding contract between such municipality and such holders.

C. 40:48-8.30 Fund; creation.

5. (New section) There is created a fund to be held by the State Treasurer, but not to exist in the State Treasury, to be the repository for moneys paid to the State Treasurer pursuant to this act and disbursed as provided herein.

C. 40:48-8.31 Disposition of moneys.

6. (New section) In the fiscal year beginning on July 1, 1981 and each fiscal year thereafter, the State Treasurer shall deposit the revenues to be paid in the fund created herein which shall be held and disbursed in such amounts as may be necessary to fulfill the purposes of this act and subject to the requirements as prescribed hereafter. Such revenues are hereby dedicated and pledged to such uses and for such purposes.

C. 40:48-8.32 Deposit of moneys in fund; application.

7. (New section) Beginning July 1, 1981, the revenues paid over to the State Treasurer pursuant to the provisions of section 3 of this amendatory and supplementary act shall be deposited in the fund created in section 5 of this amendatory and supplementary act and shall be applied from time to time pursuant to the provisions herein for the purposes of financing and maintaining facilities now or hereafter authorized pursuant to section 11 of P. L. 1960, c. 183 (C. 40:37A–54) located in any eligible municipality.

C. 40:48-8.33 Issuance of bonds; application for financing; review; approval.

8. (New section) (a) Prior to the adoption of any resolution of a county improvement authority authorizing the issuance of notes or bonds for an authorized facility located in an eligible municipality, and with respect to which an application for financing pursuant to the provision of this amendatory and supplementary act is to be made, an application for the proposed project financing shall be submitted to the Local Finance Board for review and approval of estimated annual payments on behalf of said project for all or a portion of its annual debt service covering principal and interest. The Local Finance Board shall, in connection with such review and approval, give consideration to the engineering and feasibility studies prepared in connection with the project financing and the terms and provisions of the proposed financing agreements including any reserve funds required by the resolution and security agreements, and the amounts of State revenues expected to be paid pursuant to the provisions of this amendatory

and supplementary act. In connection with its review, the Local Finance Board may consider any estimates, computations or calculations made in connection with such submission, may require the production of any papers, documents, witnesses or information to be made, any audit or investigation, and may take any action which it may determine advisable.

(b) The Local Finance Board shall approve the proposed project financing and annual payments from the fund created herein if it finds (i) that such proposal is an improvement or betterment advancing the health, safety and welfare of the persons served by said county improvement authority; (ii) that the project cost has been accurately calculated, that the terms and provisions of the proposed financing agreements are fair, reasonable and feasible and would not impose an undue burden on the persons served by the county improvement authority; (iii) that annual payments to be provided pursuant to this amendatory and supplementary act for said project in addition to whatever funds, if any, are to be provided from the revenues realized from said project, or from any other authorized revenue or funding sources, are adequate to meet the debt service obligations for said project as approved pursuant to this amendatory and supplementary act; (iv) that such agreement will not materially impair the ability of the county improvement authority to pay promptly the principal and interest on its outstanding indebtedness or to provide essential public services to the persons which said authority is required to support and to advance the objects and purpose of the authority or either of the aforesaid; (v) that the amounts to be expended for the facilities to be financed pursuant to such resolution are not unreasonable or exorbitant; and (vi) that issuance of the bonds to be authorized by such resolution will not materially impair the credit of any municipality within the jurisdiction of the authority, or substantially reduce its ability, during the ensuing 10 years, to pay punctually the principal and interest of its debts and supply essential public improvements and service. In addition, the Local Finance Board shall, in its review of the proposed financing agreement or agreements, give consideration to the nature and purpose of the project financing, the amounts, terms and schedule of payments required and the impact of such agreement on the budget and financial condition of the county improvement authority.

(c) Any approval granted by the Local Finance Board shall be in writing and shall be filed with the secretary of the authority. Such approval may contain such conditions as the Local Finance

Board may consider to be appropriate under the circumstances. Said approval shall include a statement of the principal amount of the bonds, or percentage thereof, for which payments will be made and the maturity schedule for such principal amount of bonds approved by said board. The Local Finance Board, in considering such copy of the resolution submitted to it and before endorsing its consent thereon may require the county improvement authority or the governing body of any eligible municipality served by such county improvement authority to adopt resolutions restricting or limiting any future proceedings therein or other matters or things deemed by the Local Finance Board to affect any estimate made or to be made by it in accordance with this section, and every such resolution so adopted shall constitute a valid and binding obligation of such county improvement authority or municipality, as the case may be, running to and enforceable by, and releasable by, the Local Finance Board.

C. 40:48-8.34 Resolution authorizing issuance of bonds; endorsement.

9. (New section) At any time within one year after an approval by the Local Finance Board pursuant to section 8 of this amendatory and supplementary act with respect to a county improvement authority, said authority shall submit to the Director of the Division of Local Government Services a copy of a resolution authorizing the issuance of bonds entitled to the benefits of this amendatory and supplementary act in accordance with said approval. If no such resolution is submitted within one year, said approval shall be of no further force and effect and the director shall so notify said authority. The Director of Local Government Services shall be and is hereby authorized to endorse upon any copy of such resolution a certification thereof as being the resolution to which a determination of the Local Finance Board has been made, and the endorsement shall be made in such form or manner as the director shall determine.

C. 40:48-8.35 Submission of board's approval and resolution to Treasurer.

10. (New section) A copy of the approval of the Local Finance Board referred to in section 8 of this amendatory and supplementary act and a copy of the resolution referred to in section 9 of this amendatory and supplementary act, bearing the endorsement of the Director of the Division of Local Government Services shall be submitted to the State Treasurer.

C. 40:48-8.36 Maturity schedule.

11. (New section) If the county improvement authority shall determine by resolution that the maturity schedule for bonds en-

titled to the benefits of this amendatory and supplementary act, other than the maturity schedule approved by the Local Finance Board by resolution pursuant to section 8 of this amendatory and supplementary act, is in the best interest of said authority, it may make application to the Local Finance Board setting forth such belief and the grounds therefor and requesting approval of a schedule of maturities for such bonds set forth in the application. If the Local Finance Board, by resolution, shall find that the schedule of maturities set forth in the application is in the best interest of the authority and the State, and that such application is well founded, and that issuance of the bonds mentioned and described in such application would not materially impair the credit of any municipality within the jurisdiction of the authority or substantially reduce its ability, during the ensuing 10 years, to pay punctually the principal and interest of its debts and supply essential public improvements and services, it shall cause its approval to be endorsed thereon within 60 days after submission to it, and shall forward said application to the Treasurer.

C. 40:48-8.37 Contents of bonds; manner of issuance of bonds.

12. (New section) All of such bonds when issued shall contain a recital to the effect that they are issued pursuant to the "county improvement authorities law" (P. L. 1960, c. 183) as amended and are entitled to the benefits of the provisions of this amendatory and supplementary act. Except as otherwise provided in this amendatory and supplementary act, any bonds entitled to the benefits of the provisions of this amendatory and supplementary act shall be authorized and issued in the manner provided for by the "county improvement authorities law." Bonds entitled to the benefits of the provisions of this act shall mature not later than 30 years from their date, without regard to any limitations as to maturities or amounts of annual installments for such bonds as provided in the "county improvement authorities law."

C. 40:48-8.38 Temporary notes; issuance.

13. (New section) Any county improvement authority which has authorized bonds which are entitled to the benefits of this amendatory and supplementary act may issue temporary notes or loan bonds, hereinafter called "notes", in anticipation of the issuance of permanent bonds to the extent permitted or provided by or pursuant to the provisions of the "county improvement authorities law" (P. L. 1960, c. 183) or any other applicable laws, subject to such additional terms or conditions with respect to such notes as may be fixed or required by the Director of the Division of Local

Government Services to insure that funds are borrowed only as needed to meet required payments for construction or acquisition of the facilities to be financed by the issuance of permanent bonds.

C. 40:48-8.39 Certification of exact amount to director.

14. (New section) Within 10 days after issuance of any bonds or notes entitled to the benefits of this act, and from time to time thereafter, the chief financial officer of the county improvement authority issuing such bonds or notes or his designee shall certify to the Director of the Division of Local Government Services that exact amount payable on account of debt service covering interest and principal on such bonds or notes in each year, the amount needed to fund any reserve fund required by such resolution, and the name and address of the paying agent or paying agents for such bonds or notes. The Director of the Division of Local Government Services shall thereupon verify said amounts and certify the same to the State Treasurer, together with the name and address of the paying agent or paying agents for such bonds or notes. The certification by the Director of the Division of Local Government Services as to amount payable in any year for debt service covering principal and interest on such bonds or notes shall be fully conclusive as to said payments for such bonds or notes, notwithstanding any irregularity, omission or failure as to compliance with any of the provisions of this amendatory and supplementary act with respect to such bonds or notes, provided that such bonds or notes contain a recital to the effect that they are entitled to the benefits of the provisions of this amendatory and supplementary act, and all persons shall be forever estopped from denying that such bonds or notes are entitled to the benefits of the provisions of this amendatory and supplementary act. Upon certification, the State Treasurer shall pay the amounts from the fund to the paying agent specified which will equal any deficiency so certified of principal and interest payments becoming due or any deficiency so certified to exist in any such required reserve fund.

C. 40:48-8.40 Payments made from fund.

15. (New section) All amounts to be paid from the fund established herein under the provisions of this amendatory and supplementary act with respect to any county improvement authority for debt service covering principal or interest on bonds or notes entitled to the benefits of this amendatory and supplementary act, or for funding any reserve fund required by such resolution, shall, on or before the date for such payment of interest and principal, be paid on behalf of the county improvement authority to the

paying agent or paying agents for such bonds or notes in the amount with respect to such date as reflects the amount of principal or interest, respectively, payable as to such date with respect to such authority. Amounts so paid to such paying agent or paying agents shall be applied to the payment of debt service covering principal and interest on such bonds or notes, or to fund such reserve, and for no other purpose.

C. 40:48-8.41 Investment and deposit of moneys.

16. (New section) Pending application to the purposes for which bonds or notes entitled to benefits of this amendatory and supplementary act are issued, the moneys in such fund shall be invested or deposited subject to regulations prescribed by the State Treasurer for the deposit of State Funds. Any income from such investment shall be added to such fund.

C. 40:48-8.42 Paying agents; designation.

17. (New section) No bonds or notes entitled to the benefits of this amendatory and supplementary act shall be issued unless there is designated therefor a trustee paying agent or paying agents, at least one of which is a bank or trust company authorized to do business in this State.

C. 40:48-8.43 Pledge or dedication of revenues, moneys or funds.

18. (New section) Any pledge or dedication of revenues, moneys or funds held by the State Treasurer made by the county improvement authority by such resolution or by the municipality by such ordinance shall be valid and binding from the time when the pledge is made; the revenues, moneys or funds so pledged and thereafter received by the State Treasurer shall immediately be subject to the lien of such pledge or dedication without any physical delivery thereof or further act, and the lien of any such pledge or dedication shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the State Treasurer, the county improvement authority or the municipality, irrespective of whether such parties have notice thereof.

All such provisions of said bond resolution and all such covenants, pledges and dedications, and agreements shall constitute valid and legally binding contracts between the authority and the several holders of the bonds entitled to the benefits of the provisions of this amendatory and supplementary act, and shall be enforceable by any such holder or holders by appropriate action or proceeding in any court of competent jurisdiction including a proceeding in lieu of prerogative writ.

19. Section 8 of P. L. 1966, c. 30 (C. 54:32B–8) is amended to read as follows:

C. 54:32B-8 Exempt sales.

8. Exempt sales. Receipts from the following shall be exempt from the tax on retail sales imposed under subsection (a) of section 3 and the use tax imposed under section 6:

(a) Sales of medicines and drugs sold pursuant to a doctor's prescription for human use; crutches, artificial limbs, artificial eyes, artificial hearing devices, corrective eyeglasses, prosthetic aids, artificial teeth or dentures, braces, tampons or like products, orthopedic appliances and artificial devices designed to correct or alleviate physical incapacity, medical oxygen, human blood and its derivative when sold for human use, wheelchairs, and replacement parts for any of the foregoing;

(b) Sales of food, food products, beverages except alcoholic beverages, excluding draft beer sold by the barrel, as defined in the Alcoholic Beverage Tax Law, dietary foods and health supplements, sold for human consumption off the premises where sold but not including (i) candy and confectionery, and (ii) carbonated soft drinks and beverages all of which shall be subject to the retail sales and compensating use taxes, whether or not the item is sold in liquid form. Nothing herein shall be construed as exempting food or drink from the tax imposed under subsection (c) of section 3;

(c) Sales of food sold in an elementary or secondary school cafeteria, sales of food sold in an institution of higher education or in a fraternity, sorority or eating club operated in connection therewith, to students of such an institution;

(d) Sales of articles of clothing and footwear for human use except articles made of fur on the hide or pelt of an animal or animals where such fur is the component material of chief value of the article. "Clothing" as used herein, shall also mean and include sales to noncommercial purchasers of common wearing apparel materials intended to be incorporated into wearing apparel as a constituent part thereof, such as fabrics, thread, knitting yarn, buttons and zippers. The director shall prescribe regulations to carry out the provisions of this subsection;

(e) Sales of newspapers, magazines and periodicals;

(f) Casual sales except as to sales of motor vehicles, whether for use on the highways or otherwise, and except as to sales of boats or vessels registered or subject to registration under the New

Jersey Boat Act of 1962 (P. L. 1962, c. 73, and all amendments thereto);

(g) Sales of gas, water, steam, fuel, electricity, telephone or telegraph services delivered to consumers through mains, lines, pipe, or in containers or bulk;

(h) Sales of motor fuels as motor fuels are defined for purposes of the New Jersey Motor Fuel Tax Law; and sale of fuel to an airline for use in its airplanes or to a railroad for use in its locomotives;

(i) Tangible personal property sold through coin-operated vending machines at $0.10 or less, provided the retailer is primarily engaged in making such sales and maintains records satisfactory to the director;

(j) Sales not within the taxing power of this State under the Constitution of the United States;

(k) The transportation of persons or property;

(l) Sales, repairs, alterations or conversion of commercial ships, barges and other vessels of 50-ton burden or over, primarily engaged in interstate or foreign commerce, and of governmentally-owned ships, barges, and other vessels and property used by or purchased for the use of such vessels for fuel, provisions, supplies, maintenance and repairs (other than articles purchased for the original equipping of a new ship);

(m) (1) Sales of machinery, apparatus or equipment for use or consumption directly and primarily in the production of tangible personal property by manufacturing, processing, assembling or refining;

(2) Sales of machinery, apparatus or equipment for use or consumption directly and primarily in the production, generation, transmission or distribution of gas, electricity, refrigeration, steam or water for sale or in the operation of sewerage systems;

(3) Sales of telephone lines, cables, central office equipment or station apparatus, or other machinery, equipment or apparatus, or comparable telegraph equipment, for use directly and primarily in receiving at destination or initiating, transmitting and switching telephone or telegraph communication;

(4) The exemptions granted under this subsection shall not be construed to apply to sales, otherwise taxable, of machinery, equipment or apparatus whose use is incidental to the activities described in paragraphs (1), (2) and (3) of this subsection;

(5) The exemptions granted in this subsection (m) shall not apply to motor vehicles or to parts with a useful life of 1 year or less or tools or supplies used in connection with the machinery, equipment or apparatus described in this subsection;

(n) Sales of tangible personal property purchased for use or consumption directly and exclusively in research and development in the experimental or laboratory sense. Such research and development shall not be deemed to include the ordinary testing or inspection of materials or products for quality control, efficiency surveys, management studies, consumer surveys, advertising, promotions or research in connection with literary, historical or similar projects;

(o) Sales or use of wrapping paper, wrapping twine, bags, cartons, tape, rope, labels, nonreturnable containers, reusable milk containers and all other wrapping supplies when such use is incidental to the delivery of any personal property;

(p) Sales of tangible personal property (except automobiles, and except property incorporated in a building or structure) for use and consumption directly and exclusively in the production for sale of tangible personal property on farms, including stock, dairy, poultry, fruit, fur-bearing animals, and truck farms, ranches, nurseries, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards;

(q) Sales of tangible personal property sold by a mortician, undertaker or funeral director. However, all tangible personal property sold to a mortician, undertaker or funeral director for use in the conducting of funerals shall not be deemed a sale for resale and shall not be exempt from the tax imposed by this act;

(r) Sales of films, records, tapes or any type of visual or sound transcriptions to, or produced for exhibition in or use through the medium of, theatres and radio and television broadcasting stations or networks, and not used for advertising purposes;

(s) Sales of tangible personal property and services taxable under any municipal ordinance heretofore adopted pursuant to P. L. 1947, c. 71, which is in effect on April 27, 1966, but only to the extent such sales are taxable under said ordinance and subject to the following:

(1) To the extent that the tax that is or would be imposed under section 3 of P. L. 1966, c. 30 (C. 54:32B–3) is greater than the tax imposed by such ordinance, such sales shall not be exempt under this subsection; and

(2) To the extent permitted in the following schedule, irrespective of the rate of tax imposed by such ordinance: (i) Through June 30, 1980, such sales shall be exempt only to the extent that they are subject to taxation under such ordinance at a rate not exceeding 5%;

(ii) From July 1, 1980 through June 30, 1981, such sales shall be exempt only to the extent that they are subject to taxation under such ordinance at a rate not exceeding 4%;

(iii) On and after July 1, 1981, such sales shall not be exempt under this subsection;

(t) Sales of materials, such as chemicals and catalysts, used to induce or cause a refining or chemical process, where such materials are an integral or essential part of the processing operation, but do not become a component part of the finished product;

(u) Sales of school textbooks for use by students in a school, college, university or other educational institution, approved as such by the Department of Education or by the Department of Higher Education, when the educational institution, upon forms and pursuant to regulations prescribed by the director, has declared the books are required for school purposes and the purchaser has supplied the vendor with the form at the time of the sale;

(v) (Deleted by amendment.) P. L. 1970, c. 7, s. 5.

(w) Sales made to contractors, subcontractors or repairmen of materials, supplies or services for exclusive use in erecting structures, or building on, or otherwise improving, altering or repairing real property of organizations described in subsections (a) and (b) of section 9 of this act, provided any person seeking to qualify for this exemption shall do so pursuant to such rules and regulations and upon such forms as shall be prescribed by the director;

(x) The renting, leasing, licensing or interchanging of trucks, tractors, trailers or semitrailers by persons not engaged in a regular trade or business offering such renting, leasing, licensing or interchanging to the public, provided, that such renting, leasing, licensing or interchanging is carried on with persons engaged in a regular trade or business involving carriage of freight by such vehicles;

(y) Sales of cigarettes subject to tax under the Cigarette Tax Act;

(z) Sales of the Bible or similar sacred scripture of a bona fide church or religious denomination;

(aa) Sales of the flag of the United States of America and of the flag of the State of New Jersey;

(bb) Sales of locomotives, railroad cars and other railroad rolling stock, including repair and replacement parts therefor, track materials, and communication, signal and power transmission equipment, to a railroad whose rates are regulated by the Interstate Commerce Commission or by the Board of Public Utilities;

(cc) Sales of buses for public passenger transportation, including repair and replacement parts therefor, to bus companies whose rates are regulated by the Interstate Commerce Commission or the Board of Public Utilities or to an affiliate of said bus companies or to common or contract carriers for their use in the transportation of children to and from school. For the purposes of this subsection "affiliate" shall mean a corporation whose stock is wholly owned by the regulated bus company or whose stock is wholly owned by the same persons who own all of the stock of the regulated bus company.

(dd) Sales of newspaper production machinery, apparatus and equipment for use and consumption directly and primarily in the publication of newspapers in the production departments of a newspaper plant, including, but not limited to: engraving, enlarging and development equipment, internal process cameras and news transmission equipment, composing and pressroom apparatus and equipment, type fonts, lead, mats, ink, plates, conveyors, stackers, sorting, bundling, stuffing, labeling and wrapping equipment and supplies for any of the foregoing except that sales of motor vehicles, typewriters, and other equipment and supplies otherwise taxable under this act are not exempt.

(ee) The sale of advertising to be published in a newspaper.

(ff) Sales, renting or leasing of: commercial motor vehicles, and vehicles used in combination therewith, as defined in R. S. 39:1–1 and registered in New Jersey for more than 18,000 pounds; or which are operated pursuant to a certificate or permit issued by the Interstate Commerce Commission; and repair and replacement parts therefor.

(gg) The sale of gold or silver and storage thereof, in the form traded on any contract market or other board of trade or exchange licensed by the Federal Commodity Futures Trading Commission as defined in the Commodity Exchange Act, as amended; provided that the sale shall have been in fulfillment of the obligations of a contract for future delivery of gold or silver, or an option

to purchase or sell such commodity, entered into on and in accordance with the rules of such licensed contract or options market; provided, further that this exemption shall not apply with respect to any gold or silver subsequently converted to use by a purchaser and in such event such purchaser shall be liable for the sales and use tax imposed hereunder.

(hh) Sales of solar energy devices or systems designed to provide heating or cooling, or electrical or mechanical power by collecting and transferring solar-generated energy and including mechanical or chemical devices for storing solar-generated energy. The Director of the Division of Energy Planning and Conservation in the Department of Energy shall establish standards with respect to the technical sufficiency of solar energy systems for purposes of qualification for exemption.

C. 40:48-8.44 "Eligible municipality" defined.

20. For purposes of this amendatory and supplementary act, "eligible municipality" means any municipality imposing a tax under an ordinance adopted under this act.

21. This act shall take effect immediately, except for section 1, which shall take effect July 1, 1981.

Approved January 3, 1980.

CHAPTER 274

AN ACT to amend the "Sales and Use Tax Act," (P. L. 1966, c. 30), approved April 27, 1966.

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

1. Section 3 of P. L. 1966, c. 30 (C. 54:32B-3) is amended to read as follows:

C. 54:32B-3 Imposition of sales tax.

3. Imposition of sales tax. On and after July 1, 1966 and continuing through February 28, 1970 there is hereby imposed and there shall be paid a tax of 3%, and on and after March 1, 1970 there is hereby imposed and there shall be paid a tax of 5% upon:

(a) The receipts from every retail sale of tangible personal property, except as otherwise provided in this act.

(b) The receipts from every sale, except for resale, of the following services:

(1) Producing, fabricating, processing, printing or imprinting tangible personal property, performed for a person who directly or indirectly furnishes the tangible personal property, not purchased by him for resale, upon which such services are performed.

(2) Installing tangible personal property, or maintaining, servicing, repairing tangible personal property not held for sale in the regular course of business, whether or not the services are performed directly or by means of coin-operated equipment or by any other means, and whether or not any tangible personal property is transferred in conjunction therewith, except (i) such services rendered by an individual who is engaged directly by a private homeowner or lessee in or about his residence and who is not in a regular trade or business offering his services to the public, (ii) such services rendered with respect to personal property exempt from taxation hereunder pursuant to subsection (a) of section 8, (iii) services rendered with respect to trucks, tractors, trailers or semitrailers by a person who is not engaged, directly or indirectly through subsidiaries, parents, affiliates or otherwise, in a regular trade or business offering such services to the public, (iv) any receipts from laundering, dry cleaning, tailoring, weaving, pressing, shoe repairing and shoeshining, and (v) services rendered in installing property which, when installed, will constitute an addition or capital improvement to real property, property or land.

(3) Storing all tangible personal property not held for sale in the regular course of business and the rental of safe deposit boxes or similar space.

(4) Maintaining, servicing or repairing real property, other than a residential heating system unit serving not more than three families living independently of each other and doing their cooking on the premises, whether the services are performed in or outside of a building, as distinguished from adding to or improving such real property, by a capital improvement, but excluding services rendered by an individual who is not in a regular trade or business offering his services to the public, and excluding interior cleaning and maintenance services, garbage removal and sewer services performed on a regular contractual basis for a term not less than 30 days, other than window cleaning, and rodent and pest control.

(5) Advertising services except advertising services for use directly and primarily for publication in newspapers and magazines.

Wages, salaries and other compensation paid by an employer to an employee for performing as an employee the services described in this subsection are not receipts subject to the taxes imposed under this subsection (b).

Services otherwise taxable under paragraph (1) or (2) of this subsection (b) are not subject to the taxes imposed under this subsection where the tangible personal property upon which the services were performed is delivered to the purchaser outside this State for use outside this State.

(c) Receipts from the sale of food and drink except alcoholic beverages as defined in the Alcoholic Beverage Tax Law, in or by restaurants, taverns, vending machines or other establishments in this State, or by caterers, including in the amount of such receipts any cover, minimum, entertainment or other charge made to patrons or customers:

(1) In all instances where the sale is for consumption on the premises where sold.

(2) In those instances where the vendor or any person whose services are arranged for by the vendor, after the delivery of the food or drink by or on behalf of the vendor for consumption off the premises of the vendor, serves or assists in serving, cooks, heats or provides other services with respect to the food or drink, except for meals especially prepared for and delivered to homebound elderly, age 60 or older, and to disabled persons, or meals prepared and served at a group-sitting at a location outside of the home to otherwise homebound elderly persons, age 60 or older, and otherwise homebound disabled persons, as all or part of any food service project funded in whole or in part by government or as part of a private nonprofit food service project available to all such elderly or disabled persons residing within an area of service designated by the private nonprofit organization; and

(3) In those instances where the sale is for consumption off the premises of the vendor, and consists of a meal, or food prepared and ready to be eaten, of a kind obtainable in restaurants as the main course of a meal, including a sandwich, except where food other than sandwiches is sold in an unheated state and is of a type commonly sold in the same form and condition in food stores other than those which are principally engaged in selling prepared foods.

(4) Sales of food and beverage sold through coin-operated vending machines, at the wholesale price of such sale, which shall be defined as 70% of the retail vending machine selling price, except

sales of milk which shall not be taxed. Nothing herein contained shall effect other sales through coin-operated vending machines taxable pursuant to subsection (a) above or the exemption thereto provided by subsection (i) of section 8.

The tax imposed by this subsection (c) shall not apply to food or drink which is sold to an air line for consumption while in flight.

(d) The rent for every occupancy of a room or rooms in a hotel in this State, except that the tax shall not be imposed upon (1) a permanent resident, or (2) where the rent is not more than at the rate of $2.00 per day.

(e) (1) Any admission charge where such admission charge is in excess of $0.75 to or for the use of any place of amusement in the State, including charges for admission to race tracks, baseball, football, basketball or exhibitions, dramatic or musical arts performances, motion picture theatres, except charges to a patron for admission to, or use of, facilities for sporting activities in which such patron is to be a participant, such as bowling alleys and swimming pools. For any person having the permanent use or possession of a box or seat or a lease or a license, other than a season ticket, for the use of a box or seat at a place of amusement, the tax shall be upon the amount for which a similar box or seat is sold for each performance or exhibition at which the box or seat is used or reserved by the holder, licensee or lessee, and shall be paid by the holder, licensee or lessee.

(2) The amount paid as charge of a roof garden, cabaret or other similar place in this State, to the extent that a tax upon such charges has not been paid pursuant to subsection (c) hereof.

2. This act shall take effect immediately.

Approved January 3, 1980.

CHAPTER 275

AN ACT concerning county improvement authorities, vesting them with necessary powers to undertake, finance and operate housing projects and to redevelop property in connection therewith, amending and supplementing the "county improvement authorities law," approved January 18, 1961 (P. L. 1960, c. 183; C. 40:37A–44 et seq.), and amending P. L. 1970, c. 38.

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

C. 40:37A-106 Legislature's findings.

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

a. The supply of decent and affordable housing, particularly for families of low and moderate income has become increasingly scarce, especially in certain areas of this State.

b. In communities experiencing rapid development and the problems associated with the economic impact of land speculation, the cost of developing comprehensive housing programs is prohibitive, thus calling for action in the form of mortgage and housing finance assistance for the development of private housing programs by appropriate governmental agencies.

c. The "county improvement authorities law," P. L. 1960, c. 183 (C. 40:37A–44 et seq.) provides for the creation of a county level agency which, with the cooperation and approval of the governing body of a municipality, may undertake certain improvement and development projects within that municipality. Such an agency, and county and municipal government interaction, are appropriate to provide a means of addressing the need to create a supply of decent and affordable housing, based upon programs which, at the State level, have shown substantial success in providing new and rehabilitated housing units, particularly in urban areas.

C. 40:37A-107 Definitions.

2. (New section) As used in this act:

a. "Authority" means any public body created pursuant to the "county improvement authorities law," P. L. 1960, c. 183 (C. 40:37A–44 et seq.).

b. "Bonds, bond anticipation notes and other notes and obligations," or "bonds, bond anticipation notes or other notes or obligations" means any bonds, notes, debentures or other evidences of financial indebtedness issued by the authority pursuant to this act.

c. "Family" means two or more persons related by blood, marriage or adoption who live or expect to live together as a single household in the same dwelling unit; provided, however, that any individual who (1) has attained retirement age as defined in section 216a of the Federal Social Security Act, or (2) is under a disability as defined in section 223 of that act, or (3) is the surviving member of a family whose other members died during occupancy of a housing project, shall be considered as a family for

purposes of permitting continued occupancy of the dwelling unit occupied by such family. The authority may provide by rule or regulation that any other individual not specified in this subsection shall be considered as a family for the purpose of this subsection.

d. "Family of low and moderate income" means a family (1) whose income is too low to compete successfully in the normal rental or mutual housing market, and (2) whose gross aggregate family income does not exceed the limits established under this act.

e. "Gross aggregate family income" means the total annual income of all members of a family, from whatever source derived, including, but not limited to, pension, annuity, retirement and social security benefits; except that the authority may, by rule or regulation, exclude therefrom: (1) such reasonable allowances for dependents, (2) such reasonable allowances for medical expenses, (3) all or any part of the earnings of any family members below the age of 18 years, or of any other family members, other than the chief wage earner, (4) such income as is not received regularly by any family member, or (5) any two or more such items.

f. "Housing project" or "project" means any work or undertaking, whether new construction or rehabilitation, which is designed for the primary purpose of providing decent, safe and sanitary dwelling units for families of moderate income in need of housing; such undertaking may include any buildings, land, equipment, facilities, or other real or personal properties which are necessary, convenient, or desirable appurtenances, including, but not limited to, streets, sewers, utilities, parks, site preparation, landscaping, and such stores, offices, and such other nonhousing facilities, such as administrative, community, health, recreational, educational and welfare facilities as the authority determines to be necessary, convenient or desirable appurtenances.

g. "Municipality" means any municipality located within the county wherein the authority has been established.

h. "Mutual housing" means a housing project operated or to be operated upon completion of construction or rehabilitation exclusively for the benefit of the families of moderate income who are entitled to occupancy by reason of ownership of stock in the qualified housing sponsor, or as a coowner in a horizontal property regime pursuant to the "Horizontal Property Act," P. L. 1963, c. 168 (C. 46:8A–1 et seq.) or as a condominium unit owner pursuant to the "Condominium Act," P. L. 1969, c. 257 (C. 46:8B–1 et seq.); provided, however, the authority may adopt rules and

regulations permitting a reasonable percentage of space in such project to be rented for residential or for commercial use.

i. "Project cost" means the sum total of all costs incurred in the development of a housing project, which are approved by the agency as reasonable and necessary, less any and all net rents and other net revenues received from the operation of the real and personal property on the project site during construction. Costs shall include, but are not necessarily limited to: (1) cost of land acquisition and any buildings thereon, (2) cost of site preparation, demolition and development, (3) architect, engineer, legal, authority and other fees paid or payable in connection with the planning, execution and financing of the project, (4) cost of necessary studies, surveys, plans and permits, (5) insurance, interest, financing, tax and assessment costs and other operating and carrying costs during construction, (6) cost of construction, reconstruction, fixtures, and equipment related to the real property, (7) cost of land improvements, (8) necessary expenses in connection with initial occupancy of the project, (9) a reasonable profit or fee to the builder and developer, (10) an allowance established by the agency for working capital and contingency reserves, and reserves for any anticipated operating deficits during the first 2 years of occupancy, and, (11) the cost of such other items, including tenant relocation, as the authority shall determine to be reasonable and necessary for the development of the project.

All project costs shall be subject to approval and audit by the authority. The authority may adopt rules and regulations specifying in detail the types and categories of cost which shall be allowable if actually incurred in the construction or reconstruction of a housing project.

j. "Qualified housing sponsor" means: (1) any housing corporation qualified under the provisions of the "Limited-Dividend Nonprofit Housing Corporations or Associations Law," P. L. 1949, c. 184 (C. 55:16–1 et seq.), (2) any urban renewal corporation or association qualified under the provisions of the "Urban Renewal Corporation and Association Law of 1961," P. L. 1961, c. 40 (C. 40:55C–40 et seq.) or any urban renewal nonprofit corporation or association qualified under the provisions of "Urban Renewal Nonprofit Corporation Law of 1965," P. L. 1965, c. 95 (C. 40:55C–77 et seq.) which has as one of its purposes the construction, rehabilitation or operation of housing projects, (3) any general corporation formed under the provisions of Title 14 of the Revised Statutes or Title 14A of the New Jersey Statutes

which has as one of its purposes the construction, rehabilitation or operation of housing projects, (4) any corporation or association organized not for profit under the provisions of Title 15 of the Revised Statutes or any other law of this State which has as one of its purposes the construction, rehabilitation or operation of housing projects, (5) any horizontal property regime formed under the "Horizontal Property Act," P. L. 1963, c. 168 (C. 46:8A–1 et seq.) or any condominium formed under the "Condominium Act," P. L. 1969, c. 527 (C. 46:8B–1 et seq.), which has as one of its purposes the construction, rehabilitation or operation of housing projects, and (6) any individual or association approved by the authority as qualified to own, construct, rehabilitate, operate, manage and maintain, a housing project.

k. "Required minimum capital reserve" means the reserve amount required to be maintained in each housing finance fund under the provisions of this act.

l. "Amortized value" means for securities purchased at a premium above or a discount below par, the value as of any given date obtained by dividing the total amount of the premium or the discount at which such securities were purchased by the number of days remaining to maturity on such securities at the time of such purchase and by multiplying the amount so calculated by the number of days having passed from the date of such purchase; and (1) in the case of securities purchased at a premium, by deducting the product thus obtained from the purchase price, and (2) in the case of securities purchased at a discount, by adding the product thus obtained to the purchase price.

C. 40:37A-108 Powers and duties of authority; prerequisites for processing loan applications.

3. (New section) a. The authority, for the purpose of carrying out the purposes of this act, may:

(1) Accept from qualified housing sponsors applications for loans;

(2) Enter into agreements with qualified housing sponsors for permanent loans and temporary loans or advances in anticipation of such permanent loans for the construction or rehabilitation of housing projects; and,

(3) Make permanent loans and temporary loans or advances in anticipation of such permanent loans to qualified housing sponsors under the provisions of this act.

b. No application for a loan for the construction or rehabilitation of a housing project to be located in any municipality shall

be processed unless there shall be filed with the secretary of the authority prior to such application a certified copy of a resolution adopted by said municipality reciting that there is a need for low and moderate income housing projects in said municipality.

C. 40:37A-109 Application forms.

4. (New section) Every application for a loan to a qualified housing sponsor shall be made on forms furnished by the authority and shall contain such information as the authority shall require.

C. 40:37A-110 Considerations to be given in processing loan applications.

5. (New section) In considering any application for a loan, the authority shall give first priority to applications for loans for the construction or rehabilitation of housing projects, designed primarily to serve families whose incomes do not exceed the median for the standard metropolitan statistical area in which the project is located, and wherein 10% or more units will be subsidized by, or occupied by tenants whose rents will be subsidized by, any program of housing assistance, and which will be a part of, or constructed in connection with, an urban renewal program, and also shall give consideration to:

a. The comparative need of the area to be served by the proposed project for housing for families of low and moderate income, with particular emphasis on the needs of individuals and families displaced or caused to be displaced by public or private action;

b. The ability of the applicant to construct, operate, manage and maintain the proposed housing project;

c. The existence of zoning or other regulations to protect adequately the proposed housing project against detrimental future uses which could cause undue depreciation in the value of the project;

d. The proximity of the proposed project to, and the accessibility of, adequate parks, recreational areas, utilities, schools, transportation and parking;

e. The proximity of the proposed project to, and the accessibility of, places of adequate employment opportunities and,

f. Where applicable, the eligibility of the applicant to make payments in lieu of taxes to the municipality in which the housing project is located.

C. 40:37A-111 Terms and conditions.

6. (New section) Loans made by the authority shall be subject to the following terms and conditions:

a. The loan shall be for a period of time not in excess of 50 years as determined by the authority;

b. The amount of the loan shall not exceed 90% of the project cost as determined by the authority, except that in the case of projects to be owned, constructed, rehabilitated, operated, managed and maintained as mutual housing or by any corporation or association organized not for profit which has as one of its purposes the construction or rehabilitation of housing projects, the amount of the loan shall not exceed 100% of the project cost as determined by the authority; provided, however, that any such loan shall be subject to an agreement between the authority and any such corporation or association organized not for profit or for mutual housing, prohibiting the transfer of ownership or management responsibilities by said corporation or association at any time prior to repayment of at least 10% of the original loan, unless the transfer of ownership or management responsibilities is ordered by a court of competent jurisdiction to a qualified housing sponsor;

c. The interest rate on the loan shall be established by the authority at the lowest level consistent with the authority's cost of operation and its responsibilities to the holders of its bonds, bond anticipation notes and other obligations;

d. The loan shall be evidenced by a mortgage note or bond and by a mortgage which shall be a first lien on the project and which shall contain such terms and provisions and be in such form, as approved by the authority. The authority shall require the qualified housing sponsor receiving a loan or its contractor to post labor and materials, and construction performance, surety bonds in amounts related to the project cost as established by rule or regulation, and to execute such other assurances and guarantees as the authority may deem necessary, and may require its principals or stockholders to also execute such other assurances and guarantees as the authority shall deem necessary;

e. The loan shall be subject to an agreement between the authority and the qualified housing sponsor which will subject said qualified housing sponsor and its principals or stockholders to limitations established by the authority as to rentals and other charges, builders' and developers' profits and fees, and the disposition of its property and franchises, to the extent more restrictive limitations are not provided by the law under which the borrower is incorporated or organized;

f. The loan shall be subject to an agreement between the authority and the qualified housing sponsor limiting said qualified housing sponsor, and its principals or stockholders, to a return of 8% per annum of its investment in any housing project assisted with a loan from the authority. No qualified housing sponsor which is permitted by the provisions of the law under which it is organized or incorporated to earn a return on its investment, nor any of the principals or stockholders of such qualified housing sponsor, shall at any time earn, accept or receive a return greater than 8% per annum of its investment in any housing project assisted with a loan from the authority whether upon the completion of the construction or rehabilitation of such project, or upon the operation thereof, or upon the sale, assignment or lease of such project to any other person, association or corporation;

g. No loan shall be executed, except a loan made to a corporation or association organized not for profit which has as one of its purposes the construction or rehabilitation of housing projects or for mutual housing, unless the qualified housing sponsor agrees: (1) to certify upon completion of project construction or rehabilitation, subject to audit by the authority, either that the project cost as defined in this act exceeded the amount of the loan proceeds by 10% or more, or the amount by which the loan proceeds 90% of the project cost; and (2) to pay forthwith to the authority, to be applied to reduce the principal of the loan, the amount, if any, of such excess loan proceeds, subject to audit and determination by the authority. No loan shall be made to a corporation or association organized not for profit or for mutual housing unless it agrees to certify the project cost upon completion of the project, subject to audit and determination by the authority, and further agrees to pay forthwith to the authority, to be applied to reduce the principal of the loan, the amount, if any, by which the proceeds of the loan exceed the certified project cost, subject to audit and determination by the authority. Notwithstanding the provisions of this subsection, the authority may accept, in lieu of any certification of project cost as provided herein, such other assurances of the said project cost, in any form or manner whatsoever, as will enable the authority to determine with reasonable accuracy the amount of said project cost; and,

h. No loan shall be made for the construction or rehabilitation of a housing project for which tax exemption is granted by a municipality unless such tax exemption remains in effect during

the entire term of the loan, unless a lesser period of tax exemption is approved by the authority.

C. 40:37A-112 Powers of authority.

7. (New section) As a condition of the loan, the authority shall have the power at all times during the construction and rehabilitation of a housing project and the operation thereof:

a. To enter upon and inspect without prior notice any project, including all parts thereof, for the purpose of investigating the physical and financial condition thereof, and its construction, rehabilitation, operation, management and maintenance, and to examine all books and records with respect to capitalization, income and other matters relating thereto and to make such charges as may be required to cover the cost of such inspections and examinations;

b. To order such alterations, changes or repairs as may be necessary to protect the security of its investment in a housing project or the health, safety, and welfare of the occupants thereof;

c. To order any managing agent, project manager or owner of a housing project to do such acts as may be necessary to comply with the provisions of all applicable laws or ordinances, or of any rule or regulation of the authority, or of the terms of any agreement concerning the said project, or to refrain from doing any acts in violation thereof, and in this regard the authority shall be a proper party to file a complaint and to prosecute thereon for any violations of laws or ordinances as set forth herein;

d. To require the adoption and continuous use of uniform systems of accounts and records for a project and to require all owners or managers of same to file annual reports containing such information and verified in such manner as the authority shall require, and to file at such times and on such forms as it may prescribe, reports and answers to specific inquiries required by the authority to determine the extent of compliance with any agreement, the terms of the loan, the provisions of this act, or any other applicable law; and,

e. To enforce, by court action if necessary, the terms and provisions of any agreement between the authority and the qualified housing sponsor and the terms of any agreement between the qualified housing sponsor and any municipality granting tax exemption, as to schedules of rental or carrying charges, income limits as applied to tenants or occupants, or any other limitation imposed upon the qualified housing sponsor concerning the finances, construction or operation of the project.

New Jersey State Library

In the event of a violation by the qualified housing sponsor of the terms of any agreement between the authority and the qualified housing sponsor, or between the municipality granting tax exemption and the qualified housing sponsor, or in the event of a violation by the qualified housing sponsor of this act, or of the terms of the mortgage loan agreement or other loan agreement, or of any rules and regulations of the authority duly promulgated pursuant to this act, the authority may remove any or all of the existing officers and directors of such qualified housing sponsor and appoint such person or persons whom the authority in its sole discretion deems advisable, who may be officers or employees of the authority, as new officers or directors to serve in place of those removed. Officers or directors so appointed need not be stockholders or meet other qualifications which may be prescribed by the certificate of incorporation or bylaws of such qualified housing sponsor. In the absence of fraud or bad faith, officers or directors so appointed shall not be personally liable for debts, obligations or liabilities of such qualified housing sponsor. Officers or directors so appointed shall serve only for a period coexistent with the duration of such violation or until the authority is satisfied that such violation, or violations of a similar nature, have not and will not reoccur. Officers or employees of the authority who are so appointed as officers or directors shall serve in such capacity without compensation, but shall be reimbursed, if and as the certificate of incorporation or bylaws of such qualified housing sponsor may provide, for all necessary expenses incurred in the discharge of their duties as officers or directors so appointed of such qualified housing sponsor and for such other necessary expenses incurred in the discharge of their duties as officers or directors of such qualified housing sponsor as determined by the authority.

C. 40:37A-113 Admission to housing projects; limitation; cash investment; periodic examination of income.

8. (New section) a. Admission to housing projects constructed or rehabilitated under this act shall be limited to families of low and moderate income whose gross aggregate family income at the time of admission does not exceed six times the annual rental or carrying charges, including the value or cost of heat, light, water, sewerage, parking facilities and cooking fuel, of the dwellings that may be furnished to such families, or seven times said charges if there are three or more dependents. There may be included in the carrying charges to any family for residence in any mutual

housing project constructed or rehabilitated with a loan from the authority an amount equal to 6% of the original cash investment of the family in said mutual housing project and, to the extent authorized by the authority where not included in said carrying charges, the value or cost of repainting the apartment and replacing any fixtures or appliances. Notwithstanding the provisions of this section, no family or individual shall be eligible for admission to any housing project constructed or rehabilitated with a loan from the authority whose gross aggregate family income exceeds $32,100.00 as adjusted from time to time by the authority, by rules or regulations promulgated hereunder, so as to reflect changes in any wage or salary indices for this State as determined and prepared by any department, division, office or agency of this State; provided however, that with respect to any project financed by an authority mortgage insured or guaranteed by the United States of America or any agency or instrumentality thereof, the authority may adopt the admission standards for such projects then currently utilized or required by the guarantor or insurer.

b. The authority shall by rules and regulations provide for the periodic examination of the income of any person or family residing in any housing project constructed or rehabilitated with a loan from the authority. In the event that the gross aggregate family income of a family residing in any such housing project increases, and the ratio of such family income to the current rental or carrying charges of the dwelling unit becomes greater than the ratio prescribed for admission in subsection a. of this section but does not exceed by more than 25% the maximum family income permitted for admission to the project specified in such subsection, the owner or managing agent of such housing project shall permit the family to continue to occupy the unit. The authority or, with the approval of the authority, the qualified housing sponsor of any housing project constructed or rehabilitated with a loan from the authority, may terminate the tenancy or interest of any family residing in such housing project whose gross aggregate family income continues to exceed by more than 25% the maximum family income so permitted for a period of 6 months or more; provided, that no tenancy or interest of any such family in any such housing project shall be terminated except upon reasonable notice and opportunity to obtain suitable alternate housing, in accordance with rules and regulations of the authority; provided, further, that any such family, with the approval of the authority, may be permitted

to continue to occupy the unit, subject to payment of a rent or carrying charge surcharge to the qualified housing sponsor in accordance with a schedule of surcharges fixed by the authority. Said qualified housing sponsor shall pay such surcharge to the municipality granting tax exemption, but only up to an amount that, together with payments made to the municipality in lieu of taxes and for any land taxes, equals 25% of the total rents or carrying charges of the housing project for the current and any prior years that the project has been in operation. Any remainder of the surcharge, or the total surcharge if tax exemption has not been granted, shall be paid to the authority.

c. Any family residing in a mutual housing project required to remove from the project because of excessive income as herein provided shall be discharged from liability on any note, bond or other evidence of indebtedness relating thereto and shall be reimbursed, in accordance with the rules of the agency, for all sums paid by such family to the qualified housing sponsor on account of the purchase of stock or debentures as a condition of occupancy or on account of the acquisition of title for such purpose.

C. 40:37A-114 Rules and regulations; priority categories for displaced persons.

9. (New section) The authority shall establish rules and regulations concerning admissions to any housing project financed in whole or in part by loans authorized hereunder which shall provide priority categories for persons displaced or caused to be displaced by public or private action or by urban renewal projects, highway programs or other public works, persons living in substandard housing, persons and families who, by reason of family income, family size or disabilities have special needs, elderly persons, and families living under conditions violative of minimum health and safety standards.

C. 40:37A-115 Actions or proceedings against housing sponsors; appointment of receiver; reorganization of housing sponsor.

10. (New section) The authority may institute any action or proceeding against any qualified housing sponsor receiving a loan under the provisions of this act, or owning any housing project hereunder, in any court of competent jurisdiction to enforce the provisions of this act, or to foreclose its mortgage, or to protect the public interest, the tenants, the stockholders or creditors of such sponsor. In connection with any such action or proceeding, the authority may apply for the appointment of a receiver to take over, manage, operate and maintain the affairs of such qualified housing sponsor, and the authority through such agent as it shall designate

is hereby authorized to accept appointment as receiver of any such sponsor when so appointed by a court of competent jurisdiction.

The reorganization of any qualified housing sponsor shall be subject to the supervision and control of the authority and no such reorganization shall be had without the consent of the authority. Upon any such reorganization the amount of capitalization, including therein all stocks, income debentures and bonds and other evidence of indebtedness, shall be such as is authorized by the authority but not in excess of the fair value of the property received.

C. 40:37A-116 Foreclosure action; judgment.

11. (New section) In any foreclosure action involving a qualified housing sponsor, other than a foreclosure action instituted by the authority, the authority and the municipality in which any tax exemption is provided shall, in addition to other necessary parties, be made parties defendant. The authority and the municipality shall take all steps in such action necessary to protect the interest of the public therein, and no costs shall be awarded against the authority or the municipality.

Subject to the terms of any applicable agreement, contract or other instrument entered into or obtained pursuant to section 23 of this act, judgment of foreclosure shall not be entered unless the court to which application therefor is made shall be satisfied that the interest of the lienholder or holders cannot be adequately secured or safeguarded except by the sale of the property; and in such proceeding the court shall be authorized to make an order increasing the rental or carrying charges to be charged for the housing accommodations in the housing project involved in such foreclosure, or appoint a member of the authority or any officer of the municipality in which any tax exemption with respect to the projects provided, as a receiver of the property, or grant such other and further relief as may be reasonable and proper; and in the event of a foreclosure or other judicial sale, the property shall be sold only to a qualified housing sponsor which will manage, operate and maintain the project subject to the provisions of this act, unless the court shall find that the interest and principal on the obligations secured by the lien which is the subject of foreclosure cannot be earned under the limitations imposed by the provisions of this act and that the proceeding was brought in good faith, in which event the property may be sold free of limitations imposed by this act or subject to such limitations as the court may deem advisable to protect the public interest.

C. 40:37A-117 Sale of real property; written notice.

12. (New section) In the event of a judgment against any qualified housing sponsor in any action not pertaining to the foreclosure of a mortgage, there shall be no sale of any of the real property included in any housing project of such qualified housing sponsor except upon 60 days' written notice to the authority. Upon receipt of such notice the authority shall take such steps as in its judgment may be necessary to protect the rights of all parties.

C. 40:37A-118 Issuance of bonds; procedure.

13. (New section) a. The authority shall have the power and is hereby authorized to issue, from time to time, its bonds, bond anticipation notes and other notes and obligations in such principal amounts as in the opinion of the authority shall be necessary to provide sufficient funds for achieving any of its corporate purposes, including: the making of mortgage loans, the payment, funding or refunding of the principal of, or interest or redemption premiums on, any bonds, bond anticipation notes and other notes and obligations issued by it whether or not such have become due; the establishment or increase of reserves to secure or to pay such bonds, bond anticipation notes and other notes and obligations or interest thereon; and all costs or expenses of the authority incident to and necessary or convenient to carry out its corporate purposes and powers.

b. Except as may be otherwise expressly provided in this act or by resolution of the authority, every issue of bonds, bond anticipation notes or other notes or obligations shall be general obligations payable out of any moneys or revenues of the authority, subject only to any agreements with the holders of particular bonds, bond anticipation notes or other notes or obligations pledging any particular moneys or revenues. The authority may issue such types of bonds, bond anticipation notes or other notes or obligations as it may determine, including bonds, bond anticipation notes or other notes or obligations as to which the principal and interest are payable: (1) exclusively from the income and revenues of the authority resulting from projects financed with the proceeds of such bonds, bond anticipation notes or other notes or obligations; (2) exclusively from the income and revenues of the authority resulting from certain projects, whether or not such projects were financed in whole or in part from the proceeds of such bonds, bond anticipation notes or other notes or obligations; or, (3) from its revenues generally. Any such bonds, bond anticipation notes or other notes or obligations may be additionally

secured by a pledge of any grant, subsidy or contribution from the United States of America or an agency or instrumentality thereof or the State or any agency, instrumentality or political subdivision thereof, or any person, firm or corporation or a pledge of any income or revenues, funds or moneys of the authority from any source whatsoever.

c. Whether or not the bonds, bond anticipation notes and other notes and obligations issued pursuant to this act are of such form and character as to be negotiable instruments under the terms of Title 12A, Commercial Transactions, New Jersey Statutes, such bonds, bond anticipation notes and other notes and obligations and any coupon thereof are hereby made negotiable instruments within the meaning of and for all the purposes of said Title 12A, subject only to the provisions of the bonds and notes for registration.

d. Bonds, bond anticipation notes or other notes or obligations of the authority shall be authorized by resolution or resolutions of the authority and may be issued in one or more series and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates per annum or within such maximum rate, be in such denomination or denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable from such sources in such medium of payment at such place or places within or without this State, and be subject to such terms of redemption (with or without premium) all as such resolution or resolutions may provide.

e. Bonds, bond anticipation notes or other notes or obligations of the authority may be sold at public or private sale at such price or prices and in such manner as the authority shall determine. Every bond shall mature and be paid not later from the date thereof than 50 years. Every note shall mature and be paid not later than 5 years from the date thereof.

f. Bonds, bond anticipation notes and other notes and obligations of the 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 authority and shall not create or constitute any indebtedness, liability or obligation of the State or of any political subdivision, nor be or constitute a pledge of the faith and credit of the State or of any political subdivision; but all such bonds, bond anticipation notes and other notes and obligations, unless funded or refunded by bonds, bond anticipation notes

or other notes or obligations of the authority shall be payable solely from revenues or funds pledged or available for their payment as authorized in this act. Each bond, bond anticipation note or other note or obligation shall contain on its face a statement to the effect that the authority is obligated to pay the principal thereof or the interest thereon only from the revenues or funds of the authority, and that neither the State nor any political subdivision thereof is obligated to pay such principal or interest, and that neither the faith and credit nor the taxing power of the State or any political subdivision thereof is pledged to the payment of the principal of or the interest on such bonds, bond anticipation notes or other notes or obligations.

g. 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 authority to incur indebtedness or liability on behalf of or payable by this State or any political subdivision thereof.

C. 40:37A-119 Resolutions authorizing issuance of bonds; other provisions; contract; contents.

14. (New section) Any resolution or resolutions authorizing the issuance of bonds, bond anticipation notes or other notes or obligations or any issue thereof may contain provisions, except as expressly limited in this act, and except as otherwise limited by subsisting agreements with the holders of bonds, bond anticipation notes or other notes or obligations, which shall be a part of the contract with the holders thereof, as to the following:

a. The pledging of or creating a lien on, as security for the payment of the principal and redemption price of and interest on any bonds, bond anticipation notes, or other notes or obligations of the authority or of any issue thereof, all or any part of the revenues or assets of the authority to which its right then exists or may thereafter come into existence, and the moneys derived therefrom, including, but not limited to, loans to qualified housing sponsors, mortgages and other obligations securing same, the moneys received in payment of such loans and interest thereon, fees and charges payable from qualified housing sponsors, all or any part of any money, funds or property held in trust or otherwise by others for the payment of any bonds, bond anticipation notes or other notes or obligations of the authority, and all or any part of the proceeds of any bonds, bond anticipation notes or other notes or obligations, and covenanting against pledging all or any part of such revenues,

assets, moneys, funds or property, or against permitting or suffering any lien thereon;

b. Other provisions for the custody, collection, securing, investment and payment of any revenues, assets, moneys, funds or property of the authority or with respect to which the authority may have any rights or interest;

c. The use and disposition of the gross income from, and the payments of principal or interest received by the authority with respect to loans to qualified housing sponsors, or any income or proceeds from investments held by the authority or other income, revenues or receipts of the authority.

d. The establishment and setting aside of reserves or sinking funds, the making of charges and fees to provide for the same, and the regulation and disposition thereof;

e. The custody, application and disposition of the proceeds of any bonds, bond anticipation notes or other notes or obligations;

f. Limitations on the purpose to which the proceeds of sale of bonds, bond anticipation notes or other notes or obligations may be applied and pledging such proceeds to secure the payment of the bonds, bond anticipation notes, or other notes or obligations, or of any issue thereof;

g. Limitations on the issuance of additional bonds, bond anticipation notes or other notes or obligations, the terms upon which additional bonds, bond anticipation notes or other notes or obligations may be issued and secured, and on the refunding or purchase of outstanding bonds, bond anticipation notes or other notes or obligations of the authority;

h. The rank or priority of any such bonds, bond anticipation notes or other notes or obligations with respect to any lien or security or as to the acceleration of the maturity of any such bonds, bond anticipation notes or other notes or obligations;

i. The creation of special funds or moneys to be held in trust or otherwise for operating expenses, payment or redemption of bonds, bond anticipation notes or other notes or obligations, or for other purposes, and provisions for the use and disposition of the moneys held in such funds;

j. The procedure, if any, by which the terms of any contract or covenant with or for the benefit of the holders of any bonds, bond anticipation notes or other notes or obligations of the authority may be amended or abrogated, the amount of bonds, bond anticipation notes or other notes or obligations the holders of which

must consent thereto, and the manner in which such consent may be given;

k. 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;

l. The time or manner of enforcement or restraint from enforcement of any rights of the authority arising by reason of or with respect to nonpayment of principal or interest with respect to loans to qualified housing sponsors, mortgages securing such loans;

m. The definition of those acts or omissions to act which shall constitute a default in the obligations and duties of the authority and providing for the rights and remedies of the holders of bonds, bond anticipation notes or other notes or obligations in the event of such default; provided, however, that such rights and remedies shall not be inconsistent with the general laws of the State and other provisions of the act;

n. The vesting in a trustee or trustees within or without the State of such property, rights, powers and duties in trust as the authority may determine, which may include any or all of the rights, powers and duties of any trustee appointed by the holders of any bonds, bond anticipation notes or other notes or obligations and limiting or abrogating the right of the holders of any bonds, bond anticipation notes or other notes or obligations of the authority to appoint a trustee under this act or limiting the rights, powers and duties of such trustee;

o. Provision for a trust agreement by and between the authority and a corporate trustee which may be any trust company or bank having the powers of a trust company within the State, which agreement may provide for the pledging or assigning of any assets or income from assets to which or in which the authority has any rights or interest, and may further provide for such other rights and remedies exercisable by the trustee as may be proper for the protection of the holders of any bonds, bond anticipation notes or other notes or obligations of the authority and not otherwise in violation of law, and the said agreement may provide for the restriction of the rights of any individual holder of bonds, bond anticipation notes or other notes or obligations of the authority. All expenses incurred in carrying out the provisions of such trust agreement may be treated as a part of the cost of operation of the authority. The trust agreement may contain any further provisions which are reasonable to delineate further the respective rights,

duties, safeguards, responsibilities and liabilities of authority, individual and collective holders of bonds, bond anticipation notes and other notes or obligations of the authority, and the trustees;

p. The appointment of and provisions for the duties and obligations of a paying agent or paying agents or such other fiduciaries within or without the State;

q. Covenants to do or refrain from doing such acts and things as may be necessary or convenient or desirable in order to better secure any bonds, bond anticipation notes, or other notes or obligations of the authority, or which, in the discretion of the authority, will tend to make any bonds, bond anticipation notes or other notes or obligations to be issued more marketable, not withstanding that such covenants, acts or things may not be enumerated herein;

r. Any other matters which in any way affect the security or protection of the bonds, bond anticipation notes or other notes or obligations.

C. 40:37A-120 Pledge of revenues, moneys, funds or other property made by authority.

15. (New section) Any pledge of revenues, moneys, funds or other property made by the authority shall be valid and binding from the time when the pledge is made; the revenues, moneys, funds or other property so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether such 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 authority.

C. 40:37A-121 Execution of bonds and notes; liability.

16. (New section) Neither the members of the authority nor any person executing bonds, bond anticipation notes or other notes or obligations issued pursuant to this act shall be liable personally on such bonds, bond anticipation notes or other notes or obligations by reason of the issuance thereof.

C. 40:37A-122 Powers of authority.

17. (New section) The authority shall have power to purchase bonds, bond anticipation notes or other notes or obligations of the authority out of any funds available therefor. The authority may hold, cancel or resell such bonds, bond anticipation notes or other

notes or obligations subject to and in accordance with agreements with holders of its bonds, bond anticipation notes and other notes or obligations.

C. 40:37A-123 Housing finance bonds; creation; limitations.

18. (New section) a. The authority may create and establish one or more special funds to be known as housing finance funds and may pay into such housing finance funds: (1) any proceeds of the sale of the bonds, notes or other obligations to the extent provided in the resolution of the authority authorizing the issuance thereof; (2) the moneys directed to be transferred by the authority to such funds; and, (3) any other moneys which may be made available to the authority for the purposes of such funds from any other source or sources. The moneys held in or credited to any housing finance fund established under this act, except as hereinafter provided, shall be used solely for the payment of the principal of and interest on bonds or other obligations of the authority secured by such housing finance fund, as the same mature, required payments to any sinking fund established for the amortization of such bonds or other obligations (hereinafter referred to as "sinking fund payments"), the purchase or redemption of such bonds or other obligations of the authority or the payment of any redemption premium to be paid when such bonds or other obligations are redeemed prior to maturity; provided, however, that moneys in any such fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of such fund to less than the amount of principal (including sinking fund payments) and interest maturing and becoming due in the succeeding calendar year on the bonds or other obligations of the authority then outstanding and secured by such housing finance fund (such amount being hereafter referred to as the "required minimum capital reserve"), except for the purpose of paying principal and interest on the bonds or other obligations of the authority secured by such housing finance fund maturing and becoming due and sinking fund payments for the payment of which other moneys of the authority are not available. Any income or interest earned by or increment to, any such housing finance fund due to the investment thereof may be transferred to any other fund or account of the authority to the extent it does not reduce the amount of such housing finance fund below the required minimum capital reserve. In computing the amount of any housing finance fund for the purposes of this section, securities in which all or a portion of such housing finance fund are invested shall be valued

at par, if purchased at par, or, if purchased at other than par, at amortized value.

b. The authority shall not issue bonds or other obligations at any time when the maximum amount of principal (including sinking fund payments) and interest maturing and becoming due in the succeeding calendar year on the bonds or other obligations outstanding and then to be issued and secured by a housing finance fund will exceed the amount of such housing finance fund at the time of issuance, unless the authority, at the time of issuance of such bonds or other obligations, shall deposit in such housing finance fund, from the proceeds of the bonds or other obligations so to be issued or otherwise, an amount which, together with the amount then in such housing finance fund, will be not less than the required minimum capital reserve.

C. 40:37A-124 State's pledge; rights or remedies of bondholders.

19. (New section) The State of New Jersey does hereby pledge to and covenant and agree with the holders of any bonds, bond anticipation notes or other notes or obligations issued pursuant to the authority of this act that the State will not limit or alter the rights or powers hereby vested in the authority to perform and fulfill the terms of any agreement made with the holders of such bonds, bond anticipation notes or other notes or obligations, or in any way impair the rights or remedies of such holders until such bonds, bond anticipation notes and other notes or obligations, together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or in behalf of such holders, are fully met and discharged or provided for. The authority may include this pledge and agreement of the State in any agreement with the holders of bonds, bond anticipation notes and other notes or obligations issued by the authority.

C. 40:37A-125 Legal investment; authorized security for public deposits.

20. (New section) Notwithstanding any restriction contained in any other law, this State and all public officers, municipalities, counties, political subdivisions and public bodies and agencies thereof, all banks, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking or investment business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees and other

fiduciaries, may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any bonds, bond anticipation notes or other notes or obligations issued pursuant to this act, and such bonds, bond anticipation notes and other notes or obligations shall be authorized security for any and all public deposits.

C. 40:37A-126 Authority's property; exemption from taxation.

21. (New section) All property of the authority is hereby 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, bond anticipation notes or other notes or obligations issued pursuant to this act are hereby declared to be issued by a body corporate and public of this State and for an essential public and governmental purpose and such bonds, bond anticipation notes and other notes or obligations, and the interest thereon and the income therefrom, and all fees, charges, funds, revenues, income and other moneys received or to be received by the authority and pledged or available to pay or secure the payment of such bonds, bond anticipation notes or other notes or obligations, or interest thereon, shall at all times be exempt from taxation except for transfer, inheritance and estate taxes.

C. 40:37A-127 Exemption by virtue of execution or other judicial process.

22. (New section) All property of the authority, except as otherwise provided herein, 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 authority be a charge or lien upon its property; provided, that nothing herein contained shall apply to or limit the rights of the holder of any bonds, bond anticipation notes or other notes or obligations to pursue any remedy for the enforcement of any pledge or lien given by the authority on its revenues or other moneys.

C. 40:37A-128 Authorization to obtain insurance or guarantee of loan.

23. (New section) The authority is authorized and empowered to obtain, or aid in obtaining, from any department or agency of the United States any insurance or guarantee as to, or of or for the payment or repayment of interest or principal, or both, or any part thereof, on any loan or any instrument evidencing or securing the same, made or entered into pursuant to the provisions of this act; and notwithstanding any other provisions of this act to enter into any agreement, contract or any other instrument whatso-

ever with respect to any such insurance or guarantee, and except payment in such manner and form as provided therein in the event of default by the borrower.

C. 40:37A-129 Authorization to obtain insurance or guarantee of bonds or other obligations.

24. (New section) Authority is authorized and empowered to obtain from any department or agency of the United States any insurance or guarantee as to, or of or for the payment or repayment of interest or principal, or both, or any part thereof, on any bonds, bond anticipation notes or other notes or obligations issued by the authority pursuant to the provisions of this act; and notwithstanding any other provisions of this act to enter into any agreement, contract or any other instrument whatsoever with respect to any such insurance or guarantee except to the extent that such action would in any way impair or interfere with the agency's ability to perform and fulfill the terms of any agreement made with the holders of the bonds, bond anticipation notes or other notes or obligations of the authority.

C. 40:37A-130 Annual report; audit; contents.

25. (New section) On or before the last day of February in each year the authority shall make an annual report for the preceding calendar year to the governing body of the county and of each municipality in which a housing project financed by the authority is located.

The annual audit pursuant to section 45 of the "county improvement authorities law," P. L. 1960, c. 183 (C. 40:37A–88) shall include the activities of the authority pursuant to this act.

C. 40:37A-131 Authority's powers.

26. (New section) In order to carry out the purposes and provisions of this act, the authority in addition to any powers granted to it elsewhere in this act or the "county improvement authorities law," P. L. 1960, c. 183 (C. 40:37A–44 et seq.), shall have the following powers:

a. To conduct examinations and hearings and to hear testimony and take proof, under oath or affirmation, at public or private hearings, on any matter material for its information and necessary to carry out the provisions of this act;

b. To issue subpenas requiring the attendance of witnesses and the production of books and papers pertinent to any hearing before such authority or before one or more of the members of the authority appointed by it to conduct such hearing;

c. To apply to any court, having territorial jurisdiction of the offense, to have punished for contempt any witness who refuses to obey a subpena, or who refuses to be sworn or affirmed to testify, or who is guilty of any contempt after summons to appear;

d. To acquire by purchase, gift, foreclosure or condemnation any real or personal property, or any interest therein, to enter into any lease of property and to hold, sell, assign, lease, encumber, mortgage or otherwise dispose of any real or personal property, or any interest therein, or mortgage lien interest owned by it or under its control, custody or in its possession and release or relinquish any right, title, claim, lien, interest, easement or demand however acquired, including any equity or right of redemption, in property foreclosed by it and to do any of the foregoing by public or private sale, with or without public bidding, notwithstanding the provisions of any other law;

e. To adopt such rules and regulations as shall be expressly authorized by this act and such additional rules and regulations as shall be necessary or desirable to carry out the purposes of this act;

f. To borrow money or secure credit on a temporary, short-term, interim or on a long-term basis, and to issue negotiable bonds, bond anticipation notes or other notes or obligations and to provide for and secure the payment thereof and to provide for the rights of the holders thereof;

g. To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act, including contracts or agreements with qualified financial institutions for the servicing and processing of mortgage loans pursuant to this act;

h. To do and perform any acts and things authorized by the act under, through, or by means of its officers, agents or employees or by contracts with any person, firm or corporation;

i. To finance by mortgage loans or otherwise the construction or rehabilitation of housing projects and to make temporary loans or advances in anticipation of permanent loans;

j. To receive and accept aid or contributions from any source of money, property, labor or other things of value, to be held, used and applied to carry out the purposes of this act subject to such conditions upon which such grants and contributions may be made, including, but not limited to, gifts or grants from any department or agency of the United States or this State for payment of rent

supplements or rental assistance to eligible families or for the payment in whole or in part of the interest expense for a housing project or for any other purpose consistent with this act;

k. To enter into agreements to pay annual sums in lieu of taxes to any political subdivision of the State with respect to any real property owned or operated directly by the authority for purposes of this act;

l. To procure insurance against any loss in connection with its property, operations and assets (including mortgages and loans) in such amounts and from such insurers as it deems desirable;

m. To the extent permitted under its contract with the holders of bonds, bond anticipation notes and other notes or obligations of the authority, to consent to any modification with respect to rate of interest, time and payment of any installment of principal or interest, security or any other term of any mortgage, mortgage loan, mortgage loan commitment, contract or agreement of any kind to which the authority is a party;

n. To the extent permitted under its contract with the holders of bonds, bond anticipation notes and other notes or obligations, to enter into contracts with any qualified housing sponsor containing provisions enabling the said qualified housing sponsor to reduce the rental or carrying charges to persons unable to pay the regular schedule of charges where by reason of other income or payment from the authority, any department or agency of the United States or this State, such reductions can be made without jeopardizing the economic stability of the housing project;

o. To establish and revise from time to time and charge and collect such fees and charges including, but not limited to, payment for all costs of financing by the authority, services, mortgage insurance premiums, reserves against losses, reimbursement for advances made to the authority, as the authority shall determine are reasonable to enable the authority, to the extent feasible to be self-sustaining;

p. Subject to any agreement with holders of bonds, bond anticipation notes or other notes or obligations, to invest and reinvest any moneys of the authority not required for immediate use or disbursement, including proceeds from the sale of any bonds, bond anticipation notes or other notes or obligations and any moneys held in the housing finance funds, reserve funds or sinking funds, in such obligations, securities and other investments as the authority shall deem prudent;

q. Subject to any agreement with the holders of bonds, bond anticipation notes or other notes or obligations, to purchase bonds, bond anticipation notes or other notes or obligations of the authority out of any funds or money of the authority available therefore, and to hold, cancel to resell such bonds, bond anticipation notes or other notes or obligations;

r. To provide, contract or arrange for, where by reason of the financing arrangement review of the application and proposed construction of a project is required by or in behalf of any department or agency of the United States, consolidated processing of any such application or supervision to avoid duplication thereof by either undertaking the processing in whole or in part for any such department or agency or, in the alternative, delegating the processing in whole or in part to any such department or agency;

s. To make mortgage loans and to participate with any department or agency of the United States, this State, a municipality, or any banking institution, foundation, labor union, insurance company, trustee or fiduciary in a loan to a qualified housing sponsor secured by a single participating mortgage or by separate mortgages, the interest of each having equal priority as to lien in proportion to the amount of the loan so secured, but need not be equal as to interest rate, time or rate of amortization or otherwise and to undertake commitments to make such loans;

t. To sell, at public or private sale, with or without bidding, any mortgage or other obligation securing a mortgage loan made by the authority;

u. To make commitments to purchase, and to purchase, service and sell, mortgages insured by any department or agency of the United States, and to make loans directly upon the security of any such mortgage;

v. To provide qualified housing sponsors with such advisory consultation, training and educational services as will assist them to plan, construct, rehabilitate and operate housing projects for moderate income families, including but not limited to assistance in community development and organization, home management and advisory services for the residents of the housing projects, and to encourage community organizations to assist in developing such projects;

w. To encourage research in, and demonstration projects to develop, new and better techniques and methods for increasing the supply of housing for moderate income families and to engage in such research and demonstration projects and to receive and

accept contributions, grants or aid, from any source, public or private, including, but not limited to the United States and this State, for carrying out this purpose.

x. To provide to qualified housing sponsors through mortgage loans or otherwise, financing or refinancing of fully completed, as well as partially completed, projects which may or may not be occupied, provided that said projects meet all the requirements of the act; and,

y. To do any and all things necessary or convenient to carry out its purposes and exercise the powers given and granted in the act.

C. 40:37A-132 Services rendered to authority by State and county governments.

27. (New section) All officers, departments, boards, agencies, divisions and commissions of the State and county are hereby authorized and empowered to render any and all of such services to the authority as may be within the area of their respective governmental functions as fixed or established by law, and as may be requested by the authority. The cost and expense of any such services shall be met and provided for by the authority.

C. 40:37A-133 Discrimination prohibited; violation of act; penalty.

28. (New section) No person shall be discriminated against, because of race, religious principles, color, national origin or ancestry, by the authority or any qualified housing sponsor or any agent or employee thereof in connection with any housing project or mortgage loan. Any person who shall be found guilty of violating the provisions of this section shall be a disorderly person and subject to a fine of not less than $500.00 or more than $2,500.00.

C. 40:37A-134 Powers enumerated in act; construction.

29. (New section) The powers enumerated in this act shall be interpreted broadly to effectuate the purposes thereof and shall not be construed as a limitation of powers.

C. 40:37A-135 Partial invalidity.

30. (New section) If any clause, sentence, subdivision, paragraph, section or part of this act be adjudged to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, subdivision, paragraph, section or part thereof directly involved in the controversy in which said judgment shall have been rendered.

31. Section 2 of P. L. 1960, c. 183 (C. 40:37A–45) is amended to read as follows:

C. 40:37A-45 Definitions.

2. As used in this act, unless a different meaning clearly appears from the context:

(a) "Authority" shall mean a public body created pursuant to this act;

(b) "Bond resolution" shall have the meaning ascribed thereto in section 16 of this act;

(c) "Bonds" shall mean bonds, notes or other obligations issued pursuant to this act;

(d) "Construct" and "construction" shall connote and include acts of clearance, demolition, construction, development or redevelopment, reconstruction, replacement, extension, improvement and betterment;

(e) "Cost" shall mean, in addition to the usual connotations thereof, the cost of planning, acquisition or construction of all or any part of any public facility or facilities of an authority and of all or any property, rights, easements, privileges, agreements and franchises deemed by the authority to be necessary or useful and convenient therefor or in connection therewith, including interest or discount on bonds, cost of issuance of bonds, architectural, engineering and inspection costs and legal expenses, cost of financial, professional and other estimates and advice, organization, administrative, operating and other expenses of the authority prior to and during such acquisition or construction, and all such other expenses as may be necessary or incident to the financing, acquisition, construction and completion of such public facility or facilities or part thereof and the placing of the same fully in operation or the disposition of the same, and also such provision or reserves for working capital, operating, maintenance or replacement expenses or for payment or security of principal of or interest on bonds during or after such acquisition or construction as the authority may determine, and also reimbursements to the authority or any governmental unit or person of any moneys theretofore expended for the purposes of the authority;

(f) The term "county" shall mean any county of any class of the State, and the term "the county" shall mean the county which created an authority pursuant to this act;

(g) "Development project" shall mean any lands, structures, or property or facilities acquired or constructed or to be acquired or constructed by an authority for the purposes of the authority described in clause (e) of section 11 of this act;

(h) "Facility charges" shall have the meaning ascribed to said term in section 14 of this act;

(i) "Facility revenues" shall have the meaning ascribed to said term in section 20(e) of this act;

(j) "Governing body" shall mean, in the case of a county, the board of chosen freeholders, or in the case of a county operating under article 3 or 5 of the "Optional County Charter Law" (P. L. 1972, c. 154; C. 40:41A–1 et seq.) as defined thereunder, and, in the case of a municipality, the commission, council, board or body, by whatever name it may be known, having charge of the finances of the municipality;

(k) "Governmental unit" shall mean the United States of America or the State or any county or municipality or any subdivision, department, agency, or instrumentality heretofore or hereafter created, designated or established by or for the United States of America or the State or any county or municipality;

(l) "Local bond law" shall mean chapter 2 of Title 40A, Municipalities and Counties, of the New Jersey Statutes (N. J. S.) as amended and supplemented;

(m) "Municipality" shall mean any city, borough, village, town, or township of the State but not a county or a school district;

(n) "Person" shall mean any person, partnership, association, corporation or entity other than a nation, State, county or municipality or any subdivision, department, agency or instrumentality thereof;

(o) "Project" shall have the meaning ascribed to said term in section 16 of this act;

(p) "Public facility" shall mean any lands, structures, franchises, equipment, or other property or facilities acquired or constructed or to be acquired or constructed by an authority for its purposes or, to the extent authorized by section 11 (C. 40:37A–54) for governmental and nongovernmental purposes, and either (i) operated or to be operated by the authority or by any governmental unit or person under a lease or other agreement by or with the authority or (ii) constituting a development project or redevelopment project;

(q) "Real property" shall mean lands within or without the State, above or below water, and improvements thereof or thereon, or any riparian or other rights or interests therein;

(r) "Garbage and solid wastes disposal system" shall mean the plants, structures and other real and personal property acquired,

constructed or operated or to be acquired, constructed or operated by a county improvement authority, including incinerators, sanitary landfill facilities or other plants for the treatment and disposal of garbage, solid waste and refuse matter and all other real and personal property and rights therein and appurtenances necessary or useful and convenient for the collection and treatment or disposal in a sanitary manner of garbage, solid waste and refuse matter (but not including sewage);

(s) "Garbage, solid waste or refuse matter" shall mean any refuse matter, trash or garbage from residences, hotels, apartments or any other public or private building but shall not include water-carried wastes or the kinds of wastes usually collected, carried away and disposed of by a sewerage system;

(t) "Blighted, deteriorated or deteriorating area" may include an area determined by the municipality to be blighted in accordance with the provisions of P. L. 1949, c. 187 (C. 40:55–21.1 et seq.) and, in addition, areas which are determined by the municipality, pursuant to the same procedures as provided in said law, to be blighted, deteriorated or deteriorating because of structures or improvements which are dilapidated or characterized by disrepair, lack of ventilation or light or sanitary facilities, faulty arrangement, location, or design, or other unhealthful or unsafe conditions;

(u) "Redevelopment" may include planning, replanning, conservation, rehabilitation, clearance, development and redevelopment; and the construction and rehabilitation and provision for construction and rehabilitation of residential, commercial, industrial, public or other structures and the grant or dedication or rededication of spaces as may be appropriate or necessary in the interest of the general welfare for streets, parks, playgrounds, or other public purposes including recreational and other facilities incidental or appurtenant thereto, in accordance with a redevelopment plan approved by the governing body of a municipality;

(v) "Redevelopment plan" shall mean a plan as it exists from time to time for the redevelopment of all or any part of a redevelopment area, which plan shall be sufficiently complete to indicate such land acquisition, demolition and removal of structures, redevelopment, improvements, conservation or rehabilitation as may be proposed to be carried out in the area of the project, zoning and planning changes, if any, land uses, maximum densities, building requirements, the plan's relationship to definite local objectives respecting appropriate land uses, improved traffic, public transporta-

tion, public utilities, recreational and community facilities, and other public improvements and provision for relocation of any residents and occupants to be displaced in a manner which has been or is likely to be approved by the Department of Community Affairs pursuant to the "Relocation Assistance Law of 1967," P. L. 1967, c. 79 (C. 52:31B–1 et seq.) and the "Relocation Assistance Act," P. L. 1971, c. 362 (C. 20:4–1 et seq.) and rules and regulations pursuant thereto;

(w) "Redevelopment project" shall mean any undertakings and activities for the elimination, and for the prevention of the development or spread, of blighted, deteriorated, or deteriorating areas and may involve any work or undertaking pursuant to a redevelopment plan; such undertaking may include: (1) acquisition of real property and demolition, removal or rehabilitation of buildings and improvements thereon; (2) carrying out plans for a program of voluntary repair and rehabilitation of buildings or other improvements; and, (3) installation, construction or reconstruction of streets, utilities, parks, playgrounds or other improvements necessary for carrying out the objectives of the redevelopment project;

(x) "Redeveloper" shall mean any person, firm, corporation or public agency that shall enter into or propose to enter into a contract with an authority for the redevelopment of an area or any part thereof under the provisions of this act; and,

(y) "Redevelopment area" shall mean an area of a municipality which the governing body thereof finds is a blighted area whose redevelopment is necessary to effectuate the public purposes declared in this act. A redevelopment area may include lands, buildings, or improvements which of themselves are not detrimental to the public health, safety or welfare, but whose inclusion is found necessary, with or without change in their condition, for the effective redevelopment of the area of which they are a part.

32. Section 11 of P. L. 1960, c. 183 (C. 40:37A–54) is amended to read as follows:

C. 40:37A-54 Purposes.

11. The purposes of every authority shall be (a) provision within the county of public buildings for use by the State, the county, or any municipality in the county, or any two or more or any subdivisions, departments, agencies or instrumentalities of any of the foregoing, including buildings for use by any municipality bordering on the Atlantic ocean as enlargements or parts

of or supplements to any municipal convention hall maintained by it, (b) provision within the county of structures, franchises, equipment and facilities for operation of public transportation or for terminal purposes, including development and improvement of port terminal structures, facilities and equipment for public use in counties in, along or through which a navigable river flows, (c) provision within the county of structures or other facilities used or operated by the authority or any governmental unit in connection with, or relative to development and improvement of, aviation for military or civilian purposes, including research in connection therewith, and including structures or other facilities for the accommodation of passengers, (d) provision within the county of a public facility for a combination of governmental and nongovernmental uses provided that not more than 50% of the usable space in any such facility shall be made available for nongovernmental use under a lease or other agreement by or with the authority, (e) acquisition of any real property within the county, with or without the improvements thereof or thereon or personal property appurtenant or incidental thereto, from the United States of America or any department, agency or instrumentality heretofore or hereafter created, designated or established by or for it, and the clearance, development or redevelopment, improvement, use or disposition of the acquired lands and premises in accordance with the provisions and for the purposes stated in this act, including the construction, reconstruction, demolition, rehabilitation, conversion, repair or alteration of improvements on or to said lands and premises, and structures and facilities incidental to the foregoing as may be necessary, convenient or desirable, (f) acquisition, construction, maintenance and operation of garbage and solid waste disposal systems for the purpose of collecting and disposing of garbage, solid waste or refuse matter, (g) the improvement, furtherance and promotion of the tourist industries and recreational attractiveness of the county through the planning, acquisition, construction, improvement, maintenance and operation of facilities for the recreation and entertainment of the public, which facilities may include, without being limited to, a center for the performing and visual arts, (h) provision of loans for the construction, reconstruction, demolition, rehabilitation, conversion, repair or alteration of buildings or facilities designed to provide decent, safe and sanitary dwelling units for persons of low and moderate income in need of housing, including land, equipment or other real or personal properties which the authority determines

to be necessary, convenient or desirable appurtenances, all in accordance with the provisions of this act, as amended and supplemented, (i) planning, initiating and carrying out redevelopment projects for the elimination, and for the prevention of the development or spread, of blighted, deteriorated or deteriorating areas and the disposition, for uses in accordance with the objectives of the redevelopment project, of any property or part thereof acquired in the area of such project, and (j) any combination or combinations of the foregoing.

33. Section 12 of P. L. 1960, c. 183 (C. 40:37A–55) is amended to read as follows:

C. 40:37A-55 Authority a body politic and corporate; additional powers.

12. Every authority shall be a public body politic and corporate constituting a political subdivision of the State established as an instrumentality exercising public and essential governmental functions to provide for the public convenience, benefit and welfare and shall have perpetual succession and, for the effectuation of its purposes, have the following additional powers:

(a) To adopt and have a common seal and to alter the same at pleasure;

(b) To sue and be sued;

(c) To acquire, hold, use and dispose of its facility charges and other revenues and other moneys;

(d) To acquire, rent, hold, use and dispose of other personal property for the purposes of the authority;

(e) Subject to the provisions of section 26 of this act, to acquire by purchase, gift, condemnation or otherwise, or lease as lessee, real property and easements or interests therein necessary or useful and convenient for the purposes of the authority, whether subject to mortgages, deeds of trust or other liens or otherwise, and to hold and to use the same, and to dispose of property so acquired no longer necessary for the purposes of the authority;

(f) Subject to the provisions of section 13 of this act, to lease to any governmental unit or person, all or any part of any public facility for such consideration and for such period or periods of time and upon such other terms and conditions as it may fix and agree upon;

(g) Subject to the provisions of section 13 of this act, to make agreements of any kind with any governmental unit or person for the use or operation of all or any part of any public facility for such

consideration and for such period or periods of time and upon such other terms and conditions as it may fix and agree upon;

(h) To borrow money and issue negotiable bonds or notes or other obligations and provide for and secure the payment of any bonds and the rights of the holders thereof, and to purchase, hold and dispose of any bonds;

(i) To apply for and to accept gifts or grants of real or personal property, money, material, labor or supplies for the purposes of the authority from any governmental unit or person, and to make and perform agreements and contracts and to do any and all things necessary or useful and convenient in connection with the procuring, acceptance or disposition of such gifts or grants;

(j) To determine the location, type and character of any public facility and all other matters in connection with all or any part of any public facility which it is authorized to own, construct, establish, effectuate or control;

(k) 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 public facility, and to amend the same;

(l) To do and perform any acts and things authorized by this act under, through or by means of its own officers, agents and employees, or by contracts with any governmental unit or person;

(m) To acquire, purchase, construct, lease, operate, maintain and undertake any project and to fix and collect facility charges for the use thereof;

(n) To mortgage, pledge or assign or otherwise encumber all or any portion of its revenues and other income, real and personal property, project and facilities for the purpose of securing its bonds, notes and other obligations or otherwise in furtherance of the purpose of this act;

(o) To extend credit or make loans to redevelopers for the planning, designing, acquiring, constructing, reconstructing, improving, equipping and furnishing any redevelopmet project or redevelopment work;

(p) To conduct examinations and investigations, hear testimony and take proof, under oath at public or private hearings of any material matter, require the attendance of witnesses and the production of books and papers and issue commissions for the examination of witnesses who are out of the State, unable to attend, or excused from attendance;

(q) To authorize a committee designated by it consisting of one or more members, or counsel, or any officer or employee to conduct any such investigation or examination, in which case such committee, counsel, officer or employee shall have power to administer oaths, take affidavits and issue subpenas or commissions; and,

(r) To enter into any and all agreements or contracts, execute any and all instruments, and do and perform any and all acts or things necessary, convenient or desirable for the purposes of the authority or to carry out any power expressly given in this act subject to P. L. 1971, c. 198 "Local Public Contracts Law" (C. 40A:11-1 et seq.).

C. 40:37A-55.1 Powers and duties of authority.

34. (New section) For purposes of the redevelopment of blighted, deteriorated or deteriorating areas, and subject to the provisions of this act, an authority may:

a. Acquire or contract to acquire from any person, firm or corporation, public or private, by contribution, gift, grant, bequest, devise, purchase, condemnation or otherwise, real or personal property or any interest therein, including such property as it may deem necessary or proper, although temporarily not required for such purposes, in a redevelopment area and in any area designated by the municipal governing body as necessary for carrying out the relocation of the residents, industry and commerce displaced from a redevelopment area;

b. Demolish, remove or rehabilitate buildings or other improvements on any area acquired and install, construct or reconstruct streets, facilities, utilities and site improvements essential to the preparation of sites for use in accordance with the redevelopment plan;

c. Relocate or arrange for the relocation of residents and occupants of an area;

d. Dispose of land so acquired for the uses specified in the redevelopment plan as determined by it to any person, firm, or corporation or to any public agency by sale, lease or exchange;

e. Request the municipal planning board, if any, to recommend and the municipal governing body pursuant to existing law to designate blighted areas in need of redevelopment and to make recommendations for such development;

f. Study the recommendations of the municipal planning board for redevelopment of any area and to make its own investigations and recommendations as to current trends in the municipality,

blighted areas and blighting factors, to the governing body of the municipality thereon;

g. Publish and disseminate information;

h. Prepare or arrange by contract for preparation of plans by registered architects or licensed professional engineers or planners for the carrying out of the redevelopment projects;

i. Arrange or contract with public agencies or redevelopers for the planning, replanning, conservation, rehabilitation, construction, or undertaking of any project, or redevelopment work; or any part thereof, to provide as part of any such arrangement or contract for extension of credit or making of loans to redevelopers to finance any project or redevelopment work, and to arrange or contract with public agencies for the opening, grading or closing of streets, roads, roadways, alleys, or other places or for the furnishing of facilities or for the acquisition by such agency of property options or property rights or for the furnishing of property or services in connection with a redevelopment area;

j. Arrange or contract with a public agency, to the extent that it is within the scope of that agency's functions, to cause the services customarily provided by such other agency to be rendered for the benefit of the occupants of any redevelopment area, and to have such other agency provide and maintain parks, recreation centers, schools, sewerage, transportation, water and other municipal facilities adjacent to or in connection with redevelopment areas;

k. Enter upon any building or property in any redevelopment area in order to conduct investigations or make surveys, soundings or test borings necessary to carry out the purposes of this act;

l. Arrange or contract with a public agency for the relocation of residents, industry or commerce displaced from a redevelopment area;

m. Make (1) plans for carrying out a program of voluntary repair and rehabilitation of buildings and improvements; and (2) plans for the enforcement of laws, codes, and regulations relating to the use of land and the use and occupancy of buildings and improvements, and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements; and,

n. Develop, test, and report methods and techniques, and carry out demonstrations and other activities, for the prevention and the elimination of blight.

35. Section 13 of P. L. 1960, c. 183 (C. 40:37A–56) is amended to read as follows:

C. 40:37A-56 Report to governing body; powers limited.

13. (1) Whenever an authority after investigation and study shall plan to undertake any public facility or facilities (other than a development project or redevelopment project) for the purposes of the authority, the authority shall make to the governing body of the county a detailed report dealing with the proposed public facility or facilities. Notwithstanding any other provision of this act, the authority shall not construct or acquire such public facility or facilities (other than a development project or redevelopment project), or make any lease or other agreement relating to use by any governmental unit or person of all or any part of any such public facility or facilities for a term in excess of 5 years, until there has been filed with the authority a copy of a resolution adopted by the governing body of the county, certified by its clerk, describing such public facility or facilities in terms sufficient for reasonable identification and consenting to the construction or acquisition thereof by the authority or the making of such leases or other agreements.

(2) Unless otherwise required by any agreement of the authority with holders of its bonds, no authority shall sell any part of a development project or make any lease or other agreement relating to use by any governmental unit or person of said part for a term in excess of 5 years (A) Until the Commissioner of Community Affairs (hereinafter called the "commissioner") has approved a plan (hereinafter called, with respect to such part, the "development plan") prepared by the authority which provides an outline for the development of said part sufficient, in the opinion of the commissioner: (i) to indicate its relationship to appropriate land uses in the area and proper traffic, public transportation, public utility, recreational and community facilities, and other public improvements, (ii) to indicate proposed land uses and building requirements and restrictions in said part, and (iii) to provide reasonable assurance that said part will not be in danger of becoming a blighted area and will be developed in a manner reasonably designed in the public interest to encourage industrial, commercial, residential or other proper uses thereof or restore or increase employment opportunities for residents of the State; or (B) Unless such sale, lease or other agreement, in the opinion of the authority, is necessary or desirable in order to effectuate and carry out the said development plan.

(3) Every authority shall have power, subject to the provisions of paragraph (2) of this section, to sell or otherwise dispose of all

or any part of any development project or to lease the same to any governmental unit or person or make agreements of any kind with any governmental unit or person for the use or operation thereof, for such consideration and for such period or periods of time and upon such other terms and conditions as it may fix and agree upon. In the exercise of such power, the authority may make any land or structure in the development project available for use by private enterprise or governmental units in accordance with the development plan at its use value, being the value (whether expressed in terms of rental or capital price) at which the authority determines such land or structure should be made available in order that it may be developed or used for the purpose or purposes specified in such plan. In order to assure that land or other property included in the development project is developed or used in accordance with the development plan, the authority, upon the sale, lease or other disposition of such land or property, shall obligate purchasers, lessees or other users: (A) to use the land or property for the purpose designated in such plan, (B) to begin the building or installation of their improvements or other property (if any), and to complete the same, within such periods of time as the authority may fix as reasonable, and (C) to comply with such other conditions as are necessary or desirable to carry out the purposes stated in this act. Any such obligations imposed on a purchaser of land shall be covenants and conditions running with the land where the authority so stipulates.

C. 40:37A-56.1 Redevelopment plan; approval.

36. (New section) No authority shall proceed with a redevelopment plan unless: (a) the municipality has first determined that the area to which said plan refers is blighted, which determination shall be made by the governing body of said municipality as provided by P. L. 1949, c. 187 (C. 40:55–21.1 et seq.); and, (b) the governing body of the municipality has first, by ordinance, approved a redevelopment plan after study and recommendation of its planning board, if any, and finds that said plan conforms to the definition of "redevelopment plan" in section 2 of the "county improvement authorities law," P. L. 1960, c. 183 (C. 40:37A–45).

C. 40:37A-56.2 Review of plan by board.

37. (New section) No municipality shall adopt a redevelopment plan until it first has been reviewed by the planning board, if there is a board in the municipality. The planning board shall be given an opportunity to make recommendations to the

governing body in connection with said redevelopment plan. The redevelopment plan shall conform to the master plan or any part thereof which has been approved by the planning board. Said redevelopment plan, as finally approved by the governing body, shall control. In considering the plans originally submitted or recommended to it, the governing body shall have the power to approve, disapprove or modify same.

C. 40:37A-56.3 Provisions of agreements, leases, deeds and other instruments between authority and redeveloper.

38. (New section) All agreements, leases, deeds and other instruments from or between the authority and to or with a redeveloper shall contain, without being limited to, the following provisions: (a) a convenant running with the land to the effect that the land, and any buildings or improvements thereon, shall only be used for the purposes designated in the redevelopment plan; (b) a provision that the redeveloper shall be without power to sell, lease, or otherwise transfer the redevelopment area or project or any part thereof without the prior written consent of the authority; and, (c) such other covenants, provisions and continuing controls as may be deemed necessary to effectuate the purposes of this act. Any lease to a redeveloper may provide that all improvements shall become the property of the authority. The execution of such a lease shall not impose upon the authority any liability for the financing, construction, management or operation of any redevelopment project, or any part thereof.

C. 40:37A-56.4 Cost and expenses of removal, reconstruction, alteration or relocation of property belonging to public utility.

39. (New section) If an authority shall undertake a redevelopment project and as a part of the project or in connection therewith any property owned or used by a public utility (as defined in R. S. 48:2–13) in furnishing any commodity or service which it is authorized by law to furnish, shall be removed, reconstructed, altered or relocated, the cost and expense of the removal, reconstruction, alteration or relocation of such property, including the cost of installing or replacing such property in a new location or new locations, and the cost of any lands or any rights or interests in lands, and any other rights acquired to accomplish such removal, reconstruction, alteration or relocation of such property less the cost of any lands or any rights or interests in lands or any other rights of the public utility paid to the public utility in connection with the removal, reconstruction, alteration or relocation of such property, shall be paid by the authority and shall be included in the

cost of the project. In case of the relocation of any such property the public utility owning or using the same, its successors and assigns, may maintain and operate such property, with the necessary appurtenances, in the new location or new locations, for as long a period and upon the same terms and conditions as it had the right to maintain and operate such property in its former location.

Every agreement entered into between an authority and any redeveloper for the undertaking of any redevelopment project or redevelopment work, or part thereof, shall include, and by this provision shall be deemed to include, even though omitted, a covenant, or agreement by the redeveloper that if as a part of the project or work, or in connection therewith, any property owned or used by a public utility (as defined in R. S. 48:2–13) in furnishing any commodity or service which it is authorized by law to furnish, shall be removed, reconstructed, altered or relocated, the cost and expense of the removal, reconstruction, alteration or relocation of such property, including the cost of installing or replacing such property in a new location or new locations, and the costs of any lands or any rights or interests in lands, and any other rights acquired to accomplish such removal, reconstruction, alteration or relocation, less the cost of any lands or any rights or interests in lands or any other rights of the public utility paid to the public utility in connection with the removal, reconstruction, alteration or relocation of such property, shall be paid by the redeveloper, party to such agreement, and shall be included in the cost of the project or work. In case of the relocation of any such property the public utility owning or using the same, its successors and assigns, may maintain and operate such property, with the necessary appurtenances in the new location or new locations for as long a period and upon the same terms and conditions as it had the right to maintain and operate such property in its former location.

In the event that as part of the redevelopment project the authority has agreed to pay for any or all items of expense described in this section and has included the same in the cost of the project, then the authority and the redeveloper shall not be obligated to include the cost of such work in any agreement with the redeveloper, nor shall the redeveloper be obligated to pay for same. The provisions of this section shall, however, be applicable with respect to all items of public utilities relocation expense described in this section, the responsibility for which the authority has not undertaken as part of the redevelopment project and has not assumed in any agreement with the redeveloper.

40. Section 40 of P. L. 1960, c. 183 (C. 40:37A–83) is amended to read as follows:

C. 40:37A-83 Payment in lieu of taxes.

40. Every authority and every municipality in which any property of the authority is located are hereby authorized and empowered to enter into agreements with respect to the payment by the authority to such municipality of annual sums of money in lieu of taxes on such property in such amounts as may be agreed upon between the authority and the municipality, and each such authority is empowered to make such payments and each such municipality is empowered to accept such payments and to apply them in the manner in which taxes may be applied in such municipality; provided, however, that no such annual payment with respect to any parcel of such property shall exceed the amount to be derived by applying the current general tax rate for the taxing district in which such property is located to the assessed and taxable value of such property for the taxable year immediately prior to the time of its acquisition by the authority. In the case of a new facility constructed and owned by the authority, the authority is empowered to enter into an agreement with the municipality to make payments in lieu of taxes on such facility, so long as such payments do not exceed the amount derived by applying the current local purposes tax rate for such taxing district to the actual cost of construction of the facility; provided, however, that in the first through fourth year of such payments they shall not exceed 40% of the amount so derived, in the fifth through eighth year 50% of the amount so derived, in the ninth through twelfth year 65% of the amount so derived, and in the thirteenth through sixteenth year 80% of the amount so derived, until in the seventeenth year and all subsequent years the payments shall not exceed the amount derived as hereinbefore described. Notwithstanding the aforesaid provisions of this section, whenever any person, pursuant to subsection d. or i. of section 11 of this act (C. 40:37A–54), shall occupy space within a public facility for a nongovernmental use which is not itself tax exempt, whether as lessee, vendee or otherwise, such person shall, as long as title thereto shall remain in the authority, pay to the political subdivision in which such facility is located a payment in lieu of taxes which shall equal the taxes on real and personal property, including water and sewer service charges or assessments, which such person would have been required to pay had it been the owner of such property or portion thereof during the period, and neither the

authority nor its projects, properties, money or bonds and notes shall be obligated, liable or subject to lien of any kind for the enforcement, collection or payment thereof. Further, notwithstanding the aforesaid provisions of this section, during the time an authority is managing, operating and maintaining real property for a redevelopment project prior to actual rehabilitation, clearance, development, or redevelopment of such property or sale, lease or other disposal of such property pursuant to the provisions hereof, it may pay to the municipality in which the real property is situated out of the net income from the property, in lieu of taxes, an annual service charge for municipal services supplied to said property in an amount not exceeding the tax on the property for the year it was acquired by the authority. The amount of such annual service charge shall be as set forth in a written agreement to be entered into between the municipality and the authority.

41. Section 6 of P. L. 1970, c. 38 (C. 17:1B–9) is amended to read as follows:

C. 17:1B-9 Loans; rules and regulations; conditions.

6. (a) The agency shall from time to time make loans to mortgage lenders so as to furnish, as rapidly as possible, funds to mortgage lenders for new residential loans.

(b) The agency shall from time to time adopt, modify, amend or repeal rules and regulations governing the making of such loans to mortgage lenders and the application of the proceeds thereof, including rules and regulations as to any or all of the following:

(1) Procedures for the submission of requests or the invitation of proposals for loans;

(2) Standards and requirements as to allocations of loans among all or certain of the mortgage lenders or awards of loans and determining the amounts and interest rates thereof;

(3) Limitations or restrictions as to the number of family units, location or other qualifications or characteristics of residences to be financed by new residential loans;

(4) Restrictions as to the maturities and interest rates on new residential loans or the return realized therefrom by mortgage lenders;

(5) Requirements as to commitments by mortgage lenders with respect to new residential loans;

(6) Schedules of any fees and charges necessary to provide for expenses and reserves of the agency; and

(7) Any other matters related to the duties and the exercise of the powers of the agency under this section.

Such rules and regulations shall be designed to effectuate the general purposes of this act and the following specific objectives: (i) the expansion of the supply of funds in the State available for new residential loans; (ii) the provision of the additional housing needed to remedy the shortage of adequate housing in the State and eliminate the existence of a large number of substandard dwellings; and (iii) the effective participation by mortgage lenders in the program authorized by the act and the restriction of the financial return and benefit thereto from such program to that necessary and reasonable to induce such participation.

(c) Loans to mortgage lenders shall be general obligations of the respective mortgage lenders owing the same and shall bear such date or dates, shall mature at such time or times, shall be evidenced by such note, bond or other certificate of indebtedness, shall be subject to prepayment, and shall contain such other provisions consistent with this section, all as the agency shall by resolution determine.

(d) Any other provision of this section to the contrary notwithstanding, the interest rate or rates and other terms of the loans to mortgage lenders made from the proceeds of any issue of bonds of the agency shall be at least sufficient so as to assure the payment of said bonds and the interest thereon as the same become due from the amounts received by the agency in repayment of such loans and interest thereon.

(e) The agency shall require as a condition of each loan to a mortgage lender that such mortgage lender thereafter proceed as promptly as practicable to make and disburse from such loan proceeds, new residential loans in an aggregate principal amount equal to the amount of such loan.

(f) The agency shall require that such loans to mortgage lenders shall be additionally secured as to payment of both principal and interest by a pledge of and lien upon collateral security in such amounts as the agency shall by resolution determine to be necessary to assure the payment of such loans and the interest thereon as the same become due. Such collateral security shall consist of (i) direct obligations of, or obligations guaranteed by, the United States of America; (ii) bonds, debentures, notes or other evidences of indebtedness, satisfactory to the agency, issued by any of the following Federal agencies: Bank for Cooperatives, Federal Intermediate Credit Bank, Federal Home Loan Bank Sys-

tem, Export-Import Bank of Washington, Federal Land Banks, the Federal National Mortgage Association or the Government National Mortgage Association; (iii) direct obligations of or obligations guaranteed by the State, obligations of governmental units of this State, including, but not limited to, capital notes, bond anticipation notes, tax anticipation notes and temporary notes or loan bonds, provided the obligations are rated at least A-1 by Moody's Bond Guide or AA by Standard and Poor's Bond Record or Survey; (iv) mortgages insured or guaranteed by the United States of America or an instrumentality thereof as to payment of principal and interest; or (v) other mortgages secured by real estate on which there is located a one-to-four family dwelling, the collateral value of which shall be determined by regulations issued from time to time by the agency. The agency may require that such mortgages be insured by a mortgage guaranty insurance company licensed to do business by the State of New Jersey. The agency may require that all collateral required to be maintained shall be deposited with the Federal Reserve Bank of New York, the Federal Reserve Bank of Philadelphia, the Federal Home Loan Bank of New York, as the case may be, or with any other banking institution located in the State or a contiguous state which is a member of the Federal Reserve System and has capital funds of not less than $25,000,000.00. Such depository arrangements shall be subject to prior approval by the agency. In the absence of such depository arrangement a mortgage lender shall upon receipt of the loan proceeds from the agency enter into an agreement with the agency containing such provisions as the agency shall deem necessary to adequately identify and maintain such collateral and service the same and shall provide that such mortgage lender shall hold such collateral as an agent for the agency and shall be held accountable as the trustee of an express trust for the application and disposition thereof and the income therefrom solely to the uses and purposes in accordance with the provisions of such agreement. A copy of each such agreement and any revisions or supplements thereto shall be filed with the Secretary of State and no further filing or other action under Title 12A, Commercial Transactions, of the New Jersey Statutes or any other law of the State shall be required to perfect the security interest of the agency in such collateral or any additions thereto or substitutions therefor, and the lien and trust for the benefit of the agency so created shall be binding from and after the time made against all parties having claims of any kind in tort, contract, or otherwise against

such mortgage lender. The agency may also establish such additional requirements as it shall deem necessary with respect to the pledging, assigning, setting aside, or holding of such collateral and the making of substitutions therefor or additions thereto and the disposition of income and receipts therefrom.

(g) The agency shall require the submission to it by each mortgage lender to which the agency has made a loan of evidence satisfactory to the agency of the making of new residential loans as required by this section and prescribed by rules and regulations of the agency and in connection therewith may inspect the books and records of such mortgage lender.

(h) The agency may require as a condition of any loans to mortgage lenders such representations and warranties as it shall determine to be necessary to secure such loans and carry out the purposes of the act.

(i) All new residential loans made as required by this section shall comply with the applicable provisions of the laws of the State, and, where Federal law or the law of another jurisdiction govern the affairs of the mortgage lender, shall comply with applicable provisions of such law.

(j) Compliance by any mortgage lender with the terms of this section and its undertaking to the agency with respect to the making of new residential loans may be enforced by decree of the Superior Court. The agency may require as a condition of any loan to any mortgage lender the consent of such mortgage lender to the jurisdiction of the Superior Court over any such proceeding. The agency may also require agreement by any mortgage lender, as a condition of the loan to such mortgage lender, to the payment of penalties to the agency for violation by the mortgage lender of any provision of this section or its undertaking to the agency with respect to the making of new residential loans, and such penalties shall be recoverable at the suit of the agency.

(k) If at any time the agency shall determine that an adequate supply of funds exists in regular banking channels for new residential loans, the agency shall discontinue the making of loans to mortgage lenders until such time as the agency may subsequently determine that the supply of funds available for new residential loans is again inadequate.

(l) The agency shall from time to time assess the housing needs of any municipality which is experiencing housing shortages as a result of the authorization of casino gaming and shall address the findings of such assessments when planning its programs.

C. 40:37A-68.1 Entering into contract to meet deficiency in revenues; approval by director.

42. (New section) No county improvement authority shall enter into any contract or agreement to meet any deficiency in its revenues in order to meet debt services on bonds, notes, or any other financing obligations for one or more housing projects or developments on any housing or mortgage financing, or for any operating or maintenance expenses of such authority for one or more housing projects or developments, unless the Director of the Division of Local Government Services, after reviewing such contract or agreement and the ability of any party to such contract or agreement to make any payments which may be required, shall give his approval.

43. This act shall take effect immediately.

Approved January 3, 1980.

CHAPTER 276

AN ACT appropriating certain funds from the State Facilities for Handicapped Fund for the construction of buildings to serve as schools for severely handicapped children.

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

1. There is appropriated to the Department of Education, from the State Facilities for Handicapped Fund, the sum of $5,478,898.00 for the following construction projects:

The planning, design, construction and renovation of regional day schools for severely handicapped students in the following counties:

Salem—to serve pupils from the region encompassing Salem, Gloucester, and Cumberland counties.

Camden—to serve pupils from the region encompassing Camden, Burlington, and Gloucester counties.

Atlantic—to serve pupils from the region encompassing Atlantic, Cape May, Cumberland, and Ocean counties.

Mercer—to serve pupils from the region encompassing Mercer, Monmouth, Ocean, and Burlington counties.

Ocean—to serve pupils from the region encompassing Monmouth, Middlesex, and Ocean counties.

Middlesex—to serve pupils from the region encompassing Middlesex, Somerset, Union, and Monmouth counties.

Hudson—to serve pupils in Hudson and Bergen counties.

Essex—to serve pupils from the region encompassing part of Essex, Union, and Passaic counties.

Essex—to serve any pupil classified as deaf or deaf and blind from the region encompassing Essex, Union, Hudson, Bergen, Passaic, Morris, Somerset, and Middlesex counties.

Morris—to serve pupils from the region encompassing Morris, Sussex, Somerset, Hunterdon, and Warren counties.

Contingency fund—for construction and furnishings for all ten schools.

Total—Department of Education $5,478,898.00

2. In addition, there is appropriated any interest earned on the proceeds derived from the sale of State Facilities for Handicapped Bonds for the projects described herein; provided, however, that the allocation of such interest earnings to specific projects shall be approved by the Director of the Division of Budget and Accounting.

3. There is also appropriated from the proceeds of the sale of the bonds authorized under P. L. 1973, c. 149, such items as may be necessary to meet any expense incurred by the issuing officials under said act, for advertising, engraving, printing, clerical, legal, or other services necessary to carry out the duties imposed upon them.

4. The appropriations authorized by this act shall be funded from proceeds of the sale of and interest earned on State Facilities for Handicapped Bonds. The issuance and sale of State Facilities for Handicapped Bonds has been provided for by P. L. 1973, c. 149 and approved by the people at the general election held on November 6, 1973.

5. The State Treasurer is authorized and directed to establish and maintain accounts in the State Facilities for Handicapped Fund for funds appropriated by this act.

6. The Department of Education may requisition funds from the State Facilities for Handicapped Fund for the purposes enumerated in section 1 of this act subject to the same restrictions and control as are exercised over all appropriated State funds but not inconsistent with the provisions of P. L. 1973, c. 149.

7. The Director of the Division of Budget and Accounting in the Department of the Treasury is authorized and directed to correct the title or text or both of any appropriation item enumerated in section 1 of this act if such correction is necessary to make the appropriation available for the purpose for which it was intended. Such correction shall be made by a written ruling which shall set forth an explanation of the reason for the correction and which shall bear the signature of the Director of the Division of Budget and Accounting and shall be filed by the director in his office as an official record. Such ruling and any action thereunder including disbursement of funds and their audit shall be legally binding and effective.

8. The Director of the Division of Budget and Accounting is authorized to approve expenditures for predesign program planning and other related costs for capital projects authorized under this act.

9. In order to provide flexibility in administering the provisions of this act, the Commissioner of Education may apply to the Director of the Division of Budget and Accounting for permission to transfer a part of any item to any other item within the respective department accounts in the State Facilities for Handicapped Fund. Upon the approval of such application by the director and by the Legislative Budget Officer in the Office of Legislative Services, in writing, the director shall make such transfer as provided by law.

10. This act shall take effect immediately.

Approved January 3, 1980.

CHAPTER 277

AN ACT concerning certain county and municipal officers and employees, repealing N. J. S. 40A:9–160, and supplementing Part A of chapter 9 of Title 40A of the New Jersey Statutes.

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

C. 40A:9-7.2 Time off with compensation to county employees to attend legislative sessions.

1. Any person employed by any county, municipality, or agency thereof who is a member of the Senate or General Assembly of the State of New Jersey shall be entitled to time off from his duties as such employee, without loss of pay, during the periods of his attendance at regular or special sessions of the Legislature and hearings or meetings of any legislative committee or commission.

2. N. J. S. 40A:9–160 is repealed.

3. This act shall take effect immediately.

Approved January 3, 1980.

CHAPTER 278

AN ACT concerning the submission of local ordinances to referendum, and amending R. S. 40:74–5, P. L. 1950, c. 210, and P. L. 1972, c. 154.

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

1. R. S. 40:74–5 is amended to read as follows:

Remonstrance against ordinance; petition; reconsideration; referendum; vote required for adoption.

40:74–5. If within 10 days after the final passage of an ordinance, except ordinances, or any portion thereof, fixing the salaries, wages or compensation of the employees of the municipality, as defined in section 3 of the New Jersey Employer-Employee Relations Act P. L. 1941, c. 100 (C. 34:13A–3), or ordinances authorizing an improvement or the incurring of an indebtedness, other than for current expenses, where other requirements are made by law, or ordinances which by their terms or by law cannot become effective in the municipality unless submitted to the voters, or which by its terms authorizes a referendum in the municipality concerning the subject matter thereof, a petition signed by electors of the municipality equal in number to at least 15% of the entire vote cast at the last preceding general municipal election protesting against the passage of such ordinance, be presented to the board, it shall thereupon be suspended from going into operation and the

board of commissioners shall reconsider the ordinance. If the ordinance is not entirely repealed, the board shall submit it, in the manner provided in paragraph b. of section 40:74–14 and sections 40:74–15 to 40:74–18 of this Title, to the vote of the electors of the municipality, either at the general election or at a special municipal election to be called for that purpose, and such ordinance shall not become operative unless a majority of the qualified electors voting on the ordinance shall vote in favor thereof.

2. Section 17–36 of P. L. 1950, c. 210 (C. 40:69A–185) is amended to read as follows:

C. 40:69A-185 Voters' power of referendum; petition; filing.

17–36. The voters shall also have the power of referendum which is the power to approve or reject at the polls any ordinance submitted by the council to the voters or any ordinance passed by the council, against which a referendum petition has been filed as herein provided. No ordinance passed by the municipal council, except when otherwise required by general law or permitted by the provisions of section 17–32 (b) of this act, shall take effect before 20 days from the time of its final passage and its approval by the mayor where such approval is required. If within 20 days after such final passage and approval of such ordinance a petition protesting against the passage of such ordinance shall be filed with the municipal clerk and if the petition shall be signed in the case of municipalities of 70,000 or less inhabitants by twenty-five per centum (25%) of the registered voters of the municipality and in the case of municipalities of more than 70,000 inhabitants, by fifteen per centum (15%) of the registered voters of the municipality, or in the case of municipalities in counties of the first class having a population in excess of 800,000, by voters of the municipality, equal to, or in excess of, in numbers fifteen per centum (15%) of the valid votes cast in the municipality at the last preceding election for members of the General Assembly, the ordinance shall be suspended from taking effect until proceedings are had as herein provided.

The provisions of this section shall not apply to any ordinance which by its terms or by law cannot become effective in the municipality unless submitted to the voters, or which by its terms authorizes a referendum in the municipality concerning the subject matter thereof.

3. Section 105 of P. L. 1972, c. 154 (C. 40:41A–105) is amended to read as follows:

C. 40:41A-105 Power of referendum; time for filing petition.

105. Power of referendum; time for filing petition. The voters shall have the power of referendum and, pursuant thereto, may approve or reject at the polls any ordinance submitted by the board to the voters or any ordinance passed by the board, against which a referendum petition has been filed as herein provided. No ordinance passed by the county board, except when otherwise required by general law or permitted by the provisions of section 116 or any other section of this act, shall take effect earlier than 20 days from the time of its final passage and its approval by the county executive or supervisor or board chairman or president where such approval is required. If within 20 days after such final passage and approval of such ordinance a petition protesting against the passage of such ordinance shall be filed with the county clerk and if the petition shall be signed by a percentage of the registered voters in numbers equal to 15% of the registered voters of the county as of 40 calendar days before the last most recent primary or general election, the ordinance shall be suspended from taking effect until proceedings are had as herein provided.

The provisions of this section shall not apply to any ordinance which by its terms or by law cannot become effective in the county unless submitted to the voters, or which by its terms authorizes a referendum in the county concerning the subject matter thereof.

4. This act shall take effect immediately, and shall be retroactive to, and apply to all ordinances adopted on or after, December 1, 1979.

Approved January 3, 1980.

CHAPTER 279

AN ACT appropriating certain funds from the Institutional Construction Fund for the construction of an Institute of Forensic Science.

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

1. There is hereby appropriated to the Department of Law and Public Safety, from the Institutional Construction Fund the sum of $4,500,000.00 for the purpose of constructing an Institute of Forensic Science of the Office of the State Medical Examiner.

2. There is also appropriated from the proceeds of the sale of of the bonds hereinafter mentioned, such sums as may be necessary to meet any expense incurred by the issuing officials under the act hereinafter mentioned, for advertising, engraving, printing, clerical, legal or other services necessary to carry out the duties imposed upon them by the provisions of said act.

3. The appropriations authorized by this act shall be funded from the proceeds of the sale of the Institutional Construction Bonds, the issuance and sale of which has been provided for in P. L. 1978, c. 79 and approved by the people at the general election held on November 7, 1978.

4. The State Treasurer is hereby authorized and directed to establish and maintain an account in the Institutional Construction Fund for funds appropriated by this act.

5. The Department of Law and Public Safety may requisition funds from the Institutional Construction Fund for the purposes enumerated above, subject to the same restrictions and control as are exercised over all appropriated State funds but not inconsistent with the provisions of P. L. 1978, c. 79.

6. This act shall take effect immediately.

Approved January 8, 1980.

CHAPTER 280

AN ACT to amend and supplement the "Corporation Business Tax Act (1945)," approved April 13, 1945 (P. L. 1945, c. 162).

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

1. Section 5 of P. L. 1945, c. 162 (C. 54:10A–5) is amended to read as follows:

C. 54:10A-5 Franchise tax; computation.

5. The franchise tax to be annually assessed to and paid by each taxpayer shall be the sum of the amount computed under subsec-

tion (a) hereof, or, in the alternative to the amount computed under subsection (a) hereof, the amount computed under subsection (f) hereof, and the amount computed under subsection (c) hereof:

(a) That portion of its entire net worth as may be allocable to this State as provided in section 6 multiplied by the following rates: 2 mills per dollar on the first $100,000,000.00 of allocated net worth; 4/10 of a mill per dollar on the second $100,000,000.00; 3/10 of a mill per dollar on the third $100,000,000.00; and 2/10 of a mill per dollar on all amounts of allocated net worth in excess of $300,000,000.00.

(b) (Deleted by amendment, P. L. 1968, c. 250, s. 2.)

(c) 3¼% of its entire net income or such portion thereof as may be allocable to this State as provided in section 6; provided, however, that with respect to reports covering accounting or privilege periods or parts thereof ending after December 31, 1967, the rate shall be 4¼%; and, that with respect to reports covering accounting or privilege periods or parts thereof ending after December 31, 1971, the rate shall be 5½%; and, that with respect to reports covering accounting or privilege periods or parts thereof ending after December 31, 1974, the rate shall be 7½%; and, that with respect to reports covering accounting or privilege periods or parts thereof ending after December 31, 1979, the rate shall be 9%.

(d) Provided, however, that the franchise tax to be annually assessed to and paid by any investment company or regulated investment company or real estate investment trust which has elected to report as such and has filed its return in the form and within the time provided in this act and the rules and regulations promulgated in connection therewith, shall, in the case of an investment company, be measured by 25% of its entire net income and 25% of its entire net worth, and, in the case of a regulated investment company or a real estate investment trust, by 4% of its entire net income and 15% of its entire net worth, at the rates hereinbefore set forth for the computation of tax on net income and net worth, respectively, but in no case less than $250.00.

(e) The tax assessed to any taxpayer pursuant to subsection (a) of this section shall not be less than the greatest of

(i) 5/10 of a mill per dollar on the first $100,000,000.00 and 2/10 of a mill per dollar on all amounts in excess of $100,000,000.00 of the average of the taxpayer's real and tangible personal property within the State allocated to this State in accordance with paragraph (A) of section 6 hereof (in the

case of a taxpayer which does not maintain a regular place of business outside this State other than a statutory office, the allocation shall be 100%); or

(ii) In the case of a domestic corporation, the least of the amounts prescribed by subparagraphs (aa) or (bb) or (cc) of this subsection (e);

(aa) An amount measured by the number of shares which the taxpayer is authorized to issue as follows: where authorized capital stock does not exceed 5,000 shares $25.00; where the authorized capital stock is in excess of 5,000 shares but does not exceed 10,000 shares $55.00; and where the authorized capital stock exceeds 10,000 shares, for the first 10,000 shares $55.00 and for each additional 10,000 shares or part thereof, $27.50; or

(bb) $^{11}/_{100}$ of a mill per dollar on the total assets of the corporation; or

(cc) $100,000.00; or

(iii) $25.00 in the case of a domestic corporation or $50.00 in the case of a foreign corporation.

(f) In lieu of the portion of the tax based on net worth and to be computed under subsection (a) of this section, any taxpayer, the value of whose total assets everywhere, less reasonable reserves for depreciation, as of the close of the period covered by its report, amounts to less than $150,000.00, may elect to pay the tax shown in the following table:

If total assets are at least	But less than	The Tax shall be For domestic corporations	The Tax shall be For foreign corporations
$0 00	$18,000 00	$25 00	$50 00
18,000 00	22,000 00	31 00	50 00
22,000 00	26,000 00	37 00	50 00
26,000 00	30,000 00	43 00	50 00
30,000 00	34,000 00	49 00	50 00
34,000 00	38,000 00	55 00	55 00
38,000 00	42,000 00	61 00	61 00
42,000 00	46,000 00	67 00	67 00
46,000 00	50,000 00	73 00	73 00
50,000 00	54,000 00	79 00	79 00
54,000 00	58,000 00	85 00	85 00
58,000 00	62,000 00	91 00	91 00
62,000 00	66,000 00	97 00	97 00

If total assets are at least	But less than	The Tax shall be For domestic corporations	For foreign corporations
66,000 00	70,000 00	103 00	103 00
70,000 00	74,000 00	109 00	109 00
74,000 00	78,000 00	115 00	115 00
78,000 00	82,000 00	121 00	121 00
82,000 00	86,000 00	127 00	127 00
86,000 00	90,000 00	133 00	133 00
90,000 00	94,000 00	139 00	139 00
94,000 00	98,000 00	145 00	145 00
98,000 00	102,000 00	151 00	151 00
102,000 00	106,000 00	157 00	157 00
106,000 00	110,000 00	163 00	163 00
110,000 00	114,000 00	169 00	169 00
114,000 00	118,000 00	175 00	175 00
118,000 00	122,000 00	181 00	181 00
122,000 00	126,000 00	187 00	187 00
126,000 00	130,000 00	193 00	193 00
130,000 00	134,000 00	199 00	199 00
134,000 00	138,000 00	205 00	205 00
138,000 00	142,000 00	211 00	211 00
142,000 00	146,000 00	217 00	217 00
146,000 00	150,000 00	223 00	223 00

2. (New section) Where the accounting or privilege period covered by a report includes any period prior to January 1, 1980, then (1) tentative taxes on taxable net income shall be separately computed by applying both the rate for the period before January 1, 1980 and the rate for the period on and after such date to the taxable income for the entire accounting or privilege period; and (2) the tax for such accounting or privilege period shall be the sum of that proportion of each tentative tax which the number of months in each period bears to the total number of months in the entire accounting or privilege period. For the purposes of this computation, more than one-half the number of days in a calendar month shall be deemed to be a full month.

3. This act shall take effect immediately.

Approved January 8, 1980.

CHAPTER 281

AN ACT relating to the maintenance and administration of a city employees' retirement system in certain cities of the first class and revising parts of the statutory law pertaining thereto.

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

1. Section 1 of P. L. 1954, c. 218 (C. 43:13–22.3) is amended to read as follows:

C. 43:13-22.3 Definitions.

1. As used in this act:

"Service" shall always, unless otherwise stated, be considered as in the aggregate.

"Salary" or "compensation," when used solely for the purpose of fixing benefits under this act, means annual salary or compensation earned by a member as a permanent employee at the time of his death or retirement; provided, however, that $16,000.00 shall be the maximum amount of the annual salary of any member which shall be considered for any purpose under this act; provided further, however, that as to any employee who, at the time of the adoption of this act, is a member of any retirement system in operation in the city under and by virtue of article 2, chapter 13, Title 43 of the Revised Statutes; and of chapter 18, Title 43 of the Revised Statutes; and of chapter 19, Title 43 of the Revised Statutes, the total annual salary received by such member as a permanent employee at the time of his death or retirement shall be considered for pension or other purposes under this act, except as otherwise provided herein, and further that where an employee heretofore has been receiving more than $12,000.00 in salary or compensation prior to the effective date of the amendment increasing the salary or compensation ceiling to $16,000.00, and he did not pay into the system all sums that he would have contributed on his full salary he shall not be eligible for the benefits permitted by the increased ceiling unless he pays into the system all said sums he would have paid had he not failed to contribute continuously. Application for the exercise of such option shall be made to the commission within 6 months next succeeding the effective date of this amendatory act.

(a) Any such benefit for retirement or otherwise accruing as a result of the increase in the salary or compensation ceiling for more than $12,000.00 shall be on the average annual salary received by such employee member for 1 year preceding his retirement.

(b) The repayment of any contributions shall be made within such period of time as shall be granted by the commission but at no time for a greater period than 3 years.

"Pension fund" or "fund" means the fund referred to in section 2 of this act, and is the fund from which pensions and other benefits provided for in this act shall be paid.

"State" shall, unless otherwise stated, mean the State of New Jersey.

"City," unless otherwise specified, means any city of the first class of the State of New Jersey having, at the time of the enactment of this act, a population in excess of 400,000 inhabitants.

"His" shall be construed to mean both sexes.

"City employee" or "employee" means and includes all permanent employees as defined by Title 11 of the Revised Statutes of New Jersey (Civil Service Law) in service in any city of the first class of this State, as hereinabove defined; and shall mean and include all permanent employees of any city board, body or commission maintained out of city funds in such city. Notwithstanding the provisions of any other statute of this State, any person under 45 years of age hereafter accepting permanent employment in the city (excepting uniformed policemen and firemen) shall, subject to the provisions of section 13 (a) of this act, become a member of the pension fund provided by this act as a "city employee" or "employee" as hereinabove defined; and except as herein otherwise provided, any such person of the age of 45 years or over shall be ineligible to become a member; provided, however, that any employee who, at the time of the adoption of this act, is a member of any retirement system in operation in such city under and by virtue of article 2, chapter 13, Title 43 of the Revised Statutes; or of chapter 18, Title 43 of the Revised Statutes; or of chapter 19, Title 43 of the Revised Statutes, shall not be barred from membership in this retirement system on account of age of any such employee.

Notwithstanding the provisions of chapter 1, Title 43 of the Revised Statutes, any present employee of the city as herein defined, who was not more than 45 years of age at the time of his permanent appointment, shall, subject to the provisions of section 13 of this act,

have the right, subject to section 13 (b) of this act, to become a member of the retirement system established by this act, by declaring his intention in writing so to do, within 2 months after the formation of the commission created by this act.

All such applicants shall submit to and pass a physical examination as required by the commission, and shall pay into the retirement system all arrears of dues and assessments determined by the commission, with interest thereon at 3%, in order to receive credit for said prior service as an employee, for the purposes of this act. The maximum length of time to be afforded any such employee for payment of said arrears and interest thereon shall be 5 years from the date of membership in said system.

"Widow" or "widower" means the surviving spouse of a city employee married to such employee for a period of at least 5 years prior to the retirement or death of such employee, except as otherwise provided herein, and said marriage having occurred prior to the time when such employee reached the age of 55 years, except that where death results from and as a result of an accident or injury sustained in the line of duty, the widow or widower shall be entitled to the benefits hereinafter set forth, even though the marriage has not been in existence for a period of 5 years; provided, however, that no pension shall be paid to the widow or widower unless he or she was receiving at least one-half of his or her support from the employee or pensioner member in the 12-month period immediately preceding the member's death or the accident which was a direct cause of the member's death. The dependency of such widow or widower shall be considered terminated by the remarriage of the widow or widower subsequent to the member's death. No pension shall be paid to any minor child or dependent parent of such employee unless such minor child or dependent parent shall be and shall continue to remain dependent upon the income which such employee was receiving at the time of his or her death. The pension commission shall determine the question of the dependency of the surviving spouse, minor child or dependent parent, as well as the ability of the surviving spouse to pursue some gainful occupation.

"Minor child" means a child under the age of 18 years, whose father or mother was married to the employee-member for a period of at least 5 years prior to the retirement of said employee, and the said marriage having occurred prior to the time such employee arrived at the age of 55 years. It shall also mean a child of any age who is permanently and totally disabled as determined by the

commission by virtue of physical or mental deficiencies precluding engagement in gainful employment and who is solely dependent for support upon the employee-member.

"Dependent parent" shall mean a dependent parent or parents who is or are solely dependent for support upon the employee-member.

"Commission" shall mean pension commission

"Commissioners" shall mean pension commissioners, unless otherwise specified.

"Permanent" and "total" disability means physical or mental incapacity of an employee, as determined by the commission, and which would make the employee unable to perform the duties of his position or office.

"Employees' Retirement System of (name of city)" shall be the name of the retirement system provided under the provisions of this act. By that name all of its business shall be transacted, its funds invested, warrants for money drawn and payments made, and all of its cash and securities and other property held.

"So long as he or she remains unmarried" when referring to widows or widowers, shall mean "until he or she remarries."

2. Section 13 of P. L. 1954, c. 218 (C. 43:13–22.15) is amended to read as follows:

C. 43:13-22.15 Conditions of membership.

13. The members and conditions of membership in the retirement system created by this act shall be as follows:

(a) All persons who shall hereafter become employees of the city prior to attaining the age of 45 years, shall, upon satisfactory completion of 3 months' service, become members of the retirement system herein created, as a condition of their employment; provided that all such persons shall submit to and pass the physical and mental examination required by the commission and shall furnish such evidence of good health, at said time, as the commission shall require; provided further, however, that the failure to pass the said physical and mental examination or failure to furnish satisfactory evidence of good health at such time shall not deprive the employee of his employment.

The failure of any employee-member to comply with the rules and regulations prescribed by the commission, pursuant to this act, shall result in the suspension or termination of membership in, or benefits of, this retirement system as may be provided from time to time by the commission.

(b) All present employees of the city, as herein defined, who had not attained the age of 45 years at the time of their permanent appointment and are found physically and mentally fit, and are not members of any retirement system supported wholly or in part by the city, may become members of the retirement system created by this act, upon written application made to the commission within 2 months after the establishment of the commission, under one of the following two plans:

(1) To receive credit for all the time served as a permanent employee with the city prior to joining the retirement system. Such employee shall pay into the fund a sum of money equal to an amount based upon the percentage hereinafter stated that would have been deducted from his salary from June 1, 1928, or from the date of his permanent employment, whichever is the lesser period; provided, however, that if the employee desires to receive credit for only a portion of the time served as a permanent employee he shall make payments accordingly and shall receive credit for that portion of the said prior service as is covered by these payments. Said sum of money may be paid in one lump sum or by regular payroll period deductions from the salary, together with the regular deductions provided by this act, until completed; and the financial officer of the city is authorized to deduct the said amounts from the salary of said employee. Upon such payment or payments being made, the city shall annually pay into the retirement system, herein provided for, a sum of money equal in amount to the employee's total principal payment without interest. All payments aforesaid by the employee shall be made together with 3% interest on the total amount of such payments. The maximum length of time for the payment of all employee's arrears and interest shall be 10 years from the date of membership in the fund.

(2) By regular deductions from the salary of any employee electing to become a member of the fund, without the benefit of prior service, if any, and credit therefor hereunder. Said deductions shall commence upon membership in the fund; and such employee shall not receive credit for any prior services rendered theretofore in his municipal office of position.

(c) All employees who at the time of the adoption and approval of this act are members of any of the following retirement systems in effect in said city, under and by virtue of article 2, chapter 13, Title 43 of the Revised Statutes; and of chapter 18, Title 43 of the Revised Statutes; and of chapter 19, Title 43 of the Revised Statutes, shall, upon the effective date of this act, automatically

become members of the city employees' retirement system provided for by this act; and every such employee shall be deemed to agree and consent to such transfer of his membership.

(d) All present and future employee members of this employment retirement system may purchase, in addition to their permanent employment credits, temporary service credits for all time of temporary service which was continuous and immediately preceded their permanent employment, at the percentage rate and salary prevailing at date of application.

3. Section 4 of P. L. 1957, c. 189 (C. 43:13–22.15c) is amended to read as follows:

C. 43:13-22.15c Payment of all assessments for arrears and interest.

4. No employee member of the retirement system shall be retired on pension except as hereinafter provided until he shall have paid in full the amount of all assessments for arrears and interest thereon. The amount of any assessment for arrears and interest thereon remaining unpaid upon a member's death or retirement for permanent or total disability shall be deducted from the amounts first allowable by way of pension prior to any payment by way of pension to a widow, widower, minor child, dependent parent or member retired for permanent or total disability.

4. Section 1 of P. L. 1963, c. 151 (C. 43:13–22.16a) is amended to read as follows:

C. 43:13:22.16a Purchase of active service credit in armed forces.

1. Any employee member, or eligible employee upon becoming a member of a retirement system, established pursuant to the act to which this act is a supplement, may purchase and receive prior service credit for time served in active service in the Armed Forces of the United States while a permanent employee of the city. Such member shall pay into the fund, in a lump sum or by regular payroll deduction installments approved by the pension commission, an amount equal to the contributions which a member would have been required to make for such a period based upon the member's salary, at the time of entering into active service in the armed forces, at the member's contribution rate in effect at the time of applying to make such purchase.

5. Section 8 of P. L. 1966, c. 252 (C. 43:13–22.16f) is amended to read as follows:

C. 43:13-22.16f Purchase of prior service credit.

8. Any employee member of the city employees' retirement system may upon application to the pension commission purchase prior service credit for full-time service as a permanent employee of the city which preceded his membership in its pension system. Purchase payments for prior service shall be made at the salary scale and rate of contribution effective at the time such application is made. Time payments and methods of deductions shall be the same as are presently in effect under the act hereby supplemented.

6. Section 9 of P. L. 1966, c. 252 (C. 43:13–22.16g) is amended to read as follows:

C. 43:13-22.16g Purchase of prior service credit.

9. Any employee member of the city employees' retirement system may upon application to the pension commission purchase prior service credit for full-time service as a permanent employee of the board of education or the housing authority of the city or of the city's police or fire departments which preceded his membership in its pension system. Purchase payment for prior service shall be made at the salary scale and rate of contribution effective at the time application for purchase is made. Time payments and methods of deductions shall be the same as are presently in effect under this act.

7. Section 6 of P. L. 1972, c. 122 (C. 43:13–22.19a) is amended to read as follows:

C. 43:13-22.19a Pension for voluntarily or involuntarily separated members from service.

6. (a) Should an employee member, after having completed at least 25 years of service for credit has been established in the pension fund, be separated voluntarily or involuntarily from the service, and not by removal for cause on charges of misconduct or delinquency, after reaching age 55, he may elect to receive the payments provided for in section 17 (C. 43:13–22.19), if he so qualifies under said section, or the benefit provided by subsection (b) of this section, or a pension beginning at the time he would otherwise be normally entitled to receive it but for his separation from service, in the amount of one-half of the salary he was receiving at the time of separation, provided however that such pension shall be reduced in accordance with a table of proportionate actuarial equivalents recommended by the actuary and adopted by the commission reflecting all months that a member lacks of having 30 years' service.

(b) Should an employee member, after having completed at least 15 years of service for which credit has been established in the pension fund, be separated voluntarily or involuntarily from the service, and not by removal for cause on charges of misconduct or delinquency, before reaching age 60, such person may elect to receive the payments provided for in section 17 (C. 43:13–22.19), if he so qualifies under said section, or a deferred pension beginning at age 60 or thereafter, in the amount that his years of service as credited in the fund bear to the total number of years of service that he could have achieved had he continued to age 60 or such necessary age that would have permitted him to qualify for the pension of one-half of the salary he was receiving at the time he elected the deferred pension.

(c) Upon and after the death of such pensioner, the benefits provided by section 18 (C. 43:13–22.20) shall be payable to his eligible survivors if they qualify under said section.

8. Section 18 of P. L. 1954, c. 218 (C. 43:13–22.20) is amended to read as follows:

C. 43:13-22.20 Retirement pension to surviving widow, widower or other dependents.

18. Subject to the other provisions of this act, upon and after the death of such employee member or pensioner member, said retirement pension shall be paid to the surviving widow or widower, so long as he or she remains unmarried; minor children or dependent parents, as the case may be; provided, however, that in no instance shall a pension payment to such widow or widower, minor children or dependent parent exceed $3,000.00 per annum. In the event of the death of a pensioner member, such payments shall not exceed the amount received by the decedent pensioner.

9. Section 19 of P. L. 1954, c. 218 (C. 43:13–22.21) is amended to read as follows:

C. 43:13-22.21 Disability not resulting due to employment; retirement pension.

19. Subject to the other provisions of this act, any member employee who shall have served or who shall hereafter have served in the employ of such city continuously for a period of 5 years and shall become permanently and totally disabled as the result of injury or illness not arising out of and in the course of his employment, shall, upon his application and approval thereof by the commissioners be retired on a pension equal to 2½% of the salary received by him at the time of his retirement; and for each additional year of aggregate service, but not more than 20 years

of service in the aggregate, the amount of said pension shall be increased to the extent of 2½% of said salary for each year, not exceeding in any event 50% of said salary; provided, however, that for each year of service over 30 years there shall be an increase of disability pension of 2½% of the salary received by the employee at the time of said retirement; provided further, however, that no such pension, regardless of service or disability, shall exceed three-quarters of the annual salary of said employee at the time of retirement; nor shall any such pension be in excess of $12,000.00 per annum. Upon and after the death of such retired member or upon and after the death of any member who died as a result of injury or illness not arising out of and in the course of his employment, the said pension or a pension based upon the services of said member as the case may be, shall be paid to the surviving widow or widower, so long as he or she remains unmarried, minor children or dependent parent, as the case may be; provided, however, that in no instance shall said pension exceed the sum of $3,000.00 per annum.

10. Section 20 of P. L. 1954, c. 218 (C. 43:13–22.22) is amended to read as follows:

C. 43:13-22.22 Disability resulting from employment; retirement pension.

20. Subject to the other provisions of this act, any city employee who shall become permanently or totally disabled as a result of injury or illness arising out of and in the course of his employment shall, upon his application and approval thereof by the commission, be retired on a pension equal to one-half of the annual salary received by him at the time of his retirement; provided, however, that in no instance shall the pension exceed $12,000.00 per annum; and provided further, however, that where an employee has served more than 30 years he shall be entitled to 2½% of his annual salary for each additional year of service over 30 years, but not exceeding 40 years, and in no event shall such pension exceed $12,000.00 annually. Upon and after the death of such retired member or upon and after the death of any member who dies as a result of any injury or illness arising out of and in the course of his employment, the said pension or a pension of one-half of the said annual salary of such member shall be paid as hereinafter provided to the surviving widow or widower, so long as he or she remains unmarried; minor children or dependent parent, as the case may be; provided, however, that in no instance shall the pension exceed $3,000.00 per annum.

11. Section 23 of P. L. 1954, c. 218 (C. 43:13–22.25) is amended to read as follows:

C. 43:13-22.25 Payment to widow, widower or dependents upon death of member.

23. Subject to the other provisions of this act, upon the death of any employee member who shall have served or who shall hereafter have served in the employ of the city continuously for a period of at least 5 years, there shall be paid to the surviving widow or widower, so long as he or she remains unmarried; minor children or dependent parent, as the case may be, an amount equal to 2½% of the salary received by such employee at the time of his death and 2½% of said yearly salary for each additional year of service more than 1 year, but not exceeding in any event 50% of said salary received at the time of death, and in no instance shall such pension exceed $3,000.00; provided, however, that wherever the provisions of any of the three pension funds which have been merged into the fund, provide for greater benefits for the present members thereof, their widows, widowers, minor children or dependent parent, then and in that event the said widow, widower, minor children or dependent parent shall be entitled to said greater benefits as therein provided; and provided, further, that after 5 years' membership in the retirement system, the pension payment to widow or widower shall not be less than $1,000.00. In the event of the death of a pensioner member the amount of pension payment paid his or her widow or widower shall not exceed the amount of the pension payments he or she received at the time of his or her death and in no event in excess of $3,000.00 annually.

12. Section 24 of P. L. 1954, c. 218 (C. 43:13–22.26) is amended to read as follows:

C. 43:13-22.26 Priority of payments.

24. Subject to the other provisions of this act, upon and after the death of any employee member, pensioner member, or beneficiary, the benefits herein provided for the surviving widow or widower, minor children, including adopted children, and dependent parent shall be paid in the following manner of priority:

(1) To the surviving widow or widower, until he or she remarries;

(2) If no widow or widower, or upon the death of such widow or widower, then the pension shall be paid to the guardian of the minor children, for the exclusive use of said children, in the following amounts, $80.00 per month for each minor child, provided

further that in no event shall the funds paid to minor children exceed in the aggregate the sum of $3,000.00 annually.

(3) In the event there be no surviving widow, widower, or minor children, then the pension shall be paid to the dependent parent or parents in equal shares.

13. Section 26 of P. L. 1954, c. 218 (C. 43:13–22.28) is amended to read as follows:

C. 43:13-22.28 Applicable provisions.

26. The following provisions shall apply to all members of the retirement system:

(a) The commission shall determine the question of the dependency of the surviving widow or widower.

(b) When an employee member of the retirement system dies leaving no beneficiary set forth in section 24 of P. L. 1954, c. 218 (C. 43:13–22.26) surviving, there shall be paid to his or her estate a sum equivalent to his or her contributions to the retirement system, without interest.

(c) Where a husband and wife are each receiving a pension as a retired employee from any retirement system supported wholly or in part by the city, except as otherwise herein provided, then upon the death of either the survivor shall elect to except one or the other of the two pensions, but in no case shall said survivor receive more than one pension at the same time. If the deceased was a member of the retirement system created hereby, the surviving widow or widower may continue to receive the pension being paid to him by reason of his membership in any other pension system or fund and in that event he shall be entitled to receive from the pension fund created hereby a sum equal to the total contributions paid into the pension fund by the said deceased husband or wife, as the case may be, without interest.

(d) Where any employee or other beneficiary is entitled to receive two pensions under the provisions of this act, such employee or other beneficiary shall elect to receive one or the other of the two pensions, and in no case shall receive more than one pension.

(e) The rights of any employee or beneficiary to receive compensation under the Workmen's Compensation Act of New Jersey shall not be affected or impaired by any of the provisions of this act.

(f) Where the service of an employee is terminated by reason of conviction of a crime involving moral turpitude, no pension

under this act shall be paid to any such employee; provided, however, that no member of this retirement system who shall have served honorably as a city employee for a period of 25 years and shall have attained the age of 55 years, shall be deprived of his pension privileges because of any violation of the rules and regulations established for the government of such city employees not involving conviction of a crime involving moral turpitude as aforesaid.

(g) Where any pension or other benefit shall be payable from the retirement system herein provided to any retired employee or other beneficiary who is or shall be confined in a penal institution as a result of conviction of a crime involving moral turpitude, the pension commission may pay such pension or any part of it or other benefit to the wife, husband, minor children, mother or father of the confined person, if it determines the same is necessary for their maintenance during such confinement.

(h) All payments of pension shall be made semimonthly, and payments of pensions, refunds or other benefits of this act shall be made without interest.

(i) The benefits of this act shall not extend to the widow or widower of any city employee or of any pensioner who shall remarry or shall have married such employee or pensioner after such employee or pensioner has retired or attained the age of 55 years, nor to any children of such marriage.

(j) Any member entitled to a pension, or receiving a pension, under the provisions of this act, who shall be appointed to or is serving in any position or office within the municipality from which he has or will retire, and will be entitled to a salary which is paid from public funds, shall not during such period of employment receive any payments or pension or other benefits under this act.

14. This act shall take effect immediately.

Approved January 8, 1980.

CHAPTER 282

AN ACT to amend the "Casino Control Act," approved June 2, 1977 (P. L. 1977, c. 110) and P. L. 1978, c. 7, supplementary thereto.

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

1. Section 5 of P. L. 1977, c. 110 (C. 5:12–5) is amended to read as follows:

C. 5:12-5 "Authorized game" or "authorized gambling game."

5. "Authorized Game" or "Authorized Gambling Game"—Roulette, baccarat, blackjack, craps, big six wheel, slot machines, and any variations or composites of such games, provided that such variations or composites are found by the commission suitable for casino use after an appropriate test or experimental period under such terms and conditions as the commission may deem appropriate.

2. Section 7 of P. L. 1977, c. 110 (C. 5:12–7) is amended to read as follows:

C. 5:12-7 "Casino employee."

7. "Casino Employee"—Any natural person employed in the operation of a licensed casino, including, without limitation, boxmen; dealers or croupiers; floormen; machine mechanics; casino security employees; and bartenders, waiters and waitresses or other persons whose employment duties require or authorize access to the casino but who are not included in the definition of casino hotel employee, casino key employee, or principal employee as hereinafter stated.

3. Section 21 of P. L. 1977, c. 110 (C. 5:12–21) is amended to read as follows:

C. 5:12-21 "Game" or "gambling game".

21. "Game" or "Gambling Game"—Any banking or percentage game located exclusively within the casino played with cards, dice or any electronic, electrical, or mechinical device or machine for money, property, or any representative of value.

4. Section 23 of P. L. 1977, c. 110 (C. 5:12–23) is amended to read as follows:

C. 5:12-23 "Gaming device" or "gaming equipment".

23. "Gaming Device" or "Gaming Equipment"—Any electronic, electrical, or mechanical contrivance or machine used in connection with gaming or any game.

5. Section 24 of P. L. 1977, c. 110 (C. 5:12–24) is amended to read as follows:

C. 5:12-24 "Gross revenue."

24. "Gross Revenue"—The total of all sums, including checks received by a casino licensee pursuant to section 101 of this act, whether collected or not, actually received by a casino licensee from gaming operations, less only the total of all sums paid out as winnings to patrons and a deduction for uncollectible gaming receivables not to exceed the lesser of a reasonable provision for uncollectible patron checks received from gaming operations or 4% of the total of all sums including checks, whether collected or not, less the amount paid out as winnings to patrons.

6. Section 26 of P. L. 1977, c. 110 (C. 5:12–26) is amended to read as follows:

C. 5:12-26 "Holding company."

26. "Holding Company"—Any corporation, association, firm, partnership, trust or other form of business organization not a natural person which, directly or indirectly, owns, has the power or right to control, or has the power to vote any significant part of the outstanding voting securities of a corporation which holds or applies for a casino license. For the purpose of this section, in addition to any other reasonable meaning of the words used, a "holding company" indirectly has, holds or owns any such power, right or security if it does so through any interest in a subsidiary or successive subsidiaries, however many such subsidiaries may intervene between the holding company and the corporate licensee or applicant.

7. Section 27 of P. L. 1977, c. 110 (C. 5:12–27) is amended to read as follows:

C. 5:12-27 "Hotel" or "approved hotel".

27. "Hotel" or "Approved Hotel"—A single building located within the limits of the city of Atlantic City as said limits were defined as of November 2, 1976, and containing not fewer than 500 sleeping units, each of at least 325 square feet measured to the center of perimeter walls, including bathroom and closet space and excluding hallways, balconies and lounges; each containing private

bathroom facilities; and each held available and used regularly for the lodging of tourists and convention guests and conforming in all respects to the facilities requirements contained in this act. For the purpose of exceeding the maximum casino size specified in section 83 of this act, an approved hotel may, by means of physical connection, annex additional buildings or facilities to increase the amount of its qualifying meeting, exhibition, dining, entertainment, sports and kitchen support facilities space, but not to increase its number of qualifying sleeping units. "Physical connection" for the purposes herein means an enclosed permanent pedestrian passageway. In no event shall the main entrance or only access to an approved hotel be through a casino.

8. Section 29 of P. L. 1977, c. 110 (C. 5:12–29) is amended to read as follows:

C. 5:12-29 "Junket."

29. "Junket"—An arrangement or arrangements the primary purpose of which is to induce any person to come to a licensed casino hotel for the purpose of gambling and pursuant to which, and as consideration for which, over $200.00 of the cost of transportation, food, lodging, and entertainment for said person is directly or indirectly paid by a casino licensee or employee or agent thereof. For purposes of this act, the furnishing of any of the above items on a complimentary basis shall be deemed to constitute the indirect payment for such items in the amount of the retail price normally charged for such items.

9. Section 47 of P. L. 1977, c. 110 (C. 5:12–47) is amended to read as follows:

C. 5:12-47 "Subsidiary."

47. "Subsidiary"—

a. Any corporation, any significant part of whose outstanding equity securities are owned, subject to a power or right of control, or held with power to vote, by a holding company or an intermediary company; or

b. A significant interest in any firm, association, partnership, trust or other form of business organization, not a natural person, which is owned, subject to a power or right of control, or held with power to vote, by a holding company or an intermediary company.

10. Section 54 of P. L. 1977, c. 110 (C. 5:12–54) is amended to read as follows:

C. 5:12-54 Organization and employees.

54. Organization and Employees. a. The commission may establish, and from time to time alter, such plan of organization as it may deem expedient, and may incur expenses within the limits of funds available to it.

b. The commission shall elect annually by a majority of the full commission one of its members, other than the chairman, to serve as vice-chairman for the ensuing year. The vice-chairman shall be empowered to carry out all of the responsibilities of the chairman as prescribed in this act during his absence or inability to serve.

c. The commission shall appoint an executive secretary who shall serve at its pleasure and shall be responsible for the conduct of its administrative affairs. No person shall be eligible for such appointment unless he shall have at least 5 years of responsible experience in public or business administration or possesses broad management skills. The salary of the executive secretary shall be fixed by the commission; provided, however, that such salary shall not exceed $41,000.00.

d. The commission may employ such other personnel as it deems necessary. All employees of the commission, except for secretarial and clerical personnel, shall be in the unclassified service of the Civil Service. All employees of the commission shall be deemed confidential employees for the purposes of the "New Jersey Employer-Employee Relations Act" (P. L. 1941, c. 100; C. 34:13A–1 et seq.), as amended. Notwithstanding the provisions of any other law to the contrary, the commission may employ legal counsel who shall represent the commission in any proceeding to which it is a party, and who shall render legal advice to the commission upon its request. The commission may contract for the services of other professional, technical and operational personnel and consultants as may be necessary to the performance of its responsibilities under this act. Members and employees of the commission shall be enrolled in the Public Employees Retirement System of New Jersey (P. L. 1954, c. 84; C. 43:15A–1 et seq.).

11. Section 58 of P. L. 1977, c. 110 (C. 5:12–58) is amended to read as follows:

C. 5:12-58 Restrictions on pre-employment by commissioners, commission employees and division employees and agents.

58. Restrictions on Pre-Employment by Commissioners, Commission Employees and Division Employees and Agents. a. Deleted by amendment.

b. No person shall be appointed to or employed by the commission or division if, during the period commencing 3 years prior to appointment or employment, said person held any direct or indirect interest in, or any employment by, any person which is licensed as a casino hotel pursuant to section 87 of P. L. 1977, c. 110 (C. 5:12–87) or as a casino service industry pursuant to subsection a. of section 92 of P. L. 1977, c. 110 (C. 5:12–92a.) or has an application for such a license pending before the commission; provided, however, that notwithstanding any other provision of this act to the contrary, any such person may be appointed to or employed by the commission or division if his interest in any such casino hotel or casino service industry which is publicly traded would not, in the opinion of the employing agency, interfere with the objective discharge of such person's employment obligations, but in no instance shall any person be appointed to or employed by the commission or division if his interest in such a casino hotel or casino service industry which is publicly traded constituted a controlling interest in that casino hotel or casino service industry.

c. Prior to appointment or employment, each member of the commission, each employee of the commission, the director of the Division of Gaming Enforcement and each employee and agent of the division shall swear or affirm that he possesses no interest in any business or organization licensed by or registered with the commission.

d. Each member of the commission and the director of the division shall file with the Executive Commission on Ethical Standards a financial disclosure statement listing all assets and liabilities, property and business interests, and sources of income of said member or director and his spouse and shall provide to the Attorney General a financial disclosure statement listing all assets and liabilities, property and business interests, and sources of income of the parents, brothers, sisters, and children of said member or director. Such statement shall be under oath and shall be filed at the time of appointment and annually thereafter.

e. Each employee of the commission, except for secretarial and clerical personnel, and each employee and agent of the division, except for secretarial and clerical personnel, shall file with the Executive Commission on Ethical Standards a financial disclosure statement listing all assets and liabilities, property and business interests, and sources of income of said employee or agent and his spouse. Such statement shall be under oath and shall be filed at the time of employment and annually thereafter.

12. Section 59 of P. L. 1977, c. 110 (C. 5:12–59) is amended to read as follows:

C. 5:12-59 Employment restrictions on commissioners, commission employees and division employees.

59. Employment Restrictions on Commissioners, Commission Employees and Division Employees. a. The "New Jersey Conflicts of Interest Law" (P. L. 1971, c. 182; C. 52:13D–12 et seq.) shall apply to members of the commission and to all employees of the commission and the division, except as herein specifically provided.

b. A Code of Ethics governing the specific needs of the commission and the division shall be promulgated by each and shall include, among other provisions, that:

(1) No commission member or employee or division employee or agent shall be permitted to gamble in any establishment licensed by the commission except in the course of his duties.

(2) No commission member or employee or division employee or agent shall solicit or accept employment from any person licensed by or registered with the commission or from any applicant for a period of 4 years after termination of service with the commission, or division, unless subject to section 60 of this act.

c. No commission member or employee or division employee or agent shall have any interest, direct or indirect, in any applicant or in any person licensed by or registered with the commission during his term of office or employment.

d. No commission member shall be employed in any capacity by any person licensed by or registered with the commission.

e. Each employee of the commission, including legal counsel, and each employee and agent of the division shall devote his entire time and attention to his duties and shall not pursue any other business or occupation or other gainful employment; provided, however, that secretarial and clerical personnel may engage in such other gainful employment as shall not interfere with their duties to the commission or division, unless otherwise directed; and further provided, that the commission may employ hearing examiners on a part-time basis.

f. No member of the commission, employee of the commission, or employee or agent of the division shall:

(1) Use his official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office;

(2) Directly or indirectly coerce, attempt to coerce, command or advise any person to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes; or

(3) Take any active part in political campaigns or the management thereof; provided, however, that nothing herein shall prohibit a person from voting as he chooses or from expressing his personal opinions on political subjects and candidates.

g. For the purpose of applying the provisions of the "New Jersey Conflicts of Interest Law," any consultant or other person under contract for services to the commission shall be deemed to be a special State employee. Such person and any corporation, firm or partnership in which he has an interest or by which he is employed shall not represent any person or party other than the commission before the commission.

13. Section 60 of P. L. 1977, c. 110 (C. 5:12–60) is amended to read as follows:

C. 5:12-60 Post-employment restrictions.

60. Post-Employment Restrictions. a. No member of the commission shall hold any direct or indirect interest in, or be employed by, any applicant or by any person licensed by or registered with the commission for a period of 4 years commencing on the date his membership on the commission terminates.

b. No employee of the commission or employee or agent of the division may acquire any direct or indirect interest in, or accept employment with, any applicant or any person licensed by or registered with the commission, for a period of 2 years commencing at the termination of employment with the commission or division. At the end of 2 years, the former employee or agent may acquire an interest in, or accept employment with, any applicant or person licensed by or registered with the commission upon application to and the approval of the commission upon a finding that the interest to be acquired or the employment will not create the appearance of a conflict of interest and does not evidence a conflict of interest in fact.

c. No commission member or person employed by the commission or division shall represent any person or party other than the State before or against the commission for a period of 2 years from the termination of his office or employment with the commission or division.

d. No partnership, firm or corporation in which a former commission member or employee or former division employee or agent has an interest, nor any partner, officer or employee of any such partnership, firm or corporation shall make any appearance or representation which is prohibited to said former member, employee, or agent; provided, however, that nothing herein shall prohibit such partnership, firm or corporation from making such appearance or representation on behalf of a casino service industry licensed under subsection c. of section 92 of P. L. 1977, c. 110 (C. 5:12–92c.).

e. Notwithstanding any post-employment restriction imposed by this section, nothing herein shall prohibit a former commission member or employee or former division employee or agent, at any time after termination of such membership or employment, from acquiring an interest in, or soliciting or obtaining employment with, any person licensed as a casino service industry under section 92c. of this act or any applicant for such licensure.

14. Section 70 of P. L. 1977, c. 110 (C. 5:12–70) is amended to read as follows:

C. 5:12-70 Required regulations.

70. Required Regulations. The commission shall, without limitation on the powers conferred in the preceding section, include within its regulations the following specific provisions in accordance with the provisions of this act:

a. Prescribing the methods and forms of application which any applicant shall follow and complete prior to consideration of his application by the commission;

b. Prescribing the methods, procedures and form for delivery of information concerning any person's family, habits, character, associates, criminal record, business activities and financial affairs;

c. Prescribing procedures for the fingerprinting of an applicant, employee of a licensee, or registrant, or other methods of identification which may be necessary in the judgment of the commission to accomplish effective enforcement of restrictions on access to the casino floor and other restricted areas of the casino hotel complex;

d. Prescribing the manner and procedure of all hearings conducted by the commission or any hearing examiner, including special rules of evidence applicable thereto and notices thereof;

e. Prescribing the manner and method of collection of payments of taxes, fees, and penalties;

f. Defining and limiting the areas of operation, the rules of authorized games, odds, and devices permitted, and the method of operation of such games and devices;

g. Regulating the practice and procedures for negotiable transactions involving patrons, including limitations on the circumstances and amounts of such transactions, and the establishment of forms and procedures for negotiable instrument transactions, redemptions, and consolidations;

h. Prescribing grounds and procedures for the revocation or suspension of operation certificates and licenses;

i. Governing the manufacture, distribution, sale, and servicing of gaming devices and equipment;

j. Prescribing the procedures, forms and methods of management controls, including employee and supervisory tables of organization and responsibility, and minimum security standards, including security personnel structure, alarm and other electrical or visual security measures;

k. Prescribing the qualifications of, and the conditions pursuant to which, engineers, accountants, and others shall be permitted to practice before the commission or to submit materials on behalf of any applicant or licensee; provided, however, that no member of the Legislature, nor any firm with which said member is associated, shall be permitted to appear or practice or act in any capacity whatsoever before the commission or division regarding any matter whatsoever, nor shall any member of the family of the Governor or of a member of the Legislature be permitted to so practice or appear in any capacity whatsoever before the commission or division regarding any matter whatsoever;

l. Prescribing minimum procedures for the exercise of effective control over the internal fiscal affairs of a licensee, including provisions for the safeguarding of assets and revenues, the recording of cash and evidence of indebtedness, and the maintenance of reliable records, accounts, and reports of transactions, operations and events, including reports to the commission;

m. Providing for a minimum uniform standard of accountancy methods, procedures and forms; a uniform code of accounts and accounting classifications; and such other standard operating procedures, including those controls listed in section 99 a. hereof, as may be necessary to assure consistency, comparability, and effective disclosure of all financial information, including calculations of percentages of profit by game, table, gaming device and slot machines;

n. Requiring periodic financial reports and the form thereof, including an annual audit prepared by a certified public accountant licensed to do business in this State attesting to the financial condition of a licensee and disclosing whether the accounts, records and control procedures examined are maintained by the licensee as required by this act and the regulations promulgated hereunder;

o. Governing the advertising of casino licensees, their employees and agents, with the view toward assuring that gaming activity in Atlantic City is not the dominating advertising theme, that gaming is portrayed as an activity for adults conducted in an atmosphere of social graciousness, and that such advertisements are in no way deceptive; provided, however, that such regulations shall not prohibit the advertisement of casino location, hours of operation, or types of games and other amenities offered, but in no circumstance shall permit the advertisement of information about odds, the number of games, or the size of the casino; and provided further, however, that such regulations shall require the words "Bet with your head, not over it" to appear on all billboards, signs, and other on-sight advertising of a casino operation;

p. Governing entertainment presented by casino licensees in accordance with the prevailing community standards as determined by the commission;

q. Concerning the distribution and consumption of alcoholic beverages on the premises of the licensee, which regulations shall be insofar as possible consistent with Title 33 of the Revised Statutes, and shall deviate only insofar as necessary because of the unique character of the hotel casino premises and operations; and

r. Limiting signs and other on-site advertising, with a view toward minimizing solicitation for gaming purposes from the public thoroughfares or otherwise dominating or despoiling the architecture or environment of the city.

15. Section 71 of P. L. 1977, c. 110 (C. 5:12–71) is amended to read as follows:

C. 5:12-71 Regulation requiring exclusion of certain persons.

71. Regulation Requiring Exclusion of Certain Persons. a. The commission shall, by regulation, provide for the establishment of a list of persons who are to be excluded or ejected from any licensed casino establishment. Such provisions shall define the standards for exclusion, and shall include standards relating to persons:

(1) Who are career or professional offenders as defined by regulation of the commission;

(2) Who have been convicted of a criminal offense under the laws of any state or of the United States, which is punishable by more than 6 months in prison, or any crime or offense involving moral turpitude; or

(3) Whose presence in a licensed casino would, in the opinion of the commission, be inimical to the interest of the State of New Jersey or of licensed gaming therein, or both.

The commission shall promulgate definitions establishing those categories of persons who shall be excluded pursuant to this section, including cheats and persons whose privileges for licensure have been revoked.

b. Race, color, creed, national origin or ancestry, or sex shall not be a reason for placing the name of any person upon such list.

c. The commission may impose sanctions upon a licensed casino or individual licensee in accordance with the provisions of this act if such casino or individual licensee knowingly fails to exclude or eject from the premises of any licensed casino any person placed by the commission on the list of persons to be excluded or ejected.

d. Any list compiled by the commission of persons to be excluded or ejected shall not be deemed an all inclusive list, and licensed casino establishments shall have a duty to keep from their premises persons known to them to be within the classifications declared in paragraph a. of this section and the regulations promulgated thereunder.

e. Whenever the name or description of any person is placed on a list pursuant to this section, the commission shall serve notice of such fact to such person by personal service, by certified mail at the last known address of such person, or by publication daily for 1 week in a newspaper of general circulation in Atlantic City.

f. Within 30 days after service by mail or in person or 60 days from the time of last publication, as the case may be, the person named for exclusion or ejection may demand a hearing before the commission and show cause why he should have his name removed from such list. Failure to demand such a hearing within the time allotted in this section shall preclude a person from having an administrative hearing, but shall in no way affect his right to judicial review as provided herein.

g. Upon receipt of a demand for a hearing, the commission shall set a time and place for such hearing. Unless otherwise agreed by

the commission and the named person, such hearing shall not be later than 30 days after the receipt of a demand for such hearing.

h. If, upon completion of the hearing, the commission determines that the regulation does not or should not apply to the person so listed, the commission shall notify all casino licensees of such determination.

i. If, upon completion of a hearing, the commission determines that the placement of the name of the person on the exclusionary list was appropriate, the commission shall make and enter an order to that effect. Such order shall be subject to review by the Superior Court in accordance with the rules of court.

16. Section 76 of P. L. 1977, c. 110 (C. 5:12–76) is amended to read as follows:

C. 5:12-76 General duties and powers.

76. General Duties and Powers. a. The Division of Gaming Enforcement shall promptly and in reasonable order investigate all applications, enforce the provisions of this act and any regulations promulgated hereunder, and prosecute before the commission all proceedings for violations of this act or any regulations promulgated hereunder. The division shall provide the commission with all information necessary for all action under Article 6 of this act and for all proceedings involving enforcement of the provisions of this act or any regulations promulgated hereunder.

b. The division shall:

(1) Investigate the qualifications of each applicant before any license, certificate, or permit is issued pursuant to the provisions of this act;

(2) Investigate the circumstances surrounding any act or transaction for which commission approval is required;

(3) Investigate violations of this act and regulations promulgated hereunder;

(4) Initiate, prosecute and defend such proceedings before the commission, or appeals therefrom, as the division may deem appropriate;

(5) Provide assistance upon request by the commission in the consideration and promulgation of rules and regulations;

(6) Conduct continuing reviews of casino operations through on-site observation and other reasonable means to assure compliance with this act and regulations promulgated hereunder, subject to section 63 g. of this act;

(7) Conduct audits of casino operations, including reviews of accounting, administrative and financial records, and management control systems, procedures and records utilized by a casino licensee; and

(8) Be entitled to request information, materials and any other data from any licensee or registrant, or applicant for a license or registration under this act.

17. Section 80 of P. L. 1977, c. 110 (C. 5:12–80) is amended to read as follows:

C. 5:12-80 General provisions.

80. General Provisions. a. It shall be the affirmative responsibility of each applicant and licensee to establish by clear and convincing evidence his individual qualifications, and for a casino license the qualifications of each person who is required to be qualified under this act as well as the qualifications of the facility in which the casino is to be located.

b. Any applicant, licensee or any other person who must be qualified pursuant to this act shall provide all information required by this act and satisfy all requests for information pertaining to qualification and in the form specified by the commission. All applicants and licensees shall waive liability as to the State of New Jersey, and its instrumentalities and agents, for any damages resulting from any disclosure or publication in any manner, other than a willfully unlawful disclosure or publication, of any material or information acquired during inquiries, investigations or hearings.

c. All applicants, licensees, registrants, intermediary companies, and holding companies shall consent to inspections, searches and seizures and the supplying of handwriting exemplars as authorized by this act and regulations promulgated hereunder.

d. All applicants, licensees, registrants, and any other person who shall be qualified pursuant to this act shall have the continuing duty to provide any assistance or information required by the commission or division, and to cooperate in any inquiry or investigation conducted by the division and any inquiry, investigation, or hearing conducted by the commission. If, upon issuance of a formal request to answer or produce information, evidence or testimony, any applicant, licensee, registrant, or any other person who shall be qualified pursuant to this act refuses to comply, the application, license, registration or qualification of such person may be denied or revoked by the commission.

e. No applicant or licensee shall give or provide, offer to give or provide, directly or indirectly, any compensation or reward or any percentage or share of the money or property played or received through gaming activities, except as authorized by this act, in consideration for obtaining any license, authorization, permission or privilege to participate in any way in gaming operations.

f. Each applicant or person who must be qualified under this act shall be photographed and fingerprinted for identification and investigation purposes in accordance with procedures established by the commission.

g. All licensees, all registrants, all persons required to be qualified under this act, and all persons employed by a casino service industry licensed pursuant to this act, shall have a duty to inform the commission or division of any action which they believe would constitute a violation of this act. No person who so informs the commission or the division shall be discriminated against by an applicant, licensee or registrant because of the supplying of such information.

18. Section 82 of P. L. 1977, c. 110 (C. 5:12–82) is amended to read as follows:

C. 5:12-82 Casino license—applicant eligibility.

82. Casino License—Applicant Eligibility. a. No casino shall operate unless all necessary licenses and approvals therefor have been obtained in accordance with law.

b. Only the following persons shall be eligible to hold a casino license; and, unless otherwise determined by the commission with the concurrence of the Attorney General which may not be unreasonably withheld in accordance with subsection c. of this section, each of the following persons shall be required to hold a casino license prior to the operation of a casino in the hotel with respect to which the casino license has been applied for:

(1) Any person who either owns an approved hotel building or owns or has a contract to purchase or construct a hotel which in the judgment of the commission can become an approved hotel building within 30 months or within such additional time period as the commission may, upon a showing of good cause therefor, establish;

(2) Any person who, whether as lessor or lessee, either leases an approved hotel building or leases or has an agreement to lease a hotel which in the judgment of the commission can become an approved hotel building within 30 months or within such additional

time period as the commission may, upon a showing of good cause therefor, establish;

(3) Any person who has a written agreement with a casino licensee or with an eligible applicant for a casino license for the complete management of a casino; and

(4) Any other person who has any control over either an approved hotel building or the land thereunder or the operation of a casino.

c. Prior to the operation of the casino, every agreement to lease an approved hotel building or the land thereunder and every agreement for the management of the casino shall be in writing and filed with the commission. No such agreement shall be effective unless expressly approved by the commission. The commission may require that any such agreement include within its terms any provision reasonably necessary to best accomplish the policies of this act. Consistent with the policies of this act:

(1) The commission, with the concurrence of the Attorney General which may not be unreasonably withheld, may determine that any person who does not have the ability to exercise any significant control over either the approved hotel building or the operation of the casino contained therein shall not be eligible to hold or required to hold a casino license;

(2) The commission, with the concurrence of the Attorney General which may not be unreasonably withheld, may determine that any owner, lessor or lessee of an approved hotel building or the land thereunder who does not own or lease the entire approved hotel building shall not be eligible to hold or required to hold a casino license;

(3) The commission shall require that any person or persons eligible to apply for a casino license organize itself or themselves into such form or forms of business association as the commission shall deem necessary or desirable in the circumstances to carry out the policies of this act;

(4) The commission may issue separate casino licenses to any persons eligible to apply therefor;

(5) As to agreements to lease an approved hotel building or the land thereunder, unless it expressly and by formal vote for good cause determines otherwise, the commission shall require that each party thereto hold either a casino license or casino service industry license and that such an agreement be for a durational term exceeding 30 years, concern 100% of the entire approved hotel building

or of the land upon which same is located, and include within its terms a buy-out provision conferring upon the casino licensee-lessee who controls the operation of the approved hotel the absolute right to purchase for an expressly set forth fixed sum the entire interest of the lessor or any person associated with the lessor in the approved hotel building or the land thereunder in the event that said lessor or said person associated with the lessor is found by the commission to be unsuitable to be associated with a casino enterprise;

(6) The commission shall not permit an agreement for the leasing of an approved hotel building or the land thereunder to provide for the payment of an interest, percentage or share of money gambled at the casino or derived from casino gaming activity or of revenues or profits of the casino unless the party receiving payment of such interest, percentage or share is a party to the approved lease agreement; unless each party to the lease agreement holds either a casino license or casino service industry license and unless the agreement is for a durational term exceeding 30 years, concerns a significant portion of the entire approved hotel building or of the land upon which same is located, and includes within its terms a buy-out provision conforming to that described in paragraph (5) above;

(7) As to agreements for the management of a casino, the commission shall require that each party thereto hold a casino license, that the party thereto who is to manage the casino own at least 10% of all outstanding equity securities of any casino licensee or of any eligible applicant for a casino license if the said licensee or applicant is a corporation and the ownership of an equivalent interest in any casino licensee or in any eligible applicant for a casino license if same is not a corporation, and that such an agreement be for the complete management of the casino, provide for the sale and unrestricted power to direct the casino operations of the casino which is the subject of the agreement, and be for such a durational term as to assure reasonable continuity, stability and independence in the management of the casino;

(8) The commission may permit an agreement for the management of a casino to provide for the payment to the managing party of an interest, percentage or share of money gambled at the casino or derived from casino gaming activity or of revenues or profits of the casino; and,

(9) As to agreements to lease an approved hotel building or the land thereunder, agreements to jointly own an approved hotel

building or the land thereunder and agreements for the management of a casino, the commission shall require that each party thereto shall be jointly and severally liable for all acts, omissions and violations of this act by any party thereto regardless of actual knowledge of such act, omission or violation and notwithstanding any provision in such agreement to the contrary.

d. No corporation shall be eligible to apply for a casino license unless the corporation shall:

(1) Be incorporated in the State of New Jersey, although such corporation may be a wholly or partially owned subsidiary of a corporation which is organized pursuant to the laws of another state of the United States or of a foreign country;

(2) Maintain an office of the corporation in the premises licensed or to be licensed;

(3) Comply with all the requirements of the laws of the State of New Jersey pertaining to corporations;

(4) Maintain a ledger in the principal office of the corporation in New Jersey which shall at all times reflect the current ownership of every class of security issued by the corporation and shall be available for inspection by the commission or the division and authorized agents of the commission and the division at all reasonable times without notice;

(5) Maintain all operating accounts required by the commission in a bank in New Jersey;

(6) Include among the purposes stated in its certificate of incorporation the conduct of casino gaming and provide that the certificate of incorporation includes all provisions required by this act;

(7) If it is not a publicly traded corporation, file with the commission such adopted corporate charter or bylaws provisions as may be necessary to establish the right of the commission to approve future transfers of corporate securities, shares, and other interests in the applicant corporation and in any non-publicly traded holding company, intermediary company, or subsidiary thereof; and, if it is a publicly traded corporation, said corporation shall provide in its corporate charter or bylaws that any securities of such corporation are held subject to the condition that if a holder thereof is found to be disqualified by the commission pursuant to the provisions of this act, such holder shall dispose of his interest in the corporation; provided, however, that, notwithstanding the provisions of N. J. S. 14A:7–12 and N. J. S. 12A:8–101 et seq.,

nothing herein shall be deemed to require that any security of such corporation bear any legend to this effect; and

(8) If it is not a publicly traded corporation, establish to the satisfaction of the commission that appropriate charter or bylaw provisions create the absolute right of such non-publicly traded corporations and companies to repurchase at the market price or the purchase price, whichever is the lesser, any security, share or other interest in the corporation in the event that the commission disapproves a transfer in accordance with the provisions of this act.

e. No person shall be issued or be the holder of more than three casino licenses. For the purpose of this subsection a person shall be considered the holder of a casino license if such license is issued to such person or if such license is held by any holding, intermediary or subsidiary company thereof, or by any officer, director, casino key employee or principal employee of such person, or of any holding, intermediary or subsidiary company thereof.

19. Section 83 of P. L. 1977, c. 110 (C. 5:12–83) is amended to read as follows:

C. 5:12-83 Approved hotel.

83. Approved Hotel. An approved hotel for purposes of this act shall be a hotel providing facilities in accordance with this section. Nothing in this section shall be construed to limit the authority of the commission to determine the suitability of facilities as provided in this act, and nothing in this section shall be construed to require a casino to be larger than the minimum size or smaller than the maximum size herein provided. An approved hotel shall, in accordance with the following table:

a. Contain qualifying sleeping units as defined in section 27 of this act;

b. Contain qualifying meeting and exhibition space, consisting of indoor public space available and of the sort regularly used for conventions, exhibits, meetings, banquets and similar functions, but not including space regularly used as restaurants, lobbies, lounges, bars, show theaters, sports facilities, casinos, or parking areas;

c. Contain qualifying indoor public space used for dining, entertainment, and sports facilities, including restaurants, bars, lounges, show theaters, shops, dance halls, and swimming facilities but excluding lobbies, casinos, parking areas and tennis facilities. For purposes of this subsection, only the actual swimming pool and a 25-foot area on all sides thereof shall be eligible for inclusion in the allowable indoor sports space; and

d. Contain a single casino room as defined in section 6 of this act, in accordance with the minimum number of qualifying sleeping units and minimum amount of qualifying indoor public space as provided in the following chart, but, except as hereinafter provided, in no event may a casino room be permitted to exceed the maximum square footage stated:

Minimum Number of Qualifying Sleeping Units	*Minimum Square Footage of Qualifying Indoor Public Space Sq. Ft.*	*Maximum Square Footage of Casino Room Sq. Ft.*
500	65,000	30,000
750	80,000	40,000
1,000	95,000	50,000
1,250	110,000	60,000
1,500	125,000	70,000
1,750	140,000	85,000
2,000	155,000	100,000

e. The commission shall have the authority to insure a fair mixture of meeting, exhibition, dining, entertainment and indoor sports space within the indoor public space within a qualifying casino hotel facility in order to best promote the tourist, resort and convention industry of the State in accordance with the policies of this act and shall, unless for a good cause it otherwise determines, require that each such casino hotel facility contain no less than 25,000 square feet of qualifying meeting and exhibition space and no less than 40,000 square feet of qualifying dining, entertainment and sports space.

f. If an approved hotel shall provide more than the minimum number of qualifying sleeping units as hereinbefore defined than is required by subsection d. hereof, the maximum casino space may be permitted to increase by 40 square feet for each such excess sleeping unit.

g. If a licensed facility shall provide more qualifying indoor public space as hereinbefore defined than is required by subsection d. hereof, the maximum allowable casino space may be permitted to increase by a figure representing one-half of the amount of such excess qualifying indoor public space, including space serving as kitchen support facilities.

h. In no event may the total of the increased allowable casino space be permitted to exceed a figure representing the original maximum casino size.

20. Section 84 of P. L. 1977, c. 110 (C. 5:12-84) is amended to read as follows:

C. 5:12-84 Casino license—applicant requirements.

84. Casino License—Applicant Requirements. Any applicant for a casino license must produce information, documentation and assurances concerning the following qualification criteria:

a. Each applicant shall produce such information, documentation and assurances concerning financial background and resources as may be required to establish by clear and convincing evidence the financial stability, integrity and responsibility of the applicant, including but not limited to bank references, business and personal income and disbursement schedules, tax returns and other reports filed with governmental agencies, and business and personal accounting and check records and ledgers. In addition, each applicant shall, in writing, authorize the examination of all bank accounts and records as may be deemed necessary by the commission or the division.

b. Each applicant shall produce such information, documentation and assurances as may be necessary to establish by clear and convincing evidence the integrity and reputation of all financial backers, investors, mortgagees, bond holders, and holders of indentures, notes or other evidences of indebtedness, either in effect or proposed, which bears any relation to the casino proposal submitted by the applicant or applicants. The reputation and integrity of financial sources shall be judged upon the same standards as the applicant. In addition, the applicant shall produce whatever information, documentation or assurance may be required to establish by clear and convincing evidence the adequacy of financial resources both as to the completion of the casino proposal and the operation of the casino.

c. Each applicant shall produce such information, documentation and assurances of good character as may be required to establish by clear and convincing evidence the applicant's good reputation for honesty and integrity. Such information shall include, without limitation, information pertaining to family, habits, character, criminal and arrest record, business activities, financial affairs, and business, professional and personal associates, covering at least the 10-year period immediately preceding the filing of the application. Each applicant shall notify the commission of any civil judgments obtained against any such applicant pertaining to antitrust or security regulation laws of the Federal government, of this State or of any other state, jurisdiction, province or country.

In addition, each applicant shall produce letters of reference from law enforcement agencies having jurisdiction in the applicant's place of residence and principal place of business, which letters of reference shall indicate that such law enforcement agencies do not have any pertinent information concerning the applicant, or if such law enforcement agency does have information pertaining to the applicant, shall specify what the information is. If the applicant has conducted gaming operations in a jurisdiction which permits such activity, the applicant shall produce letters of reference from the gaming or casino enforcement or control agency which shall specify the experiences of such agency with the applicant, his associates, and his gaming operation; provided, however, that if no such letters are received within 60 days of request therefor, the applicant may submit a statement under oath that he is or was during the period such activities were conducted in good standing with such gaming or casino enforcement or control agency.

d. Each applicant shall produce such information, documentation and assurances as may be required to establish by clear and convincing evidence that the applicant has sufficient business ability and casino experience as to establish the likelihood of creation and maintenance of a successful, efficient casino operation. The applicant shall produce the names of all proposed casino key employees as they become known and a description of their respective or proposed responsibilities, and a full description of security systems and management controls proposed for the casino and related facilities.

e. Each applicant shall produce such information, documentation and assurances to establish to the satisfaction of the commission the suitability of the casino and related facilities and its proposed location, and that the proposal will not adversely affect casino operations or overall environmental conditions. Each applicant shall submit an impact statement which shall include, without limitation, architectural and site plans which establish that the proposed facilities comply in all respects with the requirements of this act, the requirements of the master plan and zoning and planning ordinances of Atlantic City, without any use variance from the provisions thereof, and the requirements of the "Coastal Area Facility Review Act," P. L. 1973, c. 185 (C. 13:19–1 et seq.), a market impact study which analyzes the adequacy of the patron market and the effect of the proposal on such market and on the existing casino facilities licensed under this act; and an

analysis of the effect of the proposal on the overall environment, including, without limitation, economic, social, demographic and competitive conditions as well as the natural resources of Atlantic City and the State of New Jersey.

21. Section 85 of P. L. 1977, c. 110 (C. 5:12–85) is amended to read as follows:

C. 5:12-85 Additional requirements.

85. Additional Requirements. a. In addition to other information required by this act, a corporation applying for a casino license shall provide the following information:

(1) The organization, financial structure and nature of all businesses operated by the corporation; the names and personal employment and criminal histories of all officers, directors and principal employees of the corporation; the names of all holding, intermediary and subsidiary companies of the corporation; and the organization, financial structure and nature of all businesses operated by such of its holding, intermediary and subsidiary companies as the commission may require, including names and personal employment and criminal histories of such officers, directors and principal employees of such corporations and companies as the commission may require;

(2) The rights and privileges acquired by the holders of different classes of authorized securities of such corporations and companies as the commission may require, including the names, addresses and amounts held by all holders of such securities;

(3) The terms upon which securities have been or are to be offered;

(4) The terms and conditions of all outstanding loans, mortgages, trust deeds, pledges or any other indebtedness or security devices utilized by the corporation;

(5) The extent of the equity security holding in the corporation of all officers, directors and underwriters, and their remuneration in the form of salary, wages, fees or otherwise;

(6) Names of persons other than directors and officers whose compensation exceeds $25,000.00 per annum, and amounts thereof;

(7) A description of all bonus and profit sharing arrangements;

(8) Copies of all management and service contracts; and

(9) A listing of stock options existing or to be created.

b. If a corporation applying for a casino license is, or if a corporation holding a casino license is to become, a subsidiary, each holding company and each intermediary company with respect

thereto must, as a condition of the said subsidiary acquiring or retaining such license, as the case may be:

(1) Qualify to do business in the State of New Jersey; and

(2) If it is a corporation, register with the commission and furnish the commission with all the information required of a corporate licensee as specified in subsection a. (1), (2) and (3) of this section and such other information as the commission may require; or

(3) If it is not a corporation, register with the commission and furnish the commission with such information as the commission may prescribe. The commission may, in its discretion, make such investigations concerning the officers, directors, underwriters, security holders, partners, principals, trustees or persons owning or beneficially holding any interest in any holding company or intermediary company as it deems necessary, either at the time of initial registration or at any time thereafter.

c. No corporation shall be eligible to hold a casino license unless each officer; each director; each person who directly or indirectly holds any beneficial interest or ownership of the securities issued by the corporation; any person who in the opinion of the commission has the ability to control the corporation or elect a majority of the board of directors of that corporation, other than a banking or other licensed lending institution which holds a mortgage or other lien acquired in the ordinary course of business; each principal employee; and any lender, underwriter, agent, employee of the corporation, or other person whom the commission may consider appropriate for approval or qualification would, but for residence, individually be qualified for approval as a casino key employee pursuant to the provisions of this act.

d. No corporation which is a subsidiary shall be eligible to receive or hold a casino license unless each holding and intermediary company with respect thereto:

(1) If it is a corporation, shall comply with the provisions of subsection c. of this section as if said holding or intermediary company were itself applying for a casino license; provided, however, that the commission with the concurrence of the director may waive compliance with the provisions of subsection c. hereof on the part of a publicly-traded corporation which is a holding company as to any officer, director, lender, underwriter, agent or employee thereof, or person directly or indirectly holding a beneficial interest or ownership of the securities of such corporation,

where the commission and the director are satisfied that such officer, director, lender, underwriter, agent or employee is not significantly involved in the activities of the corporate licensee, and in the case of security holders, does not have the ability to control the publicly-traded corporation or elect one or more directors thereof; or

(2) If it is not a corporation, shall comply with the provisions of subsection e. of this section as if said company were itself applying for a casino license.

e. Any noncorporate applicant for a casino license shall provide the information required in subsection a. of this section in such form as may be required by the commission. No such applicant shall be eligible to hold a casino license unless each person who directly or indirectly holds any beneficial interest or ownership in the applicant, or who in the opinion of the commission has the ability to control the applicant, or whom the commission may consider appropriate for approval or qualification, would, but for residence, individually be qualified for approval as a casino key employee pursuant to the provisions of this act.

22. Section 86 of P. L. 1977, c. 110 (C. 5:12–86) is amended to read as follows:

C. 5:12-86 Casino license—disqualification criteria.

86. Casino License—Disqualification Criteria. The commission shall deny a casino license to any applicant who is disqualified on the basis of any of the following criteria:

a. Failure of the applicant to prove by clear and convincing evidence that the applicant is qualified in accordance with the provisions of this act;

b. Failure of the applicant to provide information, documentation and assurances required by the act or requested by the commission, or failure of the applicant to reveal any fact material to qualification, or the supplying of information which is untrue or misleading as to a material fact pertaining to the qualification criteria;

c. The conviction of the applicant, or of any person required to be qualified under this act as a condition of a casino license, of any offense in any jurisdiction which would be under New Jersey law at the time of application a violation of any of the following provisions of law:

(1) With respect to convictions obtained pursuant to the "New Jersey Code of Criminal Justice," P. L. 1978, c. 95 (Title 2C of the New Jersey Statutes) as amended and supplemented:

all crimes of the first degree;

N. J. S. 2C:5–1 (attempt to commit an offense which is listed in this paragraph);

N. J. S. 2C:5–2 (conspiracy to commit an offense which is listed in this paragraph);

N. J. S. 2C:11–4b. (manslaughter);

N. J. S. 2C:12–1b. (aggravated assault which constitutes a crime of the second or third degree);

N. J. S. 2C:15–1 (robberies);

N. J. S. 2C:17–1a. and b. (crimes involving arson and related offenses);

N. J. S. 2C:17–2a. and b. (causing or risking widespread injury or damage);

N. J. S. 2C:18–2 (burglary which constitutes a crime of the second degree);

N. J. S. 2C:20–1 et seq. (theft and related offenses which constitute crimes of the second and third degrees);

N. J. S. 2C:20–7 (receiving stolen property);

N. J. S. 2C:21–1 et seq. (forgery and fraudulent practices which constitute crimes of the second and third degrees);

N. J. S. 2C:21–4a. (falsifying or tampering with records);

N. J. S. 2C:21–14 (receiving deposits in a failing financial institution);

N. J. S. 2C:27–1 et seq. (bribery and corrupt influence);

N. J. S. 2C:28–1 et seq. (perjury and other falsification in official matters which constitutes a crime of the third and fourth degrees);

N. J. S. 2C:30–2 and N. J. S. 2C:30–3 (misconduct in office and abuse in office which constitutes a crime of the second degree);

N. J. S. 2C:37–1 et seq. (gambling offenses which constitute crimes of the third and fourth degrees);

N. J. S. 2C:37–7 (possession of a gambling device);

(2) With respect to convictions obtained under Title 2A of the New Jersey Statutes:

N. J. S. 2A:85–5 (attempt to commit an offense which is in this paragraph);

N. J. S. 2A:89–1 et seq. (arson and other burnings);

N. J. S. 2A:90–1 et seq. (assault and battery);

N. J. S. 2A:91–1 et seq. (banks and financial corporations);

N. J. S. 2A:93–1 (bribery of judge or magistrate; acceptance of bribe);

N. J. S. 2A:93–2 (bribery of legislators; acceptance by legislators or other persons);

N. J. S. 2A:93–4 (soliciting or receiving award for official vote);

N. J. S. 2A:93–6 (giving or accepting bribes in connection with government work, service, etc.);

N. J. S. 2A:93–10 (giving or promising bribe to participants in sporting contest);

N. J. S. 2A:93–13 (giving or promising bribe to referee, umpire or other official in sporting contest);

N. J. S. 2A:94–1 (breaking and entering or entering);

N. J. S. 2A:94–2 (use of high explosives in breaking or entering);

N. J. S. 2A:98–1 (conspiracy to commit an offense which is enumerated in this paragraph);

N. J. S. 2A:99–1 (obstructing execution of process; assaulting officers);

N. J. S. 2A:102–1 et seq. (embezzlement, conversion and misappropriation);

N. J. S. 2A:103–1 et seq. (embracery);

N. J. S. 2A:105–1 et seq. (extortion, threats and unlawful takings);

N. J. S. 2A:108–9 (narcotic drugs; persuading others to use);

N. J. S. 2A:109–1 to N. J. S. 2A:109–3, N. J. S. 2A:109–6 to N. J. S. 2A:109–9 (forgery and counterfeiting);

N. J. S. 2A:111–1 to N. J. S. 2A:111–3, N. J. S. 2A:111–5 to N. J. S. 2A:111–15, N. J. S. 2A:111–18 to N. J. S. 2A:111–21.1, N. J. S. 2A:111–23 and N. J. S. 2A:111–24, N. J. S. 2A:111–28 to N. J. S. 2A:111–32, N. J. S. 2A:111–34 to N. J. S. 2A:111–35, N. J. S. 2A:111–37 to N. J. S. 2A:111–46 (frauds and cheats);

N. J. S. 2A:112–1 et seq. (gaming);

N. J. S. 2A:113–1 (murder);

N. J. S. 2A:113–5 (manslaughter);

N. J. S. 2A:114–2 (incestuous conduct between parent and child);

N. J. S. 2A:118–1 et seq. (kidnapping);

N. J. S. 2A:119–1 to N. J. S. 2A:119–5, P. L. 1965, c. 52 (C. 2A:119–5.1 et seq.) (larcency and other stealings);

N. J. S. 2A:119–8 (stealing narcotic drugs; breaking and entering with intent to steal);

P. L. 1968, c. 349 (C. 2A:119A–1 et seq.) (loansharking);

N. J. S. 2A:121–1 et seq. (lotteries);

N. J. S. 2A:125–1 et seq. (mayhem);

N. J. S. 2A:131–1 to N. J. S. 2A:131–3 (perjury and subornation of perjury);

N. J. S. 2A:135–3 (public officers or employees unlawfully obtaining state, county, municipal or school district funds);

N. J. S. 2A:138–1 et seq. (rape and carnal abuse);

N. J. S. 2A:139–1 et seq. (receiving stolen property);

N. J. S. 2A:141–1 (robbery);

N. J. S. 2A:143–2 (sodomy with children under 10);

P. L. 1957, c. 49 (C. 2A:148–22.1) (giving false information to law enforcement officer or agency);

(3) Any high misdemeanor under section 19 of P. L. 1970, c. 226 (C. 24:21–19) or

(4) Any other offense which indicates that licensure of the applicant would be inimical to the policy of this act and to casino operations; provided, however, that the automatic disqualification provisions of this subsection shall not apply with regard to any conviction which did not occur within the 10-year period immediately preceding application for licensure and which the applicant demonstrates by clear and convincing evidence does not justify automatic disqualification pursuant to this subsection and any conviction which has been the subject of a judicial order of expungement or sealing and provided, further however, that, any applicant or any person required to be qualified under this act as a condition of a casino license who is disqualified on the basis of paragraph (2) herein shall not be so disqualified if such applicant or person demonstrates to the commission by clear and convincing evidence that the act or acts which constitute the offense which forms the basis for such disqualification would not form the basis for a disqualification pursuant to paragraph (1) of this section;

d. Current prosecution or pending charges in any jurisdiction of the applicant or of any person who is required to be qualified under this act as a condition of a casino license, for any of the offenses enumerated in subsection c. of this section; provided, however, that at the request of the applicant or the person charged, the commission shall defer decision upon such application during the pendency of such charge;

e. The pursuit by the applicant or any person who is required to be qualified under this act as a condition of a casino license of economic gain in an occupational manner or context which is in violation of the criminal or civil public policies of this State, if such pursuit creates a reasonable belief that the participation of

such person in casino operations would be inimical to the policies of this act or to legalized gaming in this State. For purposes of this section, occupational manner or context shall be defined as the systematic planning, administration, management, or execution of an activity for financial gain;

f. The identification of the applicant or any person who is required to be qualified under this act as a condition of a casino license as a career offender or a member of a career offender cartel or an associate of a career offender or career offender cartel in such a manner which creates a reasonable belief that the association is of such a nature as to be inimical to the policy of this act and to gaming operations. For purposes of this section, career offender shall be defined as any person whose behavior is pursued in an occupational manner or context for the purpose of economic gain, utilizing such methods as are deemed criminal violations of the public policy of this State. A career offender cartel shall be defined as any group of persons who operate together as career offenders;

g. The commission by the applicant or any person who is required to be qualified under this act as a condition of a casino license of any act or acts which would constitute any offense under subsection c. of this section, even if such conduct has not or may not be prosecuted under the criminal laws of this State; and

h. Contumacious defiance by the applicant or any person who is required to be qualified under this act of any legislative investigatory body or other official investigatory body of any state or of the United States when such body is engaged in the investigation of crimes relating to gaming, official corruption, or organized crime activity.

23. Section 87 of P. L. 1977, c. 110 (C. 5:12–87) is amended to read as follows:

C. 5:12-87 Investigation of applicants for casino licenses; order approving or denying license.

87. Investigation of Applicants For Casino Licenses; Order Approving or Denying License. a. Upon the filing of an application for a casino license and such supplemental information as the commission may require, the commission shall request the division to conduct such investigation into the qualification of the applicant, and the commission shall conduct a hearing thereon concerning the qualification of the applicant in accordance with its regulations.

b. After such investigation and hearing, the commission may either deny the application or grant a casino license to an applicant whom it determines to be qualified to hold such license.

c. The commission shall have the authority to deny any application pursuant to the provisions of this act. When an application is denied, the commission shall prepare and file an order denying such application with the general reasons therefor, and if requested by the applicant, shall further prepare and file a statement of the reasons for the denial, including the specific findings of facts.

d. After an application is submitted to the commission, final action of the commission shall be taken within 90 days after completion of all hearings and investigations and the receipt of all information required by the commission.

e. If satisfied that an applicant is qualified to receive a casino license, and upon tender of all license fees and taxes as required by law and regulations of the commission, and such bonds as the commission may require for the faithful performance of all requirements imposed by law or regulations, the commission shall issue a casino license for the term of 1 year.

f. The commission shall fix the amount of the bond or bonds to be required under this section in such amounts as it may deem appropriate, by rules of uniform application. The bonds so furnished may be applied by the commission to the payment of any unpaid liability of the licensee under this act. The bond shall be furnished in cash or negotiable securities, by a surety bond guaranteed by a satisfactory guarantor, or by an irrevocable letter of credit issued by a banking institution of this State acceptable to the commission. If furnished in cash or negotiable securities, the principal shall be placed without restriction at the disposal of the commission, but any income shall inure to the benefit of the licensee.

24. Section 89 of P. L. 1977, c. 110 (C. 5:12–89) is amended to read as follows:

C. 5:12-89 Licensing of casino key employees.

89. Licensing of Casino Key Employees. a. No person may be employed as a casino key employee unless he is the holder of a valid casino key employee license issued by the commission.

b. Each applicant must, prior to the issuance of any casino key employee license, produce information, documentation and assurances concerning the following qualification criteria:

(1) Each applicant for a casino key employee license shall produce such information, documentation and assurances as may be

required to establish by clear and convincing evidence the financial stability, integrity and responsibility of the applicant, including but not limited to bank references, business and personal income and disbursements schedules, tax returns and other reports filed with governmental agencies, and business and personal accounting and check records and ledgers. In addition, each applicant shall, in writing, authorize the examination of all bank accounts and records as may be deemed necessary by the commission or the division.

(2) Each applicant for a casino key employee license shall produce such information, documentation and assurances as may be required to establish by clear and convincing evidence the applicant's reputation for good character, honesty and integrity. Such information shall include, without limitation, data pertaining to family, habits, character, criminal and arrest record, business activities, financial affairs, and business, professional and personal associates, covering at least the 10-year period immediately preceding the filing of the application. Each applicant shall notify the commission of any civil judgments obtained against such applicant pertaining to antitrust or security regulation laws of the Federal government, of this State or of any other state, jurisdiction, province or country. In addition, each applicant shall, upon request of the commission or the division, produce letters of reference from law enforcement agencies having jurisdiction in the applicant's place of residence and principal place of business, which letters of reference shall indicate that such law enforcement agencies do not have any pertinent information concerning the applicant, or if such law enforcement agency does have information pertaining to the applicant, shall specify what that information is. If the applicant has been associated with gaming or casino operations in any capacity, position or employment in a jurisdiction which permits such activity, the applicant shall, upon request of the commission or division, produce letters of reference from the gaming or casino enforcement or control agency which shall specify the experiences of such agency with the applicant, his associates and his participation in the gaming operations of that jurisdiction; provided, however, that if no such letters are received from the appropriate law enforcement agencies within 60 days of the applicant's request therefor, the applicant may submit a statement under oath that he is or was during the period such activities were conducted in good standing with such gaming or casino enforcement or control agency.

(3) Each applicant shall produce such information, documentation and assurances as may be required to establish by clear and convincing evidence that the applicant has sufficient business ability and casino experience as to establish the reasonable likelihood of success and efficiency in the particular position involved.

(4) Each applicant shall be a resident of the State of New Jersey prior to the issuance of a casino key employee license.

The commission may also, by regulation, require that all applicants for casino key employee licenses be residents of this State for a period not to exceed 6 months immediately prior to the issuance of such license, but application may be made prior to the expiration of the required period of residency. The commission shall, by resolution, waive the required residency period for an applicant upon a showing that the residency period would cause undue hardship upon the casino licensee which intends to employ said applicant, or upon a showing of other good cause.

c. The commission shall endorse upon any license issued hereunder the particular positions as defined by this act or by regulation which the licensee is qualified to hold.

d. The commission shall deny a casino key employee license to any applicant who is disqualified on the basis of the criteria contained in section 86 of this act.

e. Upon petition by the holder of a casino license or the holder of a temporary casino permit, the commission may, no earlier than 30 days after the date of the petition, issue a temporary license to an applicant for a casino key employee license, provided that:

(1) The applicant for the casino key employee license has filed a complete application as required by the commission;

(2) The division certifies to the commission that the complete casino key employee license application as specified in paragraph (1) of this subsection has been in the possession of the division for at least 30 days;

(3) The information provided by the applicant indicates that the applicant meets the requirements of subsection b. (3) of this section;

(4) The petition for a temporary casino key employee license certifies, and the commission finds, that an existing casino key employee position of the petitioner is vacant and that the issuance of a temporary key employee license is necessary to fill the said vacancy on an emergency basis to continue the efficient operation of the casino, and that such circumstances are extraordinary and

not designed to circumvent that normal licensing procedures of this act;

(5) The division does not object to the issuance of the temporary casino key employee license.

In the event that an applicant for a casino key employee license is the holder of a valid casino employee license issued pursuant to section 90 of this act, and if the provisions of paragraphs (1), (2), (3), and (5) of this subsection are satisfied, the commission may issue a temporary casino key employee license upon petition by the holder of a casino license or the holder of a temporary casino permit, if the commission finds the issuance of a casino key employee license will be delayed by necessary investigations and the said temporary casino key employee license is necessary for the operations of the casino.

Unless otherwise terminated pursuant to this act, any temporary casino key employee license issued pursuant to this subsection shall expire 6 months from the date of its issuance, and shall be renewable by the commission, in the absence of objection by the division as specified in paragraph (5) of this subsection, for one additional 3-month period.

This subsection shall expire 18 months subsequent to its enactment; provided, however, that temporary licenses issued pursuant to this subsection may be continued and renewed subsequent to the expiration of this subsection as if such expiration had not occurred.

25. Section 90 of P. L. 1977, c. 110 (C. 5:12–90) is amended to read as follows:

C. 5:12-90 Licensing of casino employees.

90. Licensing of Casino Employees. a. No person may commence employment as a casino employee unless he is the holder of a valid casino employee license. The chairman may issue and renew said license and shall endorse upon any license issued hereunder the particular position which the licensee is qualified to hold, except in those circumstances where the division objects to licensure of an applicant or provides information which indicates that an applicant may lack the qualifications for licensure. In such circumstances, the commission shall have the exclusive authority to issue or to renew such a license.

b. Any applicant for a casino employee license must, prior to the issuance of any such license, produce sufficient information, documentation and assurances to meet the qualification criteria, including New Jersey residency, contained in subsection b. of section 89

of this act and any additional residency requirement imposed under subsection c. of this section; except that the standards for business ability and casino experience may be satisfied by a showing of casino job experience and knowledge of the provisions of this act and regulations pertaining to the particular position involved, or by successful completion of a course of study at a licensed school in an approved curriculum.

c. The commission may, by regulation, require that all applicants for casino employee licenses be residents of this State for a period not to exceed 6 months immediately prior to the issuance of such license, but application may be made prior to the expiration of the required period of residency. The commission shall, by resolution, waive the required residency period for an applicant upon a showing that the residency period would cause undue hardship upon the casino licensee which intends to employ said applicant, or upon a showing of other good cause.

d. The commission, except as provided in subsection a. of this section, shall endorse upon any license issued hereunder the particular positions as defined by regulation which the licensee is qualified to hold.

e. The commission shall deny a casino employee license to any applicant who is disqualified on the basis of the criteria contained in section 86 of this act.

f. For purposes of this section, casino security employees shall be considered casino employees and must, in addition to any requirements under other laws, be licensed in accordance with the provisions of this act.

g. A temporary license may be issued by the chairman to casino employees for positions not directly related to gaming activity if, in his judgment, the issuance of a plenary license will be restricted by necessary investigations and said temporary licensing of the applicant is necessary for the operations of the casino. Unless otherwise terminated pursuant to this act, a temporary license issued pursuant to this subsection shall expire 6 months from the date of its issuance and be renewable, at the discretion of the chairman, for one additional 6 month period. Positions "directly related to gaming activity" shall include, but not be limited to, boxmen, floormen, dealers or croupiers, cage personnel, count room personnel, slot and slot booth personnel, credit and collection personnel, casino surveillance personnel, and casino security employees whose employment duties require or authorize access to the casino. This subsection shall expire 18 months subsequent to

its enactment; provided, however, that temporary licenses issued pursuant to this subsection may be continued and renewed subsequent to the expiration of this subsection as if such expiration had not occurred.

h. Notwithstanding the provisions of subsection e. of this section, no applicant shall be denied a casino employee license on the basis of a conviction of any of the offenses enumerated in this act as disqualification criteria provided that the applicant has affirmatively demonstrated his rehabilitation. In determining whether the applicant has affirmatively demonstrated his rehabilitation the commission shall consider the following factors:

(1) The nature and duties of the position applied for;

(2) The nature and seriousness of the offense;

(3) The circumstances under which the offense occurred;

(4) The date of the offense;

(5) The age of the applicant when the offense was committed;

(6) Whether the offense was an isolated or repeated incident;

(7) Any social conditions which may have contributed to the offense;

(8) Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of persons who have or have had the applicant under their supervision.

26. Section 91 of P. L. 1977, c. 110 (C. 5:12–91) is amended to read as follows:

C. 5:12-91 Casino hotel employee licenses.

91. Casino Hotel Employee Licenses. a. No person may commence employment as a casino hotel employee unless he is the holder of a valid casino hotel employee license issued by the chairman.

b. Any applicant for a casino hotel employee license must, prior to the issuance of any such license, produce sufficient information, documentation and assurances to meet the qualification criteria, including New Jersey residency, contained in subsections b.(1), b. (2) and b.(4) of section 89 of this act and any additional residency requirement imposed under subsection c. of this section. No casino hotel employee license shall be issued to any person disqualified on the basis of the criteria contained in section 86 of this act.

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c. The commission may, by regulation, require that all applicants for casino hotel employee licenses be residents of this State for a period not to exceed 3 months immediately prior to the issuance of such license, but application may be made prior to the expiration of the required period of residency. The chairman shall waive the required residency period for an applicant upon a showing that the residency period would cause undue hardship upon the casino licensee which intends to employ said applicant, or upon a showing of other good cause.

d. Notwithstanding the provisions of subsection b. of this section, no applicant shall be denied a casino hotel employee license on the basis of a conviction of any of the offenses enumerated in this act as disqualification criteria, provided that the applicant has affirmatively demonstrated his rehabilitation. In determining whether the applicant has affirmatively demonstrated his rehabilitation the commission shall consider the following factors:

(1) The nature and duties of the position applied for;

(2) The nature and seriousness of the offense;

(3) The circumstances under which the offense occurred;

(4) The date of the offense;

(5) The age of the applicant when the offense was committed;

(6) Whether the offense was an isolated or repeated incident;

(7) Any social conditions which may have contributed to the offense;

(8) Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of persons who have or have had the applicant under their supervision.

e. The commission may waive any disqualification criterion for a casino hotel employee consistent with the public policy of this act and upon a finding that the interests of justice so require.

f. A temporary license may be issued by the chairman if in his judgment the issuance of a permanent license will be restricted by necessary investigations and said temporary licensing of the applicant is necessary for the operations of the hotel. Unless otherwise terminated pursuant to this act, a temporary license issued pursuant to this subsection shall expire 6 months from the date of its issuance and be renewable, at the discretion of the chairman, for one additional 6-month period.

27. Section 92 of P. L. 1977, c. 110 (C. 5:12–92) is amended to read as follows:

C. 5:12-92 Licensing and registration of casino service industries.

92. Licensing and Registration of Casino Service Industries. a. All casino service industries offering goods or services on a regular basis which directly relate to casino or gaming activity, including gaming equipment manufacturers, suppliers and repairers, schools teaching gaming and either playing or dealing techniques, and casino security services, shall be licensed in accordance with the provisions of this act prior to conducting any business whatsoever with a casino licensee, its employees or agents, and in the case of a school, prior to enrollment of any students or offering of any courses to the public whether for compensation or not; provided however, that upon a showing of good cause by a casino licensee for each business transaction, the commission may permit an applicant for a casino service industry license to conduct business transactions with such casino licensee prior to the licensure of that applicant under this subsection.

b. Each casino service industry in subsection a. of this section, as well as its owners, management and supervisory personnel and other principal employees must qualify under the standards, except residency, established for qualification of a casino key employee under this act. In addition, if the business or enterprise is a school teaching gaming and either playing or dealing techniques, each resident director, instructor, principal employee, and sales representative employed thereby shall be licensed under the standards established for qualification of a casino employee under this act; provided, however, that nothing in this subsection shall be deemed to require, in the case of a public school district or a public institution of higher education, the licensure or qualification of any individuals except those instructors and other principal employees responsible for the teaching of playing or dealing techniques. The chairman, in his discretion, may issue a temporary license to an applicant for an instructor's license upon a finding that the applicant meets the educational and experiential requirements for such license, that the issuance of a permanent license will be restricted by necessary investigations, and that temporary licensing is necessary for the operation of the gaming school. Unless otherwise terminated pursuant to this act, a temporary license issued pursuant to this subsection shall expire 6 months from the date of its issuance and be renewable, at the discretion of the chairman, for one additional 6-month period. The temporary licensing provisions of this

subsection shall expire 18 months subsequent to its enactment; provided, however, that temporary licenses issued pursuant to this subsection may be continued and renewed subsequent to the expiration of the temporary licensing provisions of this subsection as if such expiration had not occurred.

c. All casino service industries not included in subsection a. of this section shall be licensed in accordance with rules of the commission prior to commencement or continuation of any business with a casino licensee or its agents. Such casino service industries, whether or not directly related to gaming operations, shall include suppliers of alcoholic beverages, food and nonalcoholic beverages; garbage handlers; vending machine providers; linen suppliers; maintenance companies; shopkeepers located within the approved hotel; and limousine services contracting with casino licensees. The commission may exempt any person or field of commerce from the licensing requirements of this subsection if the person or field of commerce demonstrates (1) that it is regulated by a public agency or that it will provide goods or services in insubstantial or insignificant amounts or quantities, and (2) that licensing is not deemed necessary in order to protect the public interest or to accomplish the policies established by this act. Upon granting an exemption or at any time thereafter, the commission may limit or place such restrictions thereupon as it may deem necessary in the public interest, and shall require the exempted person to cooperate with the commission and the division and, upon request, to provide information in the same manner as required of a casino service industry licensed pursuant to this subsection provided, however, that no exemption shall be granted unless the casino service industry complies with the requirements of sections 134 and 135 of this act.

d. Licensure pursuant to subsection c. of this section of any casino service industry may be denied to any applicant disqualified in accordance with the criteria contained in section 86 of this act.

28. Section 94 of P. L. 1977, c. 110 (C. 5:12–94) is amended to read as follows:

C. 5:12-94 Approval and denial of registrations and licenses other than casino licenses.

94. Approval and Denial of Registrations and Licenses Other Than Casino Licenses. a. Upon the filing of an application for any license or registration required by this act other than a casino license, and after submission of such supplemental information as the commission may require, the commission shall request the division to conduct such investigation into the qualification of

the applicant, and the commission shall conduct such hearings concerning the qualification of the applicant in accordance with its regulations as may be necessary to determine qualification for such license or registration.

b. After such investigation, the commission may either deny the application or grant a license to or accept the registration of an applicant whom it determines to be qualified to hold such license or registration. Notwithstanding the above, the chairman may, where authorized, grant a casino employee license or a casino hotel employee license upon application therefor; if said application is denied, the applicant may appeal to the commission in the normal course.

c. The commission shall have the authority to deny any application pursuant to the provisions of this act. When an application is denied, the commission shall prepare and file its order denying such application with the general reasons therefor, and if requested by the applicant, shall further prepare and file a statement of the reasons for the denial, including the specific findings of facts.

d. When the commission grants an application, the commission may limit or place such restrictions thereupon as it may deem necessary in the public interest. Licenses shall be granted and registrations approved for a term of 1 year; provided, however, that casino employee licenses for positions directly related to gaming activity and for gaming school resident director, instructor, principal employee and sales representative licenses shall be granted for a term of 2 years; and provided further that casino employee licenses for positions not directly related to gaming activity, casino hotel employee licenses, and casino service industry licenses issued pursuant to subsection c. of section 92 of P. L. 1977, c. 110 (C. 5:12–92 c.) shall be granted for a term of 3 years.

e. After an application is submitted to the commission, final action of the commission shall be taken within 90 days after completion of all hearings and investigations and the receipt of all information required by the commission.

29. Section 95 of P. L. 1977, c. 110 (C. 5:12–95) is amended to read as follows:

C. 5:12-95 Renewal of licenses and registrations.

95. Renewal of Licenses and Registrations. Subject to the power of the commission to deny, revoke or suspend any license or registration, any license other than a casino license or any registration may be renewed upon proper application for renewal no later

than 120 days prior to the expiration of the current license or registration, and the payment of fees as provided by law on or before the date of expiration of the current license or registration. The commission shall act upon such application for renewal no later than 30 days prior to the date of expiration of the current license or registration.

30. Section 24 of P. L. 1978, c. 7 (C. 5:12–95.5) is amended to read as follows:

C. 5:12-95.5 Hearings.

24. Hearings. Upon the filing of a final request for a temporary casino permit, the commission shall schedule and conduct a hearing on the matter, and a decision on the granting of a temporary casino permit shall be rendered no later than 70 days following said request.

31. Section 26 of P. L. 1978, c. 7 (C. 5:12–95.7) is amended to read as follows:

C. 5:12-95.7 Expiration of a temporary casino permit.

26. Expiration of a Temporary Casino Permit. Unless otherwise terminated pursuant to this amendatory and supplementary act, a temporary casino permit shall expire at the conclusion of 9 months from the date of its issuance and be renewable, at the discretion of the commission, for one 3-month period. The commission may, within its discretion, deem the applicant's willful cessation or discontinuation of the regular casino business of a temporary casino permittee to be an expiration of said temporary casino permit.

32. Section 99 of P. L. 1977, c. 110 (C. 5:12–99) is amended to read as follows:

C. 5:12-99 Internal controls.

99. Internal Controls. a. Each casino licensee shall submit to the commission a description of its system of internal procedures and administrative and accounting controls. Such submission shall be made at least 90 days before gaming operations are to commence or before changes in previously submitted control plans are to become effective, unless otherwise directed by the commission. Each such submission shall contain both narrative and diagrammatic representations of the internal control system to be utilized by the casino, including, but not limited to:

(1) Accounting controls, including the standardization of forms and definition of terms to be utilized in the gaming operations;

(2) Procedures, forms, and, where appropriate, formulas covering the calculation of hold percentages, revenue drop, expense and overhead schedules, complimentary services, junkets, cash equivalent transactions, salary structure and personnel practices;

(3) Job descriptions and the system of personnel and chain-of-command, establishing a diversity of responsibility among employees engaged in casino operations and identifying primary and secondary supervisory positions for areas of responsibility, which areas shall not be so extensive as to be impractical for an individual to monitor;

(4) Procedures within the cashier's cage for the receipt, storage and disbursal of chips, cash, and other cash equivalents used in gaming; the cashing of checks; the redemption of chips and other cash equivalents used in gaming; the pay-off of jackpots; and the recording of transactions pertaining to gaming operations;

(5) Procedures for the collection and security of moneys at the gaming tables;

(6) Procedures for the transfer and recordation of chips between the gaming tables and the cashier's cage;

(7) Procedures for the transfer of moneys from the gaming tables to the counting process;

(8) Procedures and security for the counting and recordation of revenue;

(9) Procedures for the security, storage and recordation of chips and other cash equivalents utilized in the gaming operation;

(10) Procedures for the transfer of moneys or chips from and to the slot machines;

(11) Procedures and standards for the opening and security of slot machines;

(12) Procedures for the payment and recordation of slot machine jackpots;

(13) Procedures for the cashing and recordation of checks exchanged by casino patrons;

(14) Procedures governing the utilization of the private security force within the casino;

(15) Procedures and security standards for the handling and storage of gaming apparatus including cards, dice, machines, wheels and all other gaming equipment; and

(16) Procedures and rules governing the conduct of particular games and the responsibility of casino personnel in respect thereto.

b. The commission shall review each submission required by subsection a. hereof, and shall determine whether it conforms to the requirements of this act and to the regulations promulgated thereunder and whether the system submitted provides adequate and effective controls for the operations of the particular casino submitting it. If the commission finds any insufficiencies, it shall specify same in writing to the casino licensee, who shall make appropriate alterations. When the commission determines a submission to be adequate in all respects, it shall notify the casino licensee of same. No casino licensee shall commence gaming operations, or alter in fact its internal controls, unless and until such system of controls is approved by the commission.

33. Section 100 of P. L. 1977, c. 110 (C. 5:12–100) is amended to read as follows:

C. 5:12-100 Games and gaming equipment.

100. Games and Gaming Equipment. a. This act shall not be construed to permit any gaming except the conduct of authorized games in a casino room in accordance with this act and the regulations promulgated hereunder.

b. Gaming equipment shall not be possessed, maintained or exhibited by any person on the premises of a casino hotel complex except in the casino room and in secure areas used for the inspection, repair or storage of such equipment and specifically designated for that purpose by the casino licensee with the approval of the commission. No gaming equipment shall be possessed, maintained, exhibited, brought into or removed from a casino room by any person unless such equipment is necessary to the conduct of an authorized game, has permanently affixed, imprinted, impressed or engraved thereon an identification number or symbol authorized by the commission, is under the exclusive control of a casino licensee or his employees, and is brought into or removed from the casino room at times authorized for that purpose by the commission or at other times when prior notice has been given to and written approval granted by an authorized agent of the commission.

c. Each casino hotel shall contain a count room and such other secure facilities as may be required by the commission for the counting and storage of cash, coin, tokens and checks received in the conduct of gaming and for the inspection, counting and storage of dice, cards, chips and other representatives of value. All drop boxes and other devices wherein cash, coins, or tokens are deposited at the gaming tables or in slot machines, and all areas wherein such

boxes and devices are kept while in use, shall be equipped with two locking devices, one key to which shall be under the exclusive control of the commission and the other under the exclusive control of the casino licensee, and said drop boxes and other devices shall not be brought into or removed from the casino room, or locked or unlocked, except at such times, in such places, and according to such procedures as the commission may require.

d. All chips used in gaming at all casinos shall be of such size and uniform color by denomination as the commission shall require by regulation.

e. All gaming shall be conducted according to rules promulgated by the commission. All wagers and pay-offs of winning wagers at table games shall be made according to rules promulgated by the commission, which shall establish such minimum wagers and other limitations as may be necessary to assure the vitality of casino operations and fair odds to and maximum participation by casino patrons; provided, however, that a licensee may establish a higher minimum wager with the prior approval of the commission. Each slot machine shall have a minimum payout of 83%.

f. Each casino licensee shall make available in printed form to any casino patron upon request the complete text of the rules of the commission regarding games and the conduct of gaming, pay-offs of winning wagers, an approximation of the odds of winning for each wager, and such other advice to the player as the commission shall require. Each casino licensee shall prominently post within the casino room according to regulations of the commission such information about gaming rules, pay-offs of winning wagers, the odds of winning for each wager, and such other advice to the player as the commission shall require.

g. Each gaming table shall be equipped with a sign indicating the permissible minimum and maximum wagers pertaining thereto. It shall be unlawful for a casino licensee to require any wager to be greater than the stated minimum or less than the stated maximum; provided, however, that any wager actually made by a patron and not rejected by a casino licensee prior to the commencement of play shall be treated as a valid wager.

h. No slot machine shall be used to conduct gaming unless it is identical in all electrical, mechanical and other aspects to a model thereof which has been specifically tested by the division and licensed for use by the commission. The commission shall, by regulation, establish such technical standards for licensure, including mechanical and electrical reliability, security against tamper-

ing, the comprehensibility of wagering, and noise and light levels, as it may deem necessary to protect the player from fraud or deception and to insure the integrity of gaming. In no event shall slot machines, including walkways between them, occupy more than 30% of the first 50,000 square feet of floor space of a casino, or more than 25% of any additional floor space of a casino larger than 50,000 square feet. The commission shall, by regulation, determine the permissible density of particular licensed slot machines or combinations thereof, based upon their size and light and noise levels, so as to create and maintain a gracious playing environment in the casino and to avoid deception or frequent distraction to players at gaming tables. The denominations of such machines shall be set by the licensee, subject to the prior approval of the commission.

i. Each casino shall be arranged in such fashion as to allow floor space for each gaming table, including the space occupied by the table, in accordance with the following:

Baccarat—300 square feet

Blackjack—100 square feet

Craps—200 square feet

Roulette—150 square feet

Big Six Wheel—150 square feet

j. Each casino shall be arranged in such fashion as to assure that gaming tables shall at all times be present, whether in use or not, according to the following:

(1) At least one baccarat table for every 25,000 square feet of casino space or part thereof;

(2) At least one craps table for every 10,000 square feet of casino space or part thereof;

(3) At least one roulette table for every 10,000 square feet of casino space or part thereof;

(4) At least four blackjack tables for every 10,000 square feet of casino space or part thereof; and

(5) No more than one Big Six Wheel and table for every 10,000 square feet of casino space or part thereof.

k. It shall be unlawful for any person to exchange or redeem chips for anything whatsoever, except currency, negotiable personal checks, negotiable counter checks or other chips. A casino licensee shall, upon the request of any person, redeem that licensee's gaming chips surrendered by that person in any amount over $25.00

with a check drawn upon the licensee's account at any banking institution in this State and made payable to that person.

l. It shall be unlawful for any casino licensee or his agents or employees to employ, contract with, or use any shill or barker to induce any person to enter a casino or play at any game or for any purpose whatsoever.

m. It shall be unlawful for a dealer in any authorized game in which cards are dealt to deal cards by hand or other than from a device specifically designed for that purpose.

n. It shall be unlawful for any casino key employee, other than a junket, representative, or any casino employee, other than a bartender, waiter, waitress, or other casino employee who in the judgment of the commission is not directly involved with the conduct of gaming operations, to wager at any game in any casino in this State.

o. (1) It shall be unlawful for any casino key employee or boxman, floorman, or any other casino employee who shall serve in a supervisory position to solicit or accept, and for any other casino employee to solicit, any tip or gratuity from any player or patron at the casino where he is employed.

(2) A dealer may accept tips or gratuities from a patron at the table at which such dealer is conducting play, subject to the provisions of this subsection. All such tips or gratuities shall be immediately deposited in a lock box reserved for that purpose, accounted for, and placed in a pool for distribution pro rata among the dealers on a weekly basis, with the distribution based upon the number of hours each dealer has worked.

34. Section 104 of P. L. 1977, c. 110 (C. 5:12–104) is amended to read as follows:

C. 5:12-104 Casino licensee—leases and contracts.

104. Casino Licensee—Leases and Contracts. a. (1) Unless otherwise provided in this subsection, no agreement which provides for the payment, however defined, of any direct or indirect interest, percentage or share of any money or property gambled at a casino or derived from casino gaming activity or of any such interest, percentage, or share of any revenues, profits or earnings of a casino shall be lawful.

(2) Agreements which provide only for the payment of a fixed sum which is in no way affected by the amount of any such money, property, revenues, profits or earnings shall not be subject to the provisions of this subsection; and receipts, rentals or charges for

real property, personal property or services shall not lose their character as payments of a fixed sum because of contract, lease, or license provisions for adjustments in charges, rentals or fees on account of changes in taxes or assessments, cost-of-living index escalations, expansion or improvement of facilities, or changes in services supplied.

(3) Agreements between a casino licensee and its employees which provide for casino employee or casino key employee profit sharing and which are in writing and have been filed with the commission shall be lawful and effective only if expressly approved as to their terms by the commission.

(4) Agreements to lease an approved hotel building or the land thereunder and agreements for the complete management of a casino shall not be subject to the provisions of this subsection but shall rather be subject to the provisions of subsections b. and c. of section 82 of this act.

(5) Agreements which provide for percentage charges between the casino licensee and a holding company or intermediary company of the casino licensee shall be in writing and filed with the commission but shall not be subject to the provisions of this subsection.

b. Each casino licensee shall be required to present to the commission any written or unwritten agreement regarding the realty of, or any business or person doing business with or on the premises of, its casino hotel facility. Such agreement shall be reviewed by the commission on the basis of the reasonableness of its terms, including the terms of compensation, and of the qualifications of the person involved in the agreement with such casino licensee, which qualifications shall be reviewed according to the standards enumerated in section 86 of this act. If the commission does not approve such an agreement or association, the commission may require its termination.

Every agreement with a casino hotel shall be deemed to include a provision for its termination without liability on the part of the licensee, if the commission shall disapprove of the business or of any person associated therewith, by reason of a finding that said business or person is unsuitable to be associated with a casino enterprise in accordance with the regulations promulgated under this act. Failure expressly to include such a condition in the agreement shall not constitute a defense in any action brought to terminate the agreement. If the agreement is not presented to the commission in accordance with commission regulations, or the disapproved agreement or association is not terminated, the com-

mission may pursue any remedy or combination of remedies provided in this act.

c. Nothing in this act shall be deemed to permit the transfer of any license, or any interest in any license, or any certificate of compliance or any commitment or reservation.

35. Section 105 of P. L. 1977, c. 110 (C. 5:12–105) is amended to read as follows:

C. 5:12-105 Disposition of securities by corporate licensee.

105. Disposition of Securities by Corporate Licensee. a. The sale, assignment, transfer, pledge or other disposition of any security issued by a corporation which holds a casino license is conditional and shall be ineffective if disapproved by the commission.

b. Every security issued by a corporation which holds a casino license shall bear, on both sides of the certificate evidencing such security, a statement of the restrictions imposed by this section, except that in the case of a publicly traded corporation incorporated prior to the effective date of this act, a statement of restriction shall be necessary only insofar as certificates are issued by such corporation after the effective date of this act.

c. The Secretary of State shall not accept for filing any articles of incorporation of any corporation which includes as a stated purpose the conduct of casino gaming, or any amendment which adds such purpose to articles of incorporation already filed, unless such articles or amendments have been approved by the commission and a copy of such approval is annexed thereto upon presentation for filing with the Secretary of State.

d. If at any time the commission finds that an individual owner or holder of any security of a corporate licensee or of a holding or intermediary company with respect thereto is not qualified under this act, and if as a result the corporate licensee is no longer qualified to continue as a casino licensee in this State, the commission shall, pursuant to the provisions of this act, propose any necessary action to protect the public interest, including the suspension or revocation of the casino license of the corporation; provided, however, that if the holding or intermediary company is a publicly traded corporation and the commission finds disqualified any holder of any security thereof who is required to be qualified under section 85 d. of this act, and the commission also finds that: (1) the holding or intermediary company has complied with the provisions of section 82 d. (7) of this act; (2) the holding or intermediary company has made a good faith effort, including the

prosecution of all legal remedies, to comply with any order of the commission requiring the divestiture of the security interest held by the disqualified holder; and (3) such disqualified holder does not have the ability to control the corporate licensee or any holding or intermediary company with respect thereto, or to elect one or more members of the board of directors of such corporation or company, the commission shall not take action against the casino licensee or the holding or intermediary company with respect to the continued ownership of the security interest by the disqualified holder. For purposes of this act, a security holder shall be presumed to have the ability to control a publicly traded corporation, or to elect one or more members of its board of directors, if such holder owns or beneficially holds 5% or more of securities of such corporation, unless such presumption of control or ability to elect is rebutted by clear and convincing evidence.

e. Commencing on the date the commission serves notice upon a corporation of the determination of disqualification under subsection d. of this section, it shall be unlawful for the named individual:

(1) To receive any dividends or interest upon any such securities;

(2) To exercise, directly or through any trustee or nominee, any right conferred by such securities; or

(3) To receive any remuneration in any form from the corporate licensee for services rendered or otherwise.

f. After a nonpublicly traded corporation has been issued a casino license pursuant to the provisions of this act, but prior to the issuance or transfer of any security to any person required to be but not yet qualified in accordance with the provisions of this act, such corporation shall file a report of its proposed action with the commission, and shall request the approval of the commission for the transaction. If the commission shall deny the request, the corporation shall not issue or transfer such security. After a publicly traded corporation has been issued a casino license, such corporation shall file a report quarterly with the commission, which report shall list all owners and holders of any security issued by such corporate casino licensee.

g. Each corporation which has been issued a casino license pursuant to the provisions of this act shall file a report of any change of its corporate officers or members of its board of directors with the commission. No officer or director shall be entitled to exercise any powers of the office to which he was so elected or appointed

until qualified by the commission in accordance with the provisions of this act.

36. Section 107 of P. L. 1977, c. 110 (C. 5:12–107) is amended to read as follows:

C. 5:12-107 Conduct of hearings; rules of evidence; punishment of contempts; rehearing.

107. Conduct of Hearings; Rules of Evidence; Punishment of Contempts; Rehearing.

a. At all hearings of the commission in contested cases, as defined in section 2 of P. L. 1968, c. 410 (C. 52:14B–2):

(1) Unless the commission hears the matter directly, the chairman shall refer the matter to the Office of Administrative Law in accordance with P. L. 1978, c. 67, (C. 52:14F–1 et seq.); provided, however, that the chairman may, in his discretion, designate a member of the commission to serve as hearing examiner in a particular matter;

(2) The proceedings at the hearing shall be recorded or transcribed;

(3) Oral evidence shall be taken only upon oath or affirmation;

(4) Each party to a hearing shall have the right to call and examine witnesses; to introduce exhibits relevant to the issues of the case, including the transcript of testimony at any investigative hearing conducted by or on behalf of the commission; to cross-examine opposing witnesses in any matters relevant to the issue of the case; to impeach any witness, regardless of which party called him to testify; and to offer rebuttal evidence;

(5) If an applicant, licensee, registrant or person who shall be qualified pursuant to this act is a party and if such party shall not testify in his own behalf, he may be called and examined as if under cross-examination;

(6) The hearing shall not be conducted according to rules relating to the admissibility of evidence in courts of law. Any relevant evidence may be admitted and shall be sufficient in itself to support a finding if it is the sort of evidence upon which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in a civil action; and

(7) The parties or their counsel may, by written stipulation, agree that certain specified evidence may be admitted, although such evidence may be otherwise subject to objection.

b. The commission may take official notice of any generally accepted information or technical or scientific matter in the field of gaming and of any other fact which may be judicially noticed by the courts of this State. The parties shall be informed of any information, matters or facts so noticed and shall be given a reasonable opportunity, on request, to refute such information, matters or facts by evidence or by written or oral presentation of authorities, the manner of such refutation to be determined by the commission. The commission may, in its discretion, before rendering its decision, permit the filing of amended or supplemental pleadings and shall notify all parties thereof and provide a reasonable opportunity for objections thereto.

c. If any person in proceedings before the commission disobeys or resists any lawful order, refuses to respond to a subpena, refuses to take the oath or affirmation as a witness or thereafter refuses to be examined, or is guilty of misconduct at the hearing or so near the place thereof as to obstruct the proceeding, the person may be punished for contempt in accordance with the Rules of Court if the commission certifies the facts underlying the contumacious behavior to the Superior Court. Thereafter, the courts shall have jurisdiction in the matter, and the same proceeding shall be had, the same penalties may be imposed, and the person charged may purge himself of the contempt in the same way as in the case of a person who has committed contempt in the trial of a civil action before the Superior Court.

d. The commission may, upon motion therefor made within 10 days after the service of the decision and order, order a rehearing before the commission upon such terms and conditions as it may deem just and proper. Such motion shall be granted only upon a showing that there is additional evidence which is material and necessary and which would be reasonably likely to change the decision of the commission, and that sufficient reason existed for failure to present such evidence at the hearing of the commission. The motion shall be supported by an affidavit of the moving party or his counsel showing with particularity the materiality and necessity of the additional evidence and the reason why it was not introduced at the hearing. Upon rehearing, rebuttal evidence to the additional evidence shall be admitted. After rehearing, the commission may modify its decision and order as the additional evidence may warrant.

37. Section 108 of P. L. 1977, c. 110 (C. 5:12–108) is amended to read as follows:

C. 5:12-108 Proceedings against licensees.

108. Proceedings Against Licensees. a. Any proceeding against a licensee shall be brought on by written complaint, which shall include a statement setting forth in ordinary and concise language the charges and the acts or omissions supporting such charges.

b. Upon filing of the complaint, the commission shall serve a copy upon the licensee either personally or by certified mail to his address on file with the commission.

c. Within 15 days after service upon him of the complaint, the licensee may file with the commission a notice of defense, in which he may:

(1) Request a hearing;

(2) Admit the accusation in whole or in part;

(3) Present new matters or explanations by way of defense; or

(4) State any legal objections to the complaint.

Within the time specified, the licensee may file one or more notices of defense upon any or all of the above grounds.

d. The licensee shall be entitled to a hearing on the merits if he files the required notice of defense within the time allowed by subsection c. of this section, and any such notice shall be deemed a specific denial of all parts of the complaint not expressly admitted. Failure to timely file the required notice of defense or to appear at the hearing shall constitute an admission of all matters and facts contained in the complaint and a waiver of the licensee's rights to a hearing, but the commission, in its discretion, may nevertheless order a hearing. All affirmative defenses shall be specifically stated, and unless objection is taken as provided in paragraph (4) of subsection c. of this section, all objections to the form of the complaint shall be deemed waived.

e. The commission shall determine the time and place of the hearing as soon as is reasonably practical after receiving the licensee's notice of defense. The commission shall deliver or send by certified mail a notice to all parties at least 10 days prior to the hearing. Unless the licensee consents, the hearing shall not be held prior to the expiration time within which the licensee is entitled to file the notice of defense.

f. Prior to a hearing before the commission, and during a hearing upon reasonable cause shown, the commission shall issue subpenas and subpenas duces tecum at the request of a licensee or the division.

38. Section 113 of P. L. 1977, c. 110 (C. 5:12–113) is amended to read as follows:

C. 5:12-113 Swindling and cheating; penalties.

113. a. Swindling and Cheating: Penalties. Except as provided in subsection b., any person who by any trick or sleight of hand performance, or by a fraud or fraudulent scheme, cards, dice or device, for himself or for another wins or attempts to win money or property or a representative of either or reduces a losing wager or attempts to reduce a losing wager in connection with casino gaming is guilty of a crime of the fourth degree and notwithstanding the provisions of N. J. S. 2C:43–3 shall be subject to a fine of not more than $25,000.00, and in the case of a person other than a natural person, to a fine of not more than $100,000.00 and any other appropriate disposition authorized by N. J. S. 2C:43–2b.

b. Any person who by any trick or sleight of hand performance, or by fraud or fraudulent scheme, cards, dice or device, for himself or for another wins or attempts to win money or property or a representative of either or reduces a losing wager or attempts to reduce a losing wager in connection with casino gaming is guilty of a disorderly persons offense if the value of such money or property or representative of either is $25.00 or under.

39. Section 114 of P. L. 1977, c. 110 (C. 5:12–114) is amended to read as follows:

C. 5:12-114 Unlawful use of bogus chips or gaming billets; marked cards, dice, cheating devices, unlawful coins; penalty.

114. Unlawful Use of Bogus Chips or Gaming Billets, Marked Cards, Dice, Cheating Devices, Unlawful Coins; Penalty. a. It shall be unlawful for any person playing any licensed gambling game:

(1) Knowingly to use bogus or counterfeit chips or gaming billets, or knowingly to substitute and use in any such game cards or dice that have been marked, loaded or tampered with; or

(2) Knowingly to use or possess any cheating device with intent to cheat or defraud.

b. It shall be unlawful for any person, playing or using any slot machine in a licensed casino:

(1) Knowingly to use other than a lawful coin or legal tender of the United States of America, or to use coin not of the same denomination as the coin intended to be used in such slot machine, except that in the playing of any slot machine or similar gaming device, it shall be lawful for any person to use gaming billets, tokens or similar objects therein which are approved by the commission; or

(2) To use any cheating or thieving device, including but not limited to tools, drills, wires, coins or tokens attached to strings

or wires, or electronic or magnetic devices, to facilitate the alignment of any winning combination or removing from any slot machine any money or other contents thereof.

c. It shall be unlawful for any person knowingly to possess or use while on the premises of a licensed casino, any cheating or thieving device, including but not limited to tools, wires, drills, coins attached to strings or wires or electronic or magnetic devices to facilitate removing from any slot machine any money or contents thereof, except that a duly authorized employee of a licensed casino may possess and use any of the foregoing only in furtherance of his employment in the casino.

d. It shall be unlawful for any person knowingly to possess or use while on the premises of any licensed casino any key or device designed for the purpose of or suitable for opening or entering any slot machine or similar gaming device or drop box, except that a duly authorized employee of a licensed casino or of the commission may possess and use any of the foregoing only in furtherance of his employment.

e. Any person who violates this section is guilty of a crime of the fourth degree and notwithstanding the provisions of N. J. S. 2C:43–3 shall be subject to a fine of not more than $25,000.00, and in the case of a person other than a natural person, to a fine of not more than $100,000.00 and any other appropriate disposition authorized by N. J. S. 2C:43–2b.

40. Section 134 of P. L. 1977, c. 110 (C. 5:12–134) is amended to read as follows:

C. 5:12-134 Equal employment opportunity; requirements of license.

134. Equal Employment Opportunity; Requirements of License. a. Each applicant at the time of submitting architectural plans or site plans to the commission for approval of proposed construction, renovation or reconstruction of any structure or facility to be used as an approved hotel or casino shall accompany same with a written guaranty that all contracts and subcontracts to be awarded in connection therewith shall contain appropriate provisions by which contractors and subcontractors or their assignees agree to afford an equal employment opportunity to all prospective employees and to all actual employees to be employed by the contractor or subcontractor in accordance with an affirmative action program approved by the commission and consonant with the provisions of the "Law Against Discrimination" P. L. 1945, c. 169 (C. 10:5–1 et seq.). On and after the effective date of this amenda-

tory act an applicant shall also be required to demonstrate that equal employment opportunities in accordance with the aforesaid affirmative action program in compliance with P. L. 1945, c. 169 have been afforded to all prospective employees and to all actual employees employed by a contractor or subcontractor in connection with the actual construction, renovation or reconstruction of any structure or facility to be used as an approved hotel or casino prior to submission of architectural plans or site plans to the commission.

b. No license shall be issued by the commission to any applicant, including a casino service industry as defined in section 12 of this act, who has not agreed to afford an equal employment opportunity to all prospective employees in accordance with an affirmative-action program approved by the commission and consonant with the provisions of the "Law Against Discrimination," P. L. 1945, c. 169 (C. 10:5–1 et seq.).

c. Each applicant shall formulate for commission approval and abide by an affirmative-action program of equal opportunity whereby the applicant guarantees to provide equal employment opportunity to rehabilitated offenders eligible under section 91 of this act and members of minority groups qualified for licensure in all employment categories, including the handicapped, in accordance with the provisions of the "Law Against Discrimination," P. L. 1945, c. 169 (C. 10:5–1 et seq.), except in the case of the mentally handicapped, if it can be clearly shown that such handicap would prevent such person from performing a particular job.

d. Any license issued by the commission in violation of this section shall be null and void.

41. This act shall take effect immediately.

Approved January 9, 1980.

CHAPTER 283

AN ACT concerning workers' compensation, and revising parts of the statutory law pertaining thereto.

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

1. R. S. 34:15–7 is amended to read as follows:

Compensation for injuries or death.

34:15–7. When employer and employee shall by agreement, either express or implied, as hereinafter provided, accept the provisions of this article compensation for personal injuries to, or for the death of, such employee by accident arising out of and in the course of employment shall be made by the employer without regard to the negligence of the employer, according to the schedule contained in sections 34:15–12 and 34:15–13 of this Title in all cases except when the injury or death is intentionally self-inflicted, or when intoxication or the unlawful use of controlled dangerous substances as defined in the "New Jersey Controlled Dangerous Substances Act," P. L. 1970, c. 266 (C. 24:21–1 et seq.), or willful failure to make use of a reasonable and proper personal protective device or devices furnished by the employer, which has or have been clearly made a requirement of the employee's employment by the employer and uniformly enforced and which an employer can properly document that despite repeated warnings, the employee has willfully failed to properly and effectively utilize, is the natural and proximate cause of injury or death, provided, however, this latter provision shall not apply where there is such imminent danger or need for immediate action which does not allow for appropriate use of personal protective device or devices and the burden of the proof of such fact shall be upon the employer or when recreational or social activities, unless such recreational or social activities are a regular incident of employment and produce a benefit to the employer beyond improvement in employee health and morale, are the natural and proximate cause of the injury or death.

2. R. S. 34:15–8 is amended to read as follows:

Election surrender of other remedies.

34:15–8. Such agreement shall be a surrender by the parties thereto of their rights to any other method, form or amount of compensation or determination thereof than as provided in this article and an acceptance of all the provisions of this article, and shall bind the employee and for compensation for the employee's death shall bind the employee's personal representatives, surviving spouse and next of kin, as well as the employer, and those conducting the employer's business during bankruptcy or insolvency.

If an injury or death is compensable under this article, a person shall not be liable to anyone at common law or otherwise on account of such injury or death for any act or omission occurring while such

person was in the same employ as the person injured or killed, except for intentional wrong.

C. 34:15-7.2 Cardiovascular or cerebral vascular causes of injury or death; claim.

3. (New section) In any claim for compensation for injury or death from cardiovascular or cerebral vascular causes, the claimant shall prove by a preponderance of the credible evidence that the injury or death was produced by the work effort or strain involving a substantial condition, event or happening in excess of the wear and tear of the claimant's daily living and in reasonable medical probability caused in a material degree the cardiovascular or cerebral vascular injury or death resulting therefrom.

Material degree means an appreciable degree or a degree substantially greater than de minimis.

4. R. S. 34:15–10 is amended to read as follows:

Employment in violation of law; minors.

34:15–10. In the employment of minors, this article shall be presumed to apply unless the notice be given by or to the parent or guardian of the minor. If the injured employee at the time of the accident or compensable occupational disease is a minor under 14 years of age employed in violation of the labor law or a minor between 14 and 18 years of age employed, permitted or suffered to work without an employment certificate or special permit if required by law or at an occupation prohibited at the minor's age by law, a compensation or death benefit shall be payable to the employee or his dependents which shall be double the amount payable under the schedules provided in sections 34:15–12 and 34:15–13 of this Title.

The possession of such duly issued employment certificates shall be conclusive evidence for an employer that the minor has reached the age certified to therein and no extra compensation shall be payable to any minor engaged in an employment allowed by the law for the age and sex certified to in such certificate. If the certificate presented by the employee as one issued to that person shall have been really issued to another child and the real age of the employee shall be such that employment in any capacity or in the particular capacity the employee was employed by the employer was prohibited and if the employer shall show to the satisfaction of the Division of Workers' Compensation that the employer accepted the certificate in good faith as having been issued to the employee and could not have, despite reasonable diligence, discovered the fraud,

in such event no extra compensation shall be paid to the employee illegally employed.

The employer alone and not the insurance carrier shall be liable for the extra compensation or death benefit which is over and above the amount of the compensation or death benefit provided under said sections 34:15–12 or 34:15–13. Any provision in an insurance policy undertaking to relieve an employer from the liability for the extra compensation or extra death benefit shall be void.

Nothing in this chapter contained shall deprive an infant under the age of 18 years of the right or rights now existing to recover damages in a common law or other appropriate action or proceeding for injuries received by reason of the negligence of his or her master.

Nothing in this section regarding the payment of a compensation or death benefit in double the amount payable under the schedules provided in sections 34:15–12 and 34:15–13 of this Title shall apply to members of a junior firemen's auxiliary established pursuant to chapter 309 of the laws of 1958 (C. 40:47–30.6 et seq.) or to employees, of the age of 18 years or under, employed in summer camps operated by the Boy Scouts of America, the Girl Scouts of America, the Knights of Columbus, the Young Men's Christian Association, the Young Women's Christian Association, the Young Men's Hebrew Association, or any domestic corporation organized solely for religious or charitable purposes, or student-learners employed in a cooperative vocational education program approved by the State Board of Education.

5. R. S. 34:15–12 is amended to read as follows:

Schedule of payments.

34:15–12. Following is a schedule of compensation:

a. For injury producing temporary disability, 70% of the worker's weekly wages received at the time of the injury, subject to a maximum compensation of 75% of the average weekly wages earned by all employees covered by the Unemployment Compensation Law (R. S. 43:21–1 et seq.) and a minimum of 20% of such average weekly wages a week. This compensation shall be paid during the period of such disability, not however, beyond 400 weeks. The amount of the maximum compensation shall be computed, determined, rounded out to the nearest dollar, and promulgated by the Commissioner of Labor and Industry on or before September 1 in each year based on said average weekly wages as of the calendar year

preceding, and shall be effective as to injuries occuring in the calendar year following such promulgation. In any year in which the maximum benefit rate based upon said computation would not be increased or decreased beyond $1.00 in amount, the rate promulgated theretofore shall continue.

b. For disability total in character and permanent in quality, 70% of the weekly wages received at the time of injury, subject to a maximum and a minimum compensation as stated in paragraph "a" hereof. This compensation shall be paid for a period of 450 weeks, at which time compensation payments shall cease unless the employee shall have submitted to such physical or educational rehabilitation as may have been ordered by the rehabilitation commission, and can show that because of such disability it is impossible for the employee to obtain wages or earnings equal to those earned at the time of the accident, in which case further weekly payments shall be made during the period of such disability, the amount thereof to be the previous weekly compensation payment diminished by that portion thereof that the wage, or earnings, the employee is then able to earn, bears to the wages received at the time of the accident. If the employee's wages or earnings equal or exceed wages received at the time of the accident, then the compensation rate shall be reduced to $5.00. In calculating compensation for this extension beyond 450 weeks the above minimum provision shall not apply. This extension of compensation payments beyond 450 weeks shall be subject to such periodic reconsiderations and extensions as the case may require, and shall apply only to disability total in character and permanent in quality, and shall not apply to any accident occurring prior to July 4, 1923.

c. For disability partial in character and permanent in quality, weekly compensation shall be paid based upon 70% of the weekly wages received at the time of the injury, subject to a maximum compensation per week of 75% of the Statewide average weekly wages (SAWW) earned by all employees covered by the Unemployment Compensation Law (R. S. 43:21–1 et seq.) and paid in accordance with the following "Disability Wage and Compensation Schedule" and a minimum of $35.00 per week. The amount of awards for up to and including 180 weeks shall remain at the amounts listed in the "Disability Wage and Compensation Schedule" until January 1, 1982. On January 1, 1982, the dollar amounts listed for the first 180 weeks in the "Disability Wage and Com-

pensation Schedule'' shall be replaced by the following percentages of the Statewide average weekly wage:

$47—20% of the Statewide average weekly wages, hereinafter referred to as "SAWW"	$61—26% SAWW
$49—21% SAWW	$63—27% SAWW
$51—22% SAWW	$66—28% SAWW
$54—23% SAWW	$68—29% SAWW
$56—24% SAWW	$70—30% SAWW
$59—25% SAWW	$73—31% SAWW
	$75—32% SAWW
	$77—33% SAWW
	$80—34% SAWW
	$82—35% SAWW

In the event that the 20% limitation for attorney fees as set forth in R. S. 34:15–64 is reduced to a maximum of 10% before January 1, 1982, the above schedule shall be effective within 60 days of such reduction in attorney fees. All amounts in the "Disability Wage and Compensation Schedule'' shall be rounded out to the nearest dollar. When a claim petition alleges more than one disability, the number of weeks in the award shall be determined and entered separately for each such disability and the number of weeks for each disability shall not be cumulative when entering an award.

DISABILITY WAGE AND COMPENSATION SCHEDULE

Weeks of Allowable Compensation	Maximum Weekly Compensation Applicable
First 90 weeks	$47
91 through 96 weeks	$49
97 through 102 weeks	$49 for the first 96 weeks then $51 for each remaining week
103 through 108 weeks	$49 for the first 96 weeks then $51 for the next 6 weeks then $54 for each remaining week
109 - 114 weeks	$49 for the first 96 weeks then $51 for the next 6 weeks then $54 for the next 6 weeks then $56 for each remaining week
115 - 120 weeks	$49 for the first 96 weeks then $51 for the next 6 weeks then $54 for the next 6 weeks then $56 for the next 6 weeks then $59 for each remaining week

DISABILITY WAGE AND COMPENSATION SCHEDULE (Cont'd)

Weeks of Allowable Compensation	Maximum Weekly Compensation Applicable
121 - 126 weeks	$49 for the first 96 weeks then $51 for the next 6 weeks then $54 for the next 6 weeks then $56 for the next 6 weeks then $59 for the next 6 weeks then $61 for each remaining week
127 - 132 weeks	$49 for the first 96 weeks then $51 for the next 6 weeks then $54 for the next 6 weeks then $56 for the next 6 weeks then $59 for the next 6 weeks then $61 for the next 6 weeks then $63 for each remaining week
133 - 138 weeks	$49 for the first 96 weeks then $51 for the next 6 weeks then $54 for the next 6 weeks then $56 for the next 6 weeks then $59 for the next 6 weeks then $61 for the next 6 weeks then $63 for the next 6 weeks then $66 for each remaining week
139 - 144 weeks	$49 for the first 96 weeks then $51 for the next 6 weeks then $54 for the next 6 weeks then $56 for the next 6 weeks then $59 for the next 6 weeks then $61 for the next 6 weeks then $63 for the next 6 weeks then $66 for the next 6 weeks then $68 for each remaining week
145 - 150 weeks	$49 for the first 96 weeks then $51 for the next 6 weeks then $54 for the next 6 weeks then $56 for the next 6 weeks then $59 for the next 6 weeks then $61 for the next 6 weeks then $63 for the next 6 weeks then $66 for the next 6 weeks then $68 for the next 6 weeks then $70 for each remaining week

DISABILITY WAGE AND COMPENSATION SCHEDULE (Cont'd)

Weeks of Allowable Compensation	Maximum Weekly Compensation Applicable
151 - 156 weeks	$49 for the first 96 weeks then $51 for the next 6 weeks then $54 for the next 6 weeks then $56 for the next 6 weeks then $59 for the next 6 weeks then $61 for the next 6 weeks then $63 for the next 6 weeks then $66 for the next 6 weeks then $68 for the next 6 weeks then $70 for the next 6 weeks then $73 for each remaining week
157 - 162 weeks	$49 for the first 96 weeks then $51 for the next 6 weeks then $54 for the next 6 weeks then $56 for the next 6 weeks then $59 for the next 6 weeks then $61 for the next 6 weeks then $63 for the next 6 weeks then $66 for the next 6 weeks then $68 for the next 6 weeks then $70 for the next 6 weeks then $73 for the next 6 weeks then $75 for each remaining week
163 - 168 weeks	$49 for the first 96 weeks then $51 for the next 6 weeks then $54 for the next 6 weeks then $56 for the next 6 weeks then $59 for the next 6 weeks then $61 for the next 6 weeks then $63 for the next 6 weeks then $66 for the next 6 weeks then $68 for the next 6 weeks then $70 for the next 6 weeks then $73 for the next 6 weeks then $75 for the next 6 weeks then $77 for each remaining week

DISABILITY WAGE AND COMPENSATION SCHEDULE (Cont'd)

Weeks of Allowable Compensation	Maximum Weekly Compensation Applicable
169 - 174 weeks	$49 for the first 96 weeks then $51 for the next 6 weeks then $54 for the next 6 weeks then $56 for the next 6 weeks then $59 for the next 6 weeks then $61 for the next 6 weeks then $63 for the next 6 weeks then $66 for the next 6 weeks then $68 for the next 6 weeks then $70 for the next 6 weeks then $73 for the next 6 weeks then $75 for the next 6 weeks then $77 for the next 6 weeks then $80 for each remaining week
175 - 180 weeks	$49 for the first 96 weeks then $51 for the next 6 weeks then $54 for the next 6 weeks then $56 for the next 6 weeks then $59 for the next 6 weeks then $61 for the next 6 weeks then $63 for the next 6 weeks then $66 for the next 6 weeks then $68 for the next 6 weeks then $70 for the next 6 weeks then $73 for the next 6 weeks then $75 for the next 6 weeks then $77 for the next 6 weeks then $80 for the next 6 weeks then $82 for each remaining week
181-210 weeks	35% of the Statewide average weekly wages, hereinafter referred to as "SAWW"
211-240 weeks	40% of SAWW
241-270 weeks	45% of SAWW
271-300 weeks	50% of SAWW
301-330 weeks	55% of SAWW
331-360 weeks	60% of SAWW
361-390 weeks	65% of SAWW
391-420 weeks	70% of SAWW
421-600 weeks	75% of SAWW

Said compensation shall be expressly subject to the provisions of R. S. 34:15–37, and shall be paid to the employee for the period named in the following schedule (subparagraphs 1 to 23 inclusive):

Lost Member	Number of Weeks Compensation
1. Thumb	75
2. First finger (commonly called index finger)	50
3. Second finger	40
4. Third finger	30
5. Fourth finger (commonly called little finger)	20
6. Great toe	40
7. Toe, other than a great toe	15
8. Hand, or thumb and first and second fingers (on one hand) or four fingers (on one hand)	245
9. Arm	330
10. Foot	230
11. Leg	315

12. The loss of the first phalange of the thumb or of any finger shall be considered to be equal to the loss of ½ of such thumb or finger, and the compensation shall be for ½ of the periods of time above specified. The loss of any portion of the thumb or any finger between the terminal joint and the end thereof shall be compensated for a like proportion of the period of time prescribed for the loss of the first phalange of such member.

13. The loss of the first phalange and any portion of the second shall be considered as the loss of the entire finger or thumb, but in no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand.

14. The loss of the first phalange of any toe shall be considered to be equal to the loss of ½ of such toe, and compensation shall be for ½ of the period of time above specified.

15. The loss of the first phalange and any portion of the second shall be considered as the loss of the entire toe.

16. For the loss of vision of an eye 200 weeks.

17. For the enucleation of an eye, 25 weeks, in addition to such compensation, if any, as may be allowable under subparagraph 16.

18. For the loss of a natural tooth, 4 weeks for each tooth lost.

19. For the total loss of hearing in one ear, 60 weeks. For the total loss of hearing in both ears by one accident, 200 weeks.

20. The loss of both hands, or both arms, or both feet, or both legs, or both eyes, or any two thereof as the result of any one accident, shall constitute total and permanent disability to be compensated according to the provisions of paragraph "b."

21. Amputation between the elbow and the wrist shall be considered as the equivalent of the loss of a hand and amputation at the elbow shall be considered equivalent to the loss of the arm. Amputation between the knee and ankle shall be considered as the equivalent of the loss of a foot, and amputation at the knee shall be considered equivalent to the loss of the leg. An additional amount of 30% of the amputation award shall be added to that award to compute the total award made in amputations of body members, provided however that this additional amount shall not be subject to legal fees.

22. In all lesser or other cases involving permanent loss, or where the usefulness of a member of any physical function is permanently impaired, the duration of compensation shall bear such relation to the specific periods of time stated in the above schedule as the disabilities bear to those produced by the injuries named in the schedule. In cases in which the disability is determined as a percentage of total and permanent disability, the duration of the compensation shall be a corresponding portion of 600 weeks. Should the employer and employee be unable to agree upon the amount of compensation to be paid in cases not covered by the schedule, either party may appeal to the Division of Worker's Compensation for a settlement of the controversy.

23. Where there is a traumatic hernia compensation will be allowed if notice thereof is given by the claimant to the employer within 48 hours after the occurrence of the hernia but any Sunday, Saturday or holiday shall be excluded from this 48-hour period.

d. If previous loss of function to the body, head, a member or an organ is established by competent evidence, and subsequently an injury or occupational disease arising out of and in the course of an employment occurs to that part of the body, head, member or organ, where there was a previous loss of function, then and in such case, the employer or the employer's insurance carrier at the time of the subsequent injury or occupational disease shall not be liable for any such loss and credit shall be given the employer or the employer's insurance carrier for the previous loss of function and the burden of proof in such matters shall rest on the employer.

e. In case of the death of the person from any cause other than the accident or occupational disease, during the period of pay-

ments for permanent injury, the remaining payments shall be paid to such of the deceased person's dependents as are included in the provisions of said section 34:15–13 or, if no dependents, the remaining amount due, but not exceeding $2,000.00, shall be paid in a lump sum to the proper person for funeral expenses; but no compensation shall be due any other person than the injured employee on account of compensation being paid in excess of 450 weeks on account of disability total in character and permanent in quality as provided by paragraph b. of this section.

6. R. S. 34:15–13 is amended to read as follows:

Death, compensation for; computation and distribution.

34:15–13. Except as hereinafter provided, in case of death, compensation shall be computed, but not distributed, on the following basis:

a. For one dependent, 50% of wages.

b. For two dependents, 55% of wages.

c. For three dependents, 60% of wages.

d. For four dependents, 65% of wages.

e. For five or more dependents, 70% of wages.

f. The term "dependents" shall apply to and include any or all of the following who are dependent upon the deceased at the time of accident or the occurrence of occupational disease, or at the time of death, namely: husband, wife, parent, stepparents, grandparents, children, stepchildren, grandchildren, child in esse, posthumous child, illegitimate children, brothers, sisters, half brothers, half sisters, niece, nephew. Legally adopted children shall, in every particular, be considered as natural children. Dependency shall be conclusively presumed as to the decedent's spouse and to the natural children under 18 years of age of a decedent who were actually a part of the decedent's household at the time of the decedent's death. Every provision of this article applying to one class shall be equally applicable to the other. Should any dependent of a deceased employee die during the period covered by such weekly payments the right of such dependent to compensation under this section shall cease but should the surviving spouse of a deceased employee remarry during such period and before the total compensation is paid the spouse shall be entitled to receive the remainder of the compensation which would have been due said spouse had the spouse not remarried, or $1,000.00, whichever is the lesser. The foregoing schedule applies only to persons wholly dependent, and in the case of persons only partially dependent,

except in the case of the surviving spouse and children who were actually a part of the decedent's household at the time of death, the compensation shall be such proportion of the scheduled percentage as the amounts actually contributed to them by the deceased for their support constituted of his total wages and the provision as to a minimum of 20% of the average weekly wage as set forth in paragraph a. shall not apply to such compensation. In determining the number of dependents, where the deceased employee was a minor, the number of persons dependent upon the deceased employee shall be determined in the same way as if the deceased employee were an adult, notwithstanding any rule of law as to the person entitled to a minor's wages.

g. Compensation shall be computed upon the foregoing basis. Distribution shall be made among dependents, if more than one, according to the order of the Division of Workers' Compensation, which shall, when applied to for that purpose, determine, upon the facts being presented to it, the proportion to be paid to or on behalf of each dependent according to the relative-dependency. Payment on behalf of infants shall be made to the surviving parent, if any, or to the statutory or testamentary guardian.

h. If death results from the accident or occupational disease, whether there be dependents or not, expenses of the last sickness of the deceased employee shall be paid in accordance with the provisions for medical and hospital service as set forth in section 34:15–15 of this Title. Also the cost of burial, not to exceed $2,000.00 shall be paid to the dependent or other person having paid said costs of burial. In the event that the said dependent or other person has paid less than $2,000.00 the said dependent or other person shall be reimbursed in the amount paid and, if the costs of burial exceed the amount so paid, the difference between the said amount and $2,000.00 or so much thereof as may be necessary to pay the cost of burial, shall be paid to the undertaker or embalmer. In the event that no part of the costs of burial has been paid, the amount of such cost of burial, not to exceed $2,000.00, shall be paid to the undertaker or embalmer.

i. In computing compensation to those named in this section, except husband, wife, parents and stepparents, only those under 18 or over 40 years of age shall be included and then only for that period in which they are under 18 or over 40; provided, however, that payments to such physically or mentally deficient persons as are for such reason dependent shall be made during the full compensation period of 450 weeks.

j. The maximum compensation in case of death shall be subject to the maximum compensation as stated in paragraph a. of section 34:15–12 of this Title and a minimum of 20% of average weekly wages per week as set forth in paragraph a. above, except in the case of partial dependency as provided in this section. This compensation shall be paid, in the case of a surviving spouse during the entire period of survivorship or until such surviving spouse shall remarry except that any earnings from employment by the surviving spouse after 450 weeks of compensation have been paid shall be deducted from the compensation thereafter payable to said spouse and, in the case of other dependents, during 450 weeks and if at the expiration of 450 weeks there shall be one or more dependents under 18 years of age compensation shall be continued for such dependents until they reach 18 years of age at the schedule provided under paragraphs a. to e. of this section.

7. R. S. 34:15–15 is amended to read as follows:

Medical and hospital service.

34:15–15. The employer shall furnish to the injured worker such medical, surgical and other treatment, and hospital service as shall be necessary to cure and relieve the worker of the effects of the injury and to restore the functions of the injured member or organ where such restoration is possible; provided, however, that the employer shall not be liable to furnish or pay for physicians' or surgeon's services in excess of and in addition to furnish hospital service in excess of $50.00, unless the injured worker or the worker's physician who provides treatment, or any other person on the worker's behalf, shall file a petition with the Division of Workers' Compensation stating the need for physicians' or surgeons' services in excess of $50.00, as aforesaid, and such hospital service or appliances in excess of $50.00, as aforesaid, and the Division of Workers' Compensation after investigating the need of the same and giving the employer an opportunity to be heard, shall determine that such physicians' and surgeons' treatment and hospital services are or were necessary, and that the fees for the same are reasonable and shall make an order requiring the employer to pay for or furnish the same. The mere furnishing of medical treatment or the payment thereof by the employer shall not be construed to be an admission of liability.

If the employer shall refuse or neglect to comply with the foregoing provisions of this section, the employee may secure such treatment and services as may be necessary and as may come within

the terms of this section, and the employer shall be liable to pay therefor; provided, however, that the employer shall not be liable for any amount expended by the employee or by any third person on the employee's behalf for any such physicians' treatment and hospital services, unless such employee or any person on the employee's behalf shall have requested the employer to furnish the same and the employer shall have refused or neglected so to do, or unless the nature of the injury required such services, and the employer or the superintendent or foreman of the employer, having knowledge of such injury shall have neglected to provide the same, or unless the injury occurred under such conditions as make impossible the notification of the employer, or unless the circumstances are so peculiar as shall justify, in the opinion of the Division of Workers' Compensation, the expenditures assumed by the employee for such physicians' treatment and hospital services, apparatus and appliances.

All fees and other charges for such physicians' and surgeons' treatment and hospital treatment shall be reasonable and based upon the usual fees and charges which prevail in the same community for similar physicians', surgeons' and hospital services.

When an injured employee may be partially or wholly relieved of the effects of a permanent injury, by use of an artificial limb or other appliance, which phrase shall also include artificial teeth or glass eye, the Division of Workers' Compensation, acting under competent medical advice, is empowered to determine the character and nature of such limb or appliance, and to require the employer or the employer's insurance carrier to furnish the same.

8. R. S. 34:15–20 is amended to read as follows:

Dispute; submission to bureau.

34:15–20. In case of a dispute over or failure to agree upon a claim for compensation between employer and employee, or the dependents of the employee, either party may submit the claim, both as to the questions of fact, the nature and effect of the injuries, and the amount of compensation therefor according to the schedule herein provided, to the Division of Workers' Compensation, as prescribed in article 4 of this chapter (section 34:15–49 et seq.). After a petition for compensation or dependency claims has been filed, seeking compensation by reason of accident, injury or occupational disease of any employee, and when the petitioner is represented by an attorney of the State of New Jersey, and when it shall appear that the issue or issues involve the question of jurisdiction, liability,

causal relationship or dependency of the petitioner under this chapter, and the petitioner and the respondent are desirous of entering into a lump-sum settlement of the controversy, a judge of compensation may with the consent of the parties, after considering the testimony of the petitioner and other witnesses, together with any stipulation of the parties, and after such judge of compensation has determined that such settlement is fair and just under all the circumstances, enter "an order approving settlement." Such settlement, when so approved, notwithstanding any other provisions of this chapter, shall have the force and effect of a dismissal of the claim petition and shall be final and conclusive upon the employee and the employee's dependents, and shall be a complete surrender of any right to compensation or other benefits arising out of such claim under the statute. Any payments made under this section shall be recognized as payments of workers' compensation benefits for insurance rating purposes only.

9. R. S. 34:15–30 is amended to read as follows:

Occupational disease; compensation for death or injury.

34:15–30. When employer and employee have accepted the provisions of this article as aforesaid, compensation for personal injuries to or for death of such employee by any compensable occupational disease arising out of and in the course of his employment, as hereinafter defined, shall be made by the employer to the extent hereinafter set forth and without regard to the negligence of the employer, except that no compensation shall be payable when the injury or death by occupational disease is caused by willful self-exposure to a known hazard or by the employee's willful failure to make use of a reasonable and proper guard or personal protective device furnished by the employer which has been clearly made a requirement of the employee's employment by the employer and which an employer can properly document that despite repeated warnings, the employee has willfully failed to properly and effectively utilize, provided, however, this latter provision shall not apply where there is such imminent danger or need for immediate action which does not allow for appropriate use of personal protective device or devices.

10. R. S. 34:15–31 is amended to read as follows:

"Compensable occupational disease" defined.

34:15–31. a. For the purpose of this article, the phrase "compensable occupational disease" shall include all diseases arising out of and in the course of employment, which are due in a material

degree to causes and conditions which are or were characteristic of or peculiar to a particular trade, occupation, process or place of employment.

b. Deterioration of a tissue, organ or part of the body in which the function of such tissue, organ or part of the body is diminished due to the natural aging process thereof is not compensable.

11. R. S. 34:15–34 is amended to read as follows:

Time for claiming compensation for occupational disease.

34:15–34. Notwithstanding the time limitation for the filing of claims for compensation as set forth in sections 34:15–41 and 34:15–51, or as set forth in any other section of this Title, there shall be no time limitation upon the filing of claims for compensation for compensable occupational disease, as hereinabove defined; provided, however, that where a claimant knew the nature of the disability and its relation to the employment, all claims for compensation for compensable occupational disease except as herein provided shall be barred unless a petition is filed in duplicate with the secretary of the division in Trenton within 2 years after the date on which the claimant first knew the nature of the disability and its relation to the employment; provided further, that in case an agreement of compensation for compensable occupational disease has been made between such employer and such claimant, then an employee's claim for compensation shall be barred unless a petition for compensation is duly filed with such secretary within 2 years after the failure of the employer to make payment pursuant to the terms of such agreement; or in case a part of the compensation has been paid by such employer, then within 2 years after the last payment of compensation. It is the express intention of the Legislature that, except in any case where claim is made for asbestosis, radiation poisoning, siderosis, anthracosis, silicosis, mercury poisoning, beryllium poisoning, chrome poisoning, lead poisoning or any occupational disease having the same characteristics of the above enumerated diseases as subsequently determined by the National Institute for Occupational Safety and Health, the provisions of this section shall not be applied retroactively but shall be applied only to those employees who shall cease to have been exposed in the course of employment to causes of compensable occupational diseases as defined in 35:15–31 (a) subsequent to January 1, 1980.

A payment or agreement to pay by the insurance carrier shall, for the purpose of this section, be deemed a payment or agreement by the employer.

12. R. S. 34:15–36 is amended to read as follows:

Definitions.

34:15–36. "Willful negligence" within the intent of this chapter shall consist of (1) deliberate act or deliberate failure to act, or (2) such conduct as evidences reckless indifference to safety, or (3) intoxication, operating as the proximate cause of injury, or (4) unlawful use of a controlled dangerous substance as defined in the "New Jersey Controlled Dangerous Substances Act", P. L. 1970, c. 226 (C. 24:21–1 et seq.).

"Employer" is declared to be synonymous with master, and includes natural persons, partnerships, and corporations; "employee" is synonymous with servant, and includes all natural persons, including officers of corporations, who performed service for an employer for financial consideration, exclusive of casual employments, which shall be defined, if in connection with the employer's business, as employment the occasion for which arises by chance or is purely accidental; or if not in connection with any business of the employer, as employment not regular, periodic or recurring; provided, however, that forest fire wardens and forest fire fighters employed by the State of New Jersey shall, in no event, be deemed casual employees.

Employment shall be deemed to commence when an employee arrives at the employer's place of employment to report for work and shall terminate when the employee leaves the employer's place of employment excluding areas not under the control of the employer; provided, however, when the employee is required by the employer to be away from the employer's place of employment, the employee shall be deemed to be in the course of employment when the employee is engaged in the direct performance of duties assigned or directed by the employer; but the employment of employee paid travel time by an employer for time spent traveling to and from a job site or of any employee who utilizes an employer authorized vehicle shall commence and terminate with the time spent traveling to and from a job site or the authorized operation of a vehicle on business authorized by the employer. Travel by a policeman or fireman in responding to an emergency shall be deemed to be in the course of employment.

"Disability permanent in quality and partial in character" means a permanent impairment caused by a compensable accident or compensable occupational disease, based upon demonstrable objective medical evidence, which restricts the function of the body

or of its members or organs; included in the criteria which shall be considered shall be whether there has been a lessening to a material degree of an employee's working ability. Subject to the above provisions nothing in this definition shall be construed to preclude benefits to a worker who returns to work following a compensable accident even if there be no reduction in earnings. Injuries such as minor lacerations, minor contusions, minor sprains, and scars which do not constitute significant permanent disfigurement, and occupational disease of a minor nature such as mild dermatitis and mild bronchitis shall not constitute permanent disability within the meaning of this definition.

"Disability permanent in quality and total in character" means a physical or neuropsychiatric total permanent impairment caused by a compensable accident or compensable occupational disease where no fundamental or marked improvement in such condition can be reasonably expected.

Factors other than physical and neuropsychiatric impairment may be considered in the determination of permanent total disability where such physical and neuropsychiatric impairment constitute at least 75% or higher of total disability.

13. R. S. 34:15–37 is amended to read as follows:

Wages; computation.

34:15–37. "Wages," when used in this chapter, shall be construed to mean the money rate at which the service rendered is recompensed under the contract of hiring in force at the time of the accident. Board and lodging when furnished by the employer as part of the wages shall be included and valued at $25.00 per week, unless the money value of such advantages shall have been otherwise fixed by the parties of the time of hiring. Where prior to the accident, the rate of wages is fixed by the output of the employee, the daily wages shall be calculated by dividing the number of days the worker was actually employed into the total amount the employee earned during the preceding 6 months, or so much thereof as shall refer to employment by the same employer. When the rate of wages is fixed by the hour, the daily wage shall be found by multiplying the hourly rate by the customary number of working hours constituting an ordinary day in the character of the work involved. In any case the weekly wage shall be found by multiplying the daily wage by the customary number of working days constituting an ordinary week in the character of the work involved; provided, however, if the employee worked less than

the customary number of working days constituting an ordinary week in the character of the work involved, the weekly wage for the purposes of compensation under provisions of R. S. 34:15–12a. only shall be found by multiplying the hourly rate by the number of hours of work regularly performed by that employee in the character of the work involved. Gratuities, received regularly in the course of employment from other than the employer, shall be included in determining the weekly wage only in those cases were the employer or employee has kept a regular daily or weekly record of the amount of gratuities so received. In such cases the average weekly amount of gratuities over a period of 6 months, or for the entire time of employment, whichever period is less, shall be added to the fixed weekly wage to determine the employee's total weekly wage. If no such record has been kept, then the average amount of the weekly gratuities shall be fixed by the judge of compensation or the referee hearing the matter.

14. R. S. 34:15–51 is amended to read as follows:

Claimant required to file petition within two years; contents; minors.

34:15–51. Every claimant for compensation under Article 2 of this chapter (§ 34:15–7 et seq.) shall, unless a settlement is effected or a petition filed under the provisions of 34:15–50 of this Title, file a petition in duplicate with the division in Trenton, within 2 years after the date on which the accident occurred, or in case an agreement for compensation has been made between the employer and the claimant, then within 2 years after the failure of the employer to make payment pursuant to the terms of such agreement; or in case a part of the compensation has been paid by the employer, then within 2 years after the last payment of compensation except that repair or replacement of prosthetic devices shall not be construed to extend the time for filing of a claim petition. A payment, or agreement to pay by the insurance carrier, shall for the purpose of this section be deemed payment or agreement by the employer. The petition shall state the respective addresses of the petitioner and of the defendant, the facts relating to employment at the time of injury, the injury in its extent and character, the amount of wages received at the time of injury, the knowledge of the employer or notice of the occurrence of the accident, and such other facts as may be necessary and proper for the information of the division and shall state the matter or matters in dispute and the contention of the petitioner with reference thereto. The petition shall be verified by the oath or affirmation of the petitioner. Proceedings on behalf of an infant shall be instituted and prosecuted by a guardian.

guardian ad litem, or next friend, and payment, if any, shall be made to the guardian, guardian ad litem, or next friend. The division shall prepare and print forms of petitions and shall furnish assistance to claimants in the preparation of such petitions, when requested so to do.

15. R. S. 34:15–52 is amended to read as follows:

Copy of petition served on employer; answer required.

34:15–52. Within 5 days after the filing of the petition or as soon thereafter as is practicable, the secretary shall cause a copy of the petition to be served upon the employer by a process server of the bureau in the manner provided by law for the service of summons. Annexed to the copy so served shall be a notice directing the employer to file an answer thereto with the secretary of the bureau within 30 days after the service of the notice, unless the division for good cause shall grant further time, which answer shall give the address of the respondent, and admit or deny the substantial averments of the petition, and shall state the contention of the defendant with reference to the matters in dispute as disclosed by the petition. The answer shall be verified by the oath or affirmation of the respondent, and shall be filed in duplicate.

16. R. S. 34:15–64 is amended to read as follows:

Rules and regulations; attorney fees; costs.

34:15–64. The commissioner, director and the deputy directors may make such rules and regulations for the conduct of the hearing not inconsistent with the provisions of this chapter as may, in the commissioner's judgment, be necessary. The official conducting any hearing under this chapter may allow to the party in whose favor judgment is entered, costs of witness fees and a reasonable attorney fee, not exceeding 20% of the judgment; and a reasonable fee not exceeding $50.00 for any one witness, or $150.00 in any one case, for medical witnesses residing in the State when in the official's judgment the services of an attorney and medical witnesses were necessary for the proper presentation of the case. When, however, at a reasonable time, prior to any hearing compensation has been offered and the amount then due has been tendered in good faith or paid within 26 weeks from the date of the notification to the employer of an accident or an occupational disease or the employee's final active medical treatment or within 26 weeks after the employee's return to work whichever is later or within 26 weeks after employer's notification of the employee's death, the reasonable allowance for attorney fee shall be based upon only

that part of the judgment or award in excess of the amount of compensation, theretofore offered, tendered in good faith or paid. When the amount of the judgment, or when that part of the judgment or award in excess of compensation, offered, tendered in good faith or paid as aforesaid, is less than $200.00, an attorney fee may be allowed not in excess of $50.00.

All counsel fees of claimants' attorneys for services performed in matters before the Division of Workers' Compensation, whether or not allowed as part of a judgment, shall be first approved by the division before payment. Whenever a judgment or award is made in favor of a petitioner, the deputy directors or referees shall direct amounts to be deducted for the petitioner's expenses and to be paid directly to the persons entitled to the same, the remainder to be paid directly to the petitioner.

17. R. S. 34:15–95 is amended to read as follows:

Disposition of sums collected.

34:15–95. The sums collected under section 34:15–94 of this Title shall constitute a fund out of which a sum shall be set aside each year by the Commissioner of Labor and Industry from which compensation payments in accordance with the provisions of paragraph (b) of section 34:15–12 of this Title shall be made to persons totally disabled, as a result of experiencing a subsequent permanent injury under conditions entitling such persons to compensation therefor, when such persons had previously been permanently and partially disabled from some other cause; provided, however, that, notwithstanding the time limit fixed therein, the provisions of paragraph (b) of said section 34:15–12 relative to extension of compensation payments beyond 400 or 450 weeks, as the case may be, shall, with respect to payments from the fund constituted pursuant to the provisions of this section, apply to any accident occurring since June 27, 1923, and in no case shall be less than $5.00 per week; provided further, however, that no person shall be eligible to receive payments from such fund:

(a) If the disability resulting from the injury caused by the person's last compensable accident in itself and irrespective of any previous condition or disability constitutes total and permanent disability within the meaning of this Title.

(b) (Deleted by amendment.)

(c) If the disease or condition existing prior to the last compensable accident is progressive and by reason of such progression subsequent to the last compensable accident renders the person totally disabled within the meaning of this Title.

(d) If a person who is rendered permanently partially disabled by the last compensable injury subsequently becomes permanently totally disabled by reason of progressive physical deterioration or preexisting condition or disease.

Nothing in the provisions of said paragraphs a., c. and d., however, shall be construed to deny the benefits provided by this section to any person who has been previously disabled by reason of total loss of, or total and permanent loss of use of, a hand or arm or foot or leg or eye, when the total disability is due to the total loss of, or total and permanent loss of use of, two or more of said major members of the body, or to any person who in successive accidents has suffered compensable injuries, each of which, severally, causes permanent partial disability, but which in conjunction result in permanent total disability. Nor shall anything in paragraphs a., c. and d., aforesaid apply to the case of any person who is now receiving or who has heretofore received payments from such fund.

Upon the approval of an application for benefits, the compensation payable from such fund shall be made from the date when the final payment of compensation by the employer is or was payable for the injury or injuries sustained in the employment wherein the employee became totally and permanently disabled; provided, that no payment from such fund shall be made for any period prior to the date of filing of application therefore; provided, however, that a person who has received compensation payments from said fund and who is reinstated or ordered placed on said fund shall receive payments from the date of last payment from said fund, save only in the case of a person to whom payments have been made and then discontinued or suspended because of the rehabilitation of such person in accordance with the provisions of paragraph (b) of section 34:15–12 of this Title, or actual employment for any reason whatsoever, in which case payments from said fund shall be made from the date of filing application for reinstatement. Payments to such totally disabled employees shall be made from said fund by the State Treasurer upon warrants of the Commissioner of Labor and Industry. This section shall be applicable to any accident occurring since June 27, 1923, insofar as the eligibility of and benefits payable to such employees of this class is concerned; provided, however, that nothing contained herein shall limit or deprive those persons now receiving or who have received the benefits under this section from participating in said fund. All payments from the fund herein created shall be made by

biweekly installment payments. From the fund herein created the Commissioner of Labor and Industry may use in any one fiscal year a sum not to exceed the sum of $12,500.00 for the cost of administration of the fund including personnel, printing, professional fees, and expenses incurred by the Commissioner of Labor and Industry in the prosecution of defenses in the Division of Workers' Compensation, and of appeals and proceedings for review of decisions on applications for benefits from said fund. No costs or counsel fee for the applicant shall be allowed against the fund.

The Commissioner of Labor and Industry shall annually submit an accounting of the fund to the State Treasurer.

All payments into the fund established by section 34:15–95 of the Revised Statutes which may have heretofore been made or required at any time or times are hereby validated and confirmed, notwithstanding that at the time of such payment or payments the fund may have equaled or exceeded the sum of $200,000.00.

18. (New section) On or before July 1, 1981, the Commissioner of Labor and Industry shall submit an accounting of the overall experience with this act to the Senate Labor, Industry and Professions Committee and the Assembly Labor Committee. The Commissioner of Labor and Industry shall specifically report in detail the degree of success changes herein have achieved in increasing awards to the seriously injured and the curtailment of abuses by participants in accomplishing the reforms sought in this act. The commissioner shall also prepare a monthly analysis of all claims handled in the State. Such analysis shall be available to interested parties and shall include each claim filed and each claim settled during the month of his report. The commissioner's monthly report shall include specific details of the final disposition of claims including the nature and extent of disability, the amounts awarded in the judgments to the petitioner, and to the attorneys, doctors and witnesses of the petitioner.

19. (New section) The provisions of this amendatory and supplementary act shall apply to accidents and occupational disease exposures which occur on or after January 1, 1980 and shall not be applied retroactively to accidents or occupational diseases occurring prior to January 1, 1980 except to cases where claim is made for an occupational disease characterized by latent manifestation as set forth in R. S. 34:15–34.

20. (New section) If the provisions of any article, section, subsection, paragraph, subdivision or clause of this act shall be judged invalid by a court of competent jurisdiction, the order or judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this act and, to this end, the provisions of each article, section, subsection, paragraph, subdivision or clause of this act are declared to be severable.

21. This act shall take effect immediately.

Approved January 10, 1980.

CHAPTER 284

AN ACT concerning the appointment of school board members and amending N. J. S. 18A:12–8 and N. J. S. 18A:12–17.

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

1. N. J. S. 18A:12–8 is amended to read as follows:

Members of board; appointment.

18A:12–8. In districts, other than those in cities of the first class, the members of the board shall be appointed between April 1 and April 15 and their terms of office shall begin on May 16, next succeeding, and in districts in cities of the first class they shall be appointed during the month of June and their terms of office shall begin on July 1, next succeeding.

2. N. J. S. 18A:12–17 is amended to read as follows:

Appointment of members; terms; vacancies.

18A:12–17. The mayor or other chief executive officer of the municipality shall, between April 1 and April 15 in each year, appoint one member of the board to serve for a term of 5 years beginning on May 15 next succeeding his appointment, to take the place of the member whose term shall expire in that year, and any vacancy occurring in the membership of the board shall be reported forthwith by the secretary of the board to the mayor or other chief executive officer of the municipality, who shall within 30 days thereafter appoint a qualified person to fill the vacancy for the unexpired term.

3. This act shall take effect immediately.

Approved January 10, 1980.

CHAPTER 285

AN ACT concerning workers' compensation for certain noise induced occupational hearing loss and supplementing chapter 15 of Title 34 of the Revised Statutes.

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

C. 34:15-35.10 Occupational loss of hearing.

1. Compensation for noise induced occupational loss of hearing which constitutes an occupational disease shall be paid only as provided in this act. All provisions of chapter 15 of Title 34 of the Revised Statutes applicable to claims for injury by accident, shall apply to compensable occupational hearing loss, except to the extent that they are inconsistent with the provisions of this act.

C. 34:15-35.11 Definitions.

2. As used in this act:

a. "Noise induced occupational hearing loss" means a permanent bilateral loss of hearing acuity of the sensorineural type due to prolonged, habitual exposure to hazardous noise in employment. For purposes of this supplementary act, sudden hearing loss resulting from a single, short noise exposure, such as an explosion, shall not be considered an occupational disease but shall be considered as an injury by accident. Exceptional cases of sensorineural hearing loss can be considered occupational hearing loss providing it can be established that the cause was short term exposures to high intensity noise levels.

b. "Sensorineural hearing loss" means a loss of hearing acuity due to damage to the inner ear which can result from numerous causes, as distinguished from conductive hearing loss which results from disease or injury involving the middle ear or outer ear or both and which is not caused by prolonged exposure to noise.

c. "Prolonged exposure" means exposure to hazardous noise in employment for a period of at least 1 year.

d. "Habitual exposure" means exposure to noise exceeding the allowable daily dose, at least 3 days each week, for at least 40 weeks each year.

e. "Hazardous noise" means noise which exceeds the permissible daily exposure to the corresponding noise level as shown in the following table:

Noise Level (dBA)	Permissible Daily Exposure
90	8 hours
95	4 hours
100	2 hours
105	1 hour
110	30 minutes
115	15 minutes

f. "Hearing threshold level" means the lowest decibel sound which may be heard on the audiometer 50% of the times presented during audiometric testing.

C. 34:15-35.12 Determination of degree of hearing loss.

3. a. For purposes of determining the degree of hearing loss for awarding compensation for noise induced occupational hearing loss, the average hearing threshold for each ear shall be determined by adding the hearing thresholds (ANSI) for the three frequencies 1,000, 2,000 and 3,000 Hertz and dividing that sum by three. To determine the binaural disability, subtract the 30dB (low fence) from the obtained average in each ear. This decibel amount is then multiplied by 1.5% for each ear. Then multiply the smaller percentage (the better ear) by 5 and add the larger number (the poorer ear) and divide the resulting number by 6. This resulting number is the percentage of binaural hearing disability to be used pursuant to the provisions of section 9 of this act.

b. If the better ear has a hearing loss of 30 dB or less as measured from 0 dB on an audiometer calibrated to ANSI S3.6—1969 American National Standard "Specifications for Audiometers," or 20 dB or less as measured on an audiometer calibrated to ASA-Z 24.5—1951 "American Standard Specifications for Pure-Tone Audiometers for Screening Purposes," the hearing loss shall not be compensable. If the audiogram is performed on an ASA calibrated audiometer, the hearing threshold level must be converted to ANSI calibration levels.

C. 34:15.13 Liability of employer.

4. a. Where hearing loss measurement is practicable, an employer shall be liable for the hearing loss of an employee to which his employment has contributed. If previous occupational hearing loss or hearing loss from nonoccupational causes is established by competent evidence, including the results of a placement audiogram, the employer shall not be liable for the hearing loss so established whether or not compensation has previously been paid or awarded, and shall be liable only for the difference between the percentage

of disability determined as of the date of disability, as herein defined and the percentage of disability established by the placement audiogram.

b. An employer may require an employee to undergo audiometric testing at the expense of the employer at the time of termination of employment. The employer shall be required to notify the employee, in writing, of this requirement and the penalty, as provided herein, for noncompliance with such requirement at or before the employee's termination date. In the event of refusal or failure by the employee to undergo audiometric testing within 60 days after receipt of written notice of the scheduling of such test by the employer, the employee shall be penalized by losing any right to compensation as granted by this act, unless such failure is due to a legitimate reason as determined by the division.

c. Any employee who undergoes audiometric testing at the direction of an employer may request, within 2 weeks of such testing, a copy and brief explanation of the results which shall be provided to him within 2 weeks of said request.

d. For purposes of verifying the degree of hearing loss for awarding compensation, an employee may introduce audiometric test results obtained within 30 days after employer testing at his own expense from any individual approved for performing hearing tests pursuant to section 7.

C. 34:15-35.14 Administration of audiometric testing.

5. A judge or referee of compensation shall have the discretion to order further audiometric testing if there is any suspicion of fraud or any question of reliability in the administration of the testing provided for by sections 3 and 4 of this act.

C. 34:15-35.15 Evaluation of hearing loss.

6. In any evaluation of occupational hearing loss, only hearing levels at frequencies of 1,000, 2,000, and 3,000 Hertz shall be considered.

C. 34:15-35.16 Instruments for testing.

7. Hearing levels shall be determined at all times by using puretone air-conduction audiometric instruments calibrated in accordance with American National Standard ANSI S3.6–1969—R 1973 and ANSI S3.13–1972 and performed in an environment as prescribed by American National Standard S3.1–1960 R 1971 (American Standard Criteria for Background Noise in Audiometer Rooms). To measure permanent hearing loss, hearing tests

shall be performed after at least 16 hours absence from exposure to hazardous noise. The calibration of an audiometric instrument used to measure permanent hearing loss shall have been performed within 1 year of the time of the hearing examination, to assure that the audiometer is within the tolerances permitted by the ANSI standards.

C. 34:15-35.17 Hearing tests; how performed; evaluation.

8. All hearing tests shall be performed by a person at the level of a certified audiometric technician or above; an individual who meets the training requirements specified by the Intersociety Committee on Audiometric Technician Training (American Industrial Hygiene Association Journal 27:303-304, May-June 1966) and the State Department of Health. If hearing loss is demonstrated, an employee shall be referred for audiologic evaluation by a certified audiologist holding a certificate of clinical competence issued by the American Speech and Hearing Association or its equivalent or a physician certified by the American Board of Otolaryngology.

C. 34:15-35.18 Compensation for hearing loss.

9. There shall be payable for total hearing loss 200 weeks of compensation. Partial disability compensation shall be paid for such periods as are proportionate to the relation which the calculated percentage loss bears to 100% hearing loss and shall be paid at the weekly compensation rate provided in R. S. 34:15–12c. or any amendments thereto.

C. 34:15-35.19 Claims; time limitations.

10. Time limitations for the filing of claims for compensation for occupational hearing loss shall be in accordance with time limitations for the filing of claims for compensation for compensable occupational disease set forth in R. S. 34:15–34.

C. 34:15-35.20 Filing claims; time; date of disability.

11. No claims for compensation for occupational hearing loss shall be filed until after 4 full consecutive calendar weeks have elapsed since removal from exposure to hazardous noise in employment. Removal from exposure to hazardous noise in employment may be achieved by use of effective ear protection devices. The last day of such exposure shall be the date of disability.

C. 34:15-35.21 Award for hearing loss.

12. No reduction in award for hearing loss shall be made if the ability of the employee to understand speech is improved by the use of a hearing aid.

C. 34:15-35.22 Failure to utilize protective device.

13. No compensation shall be payable for loss of hearing caused by hazardous noise after the effective date of this act if an employer can properly document that despite repeated warnings, an employee willfully fails to properly and effectively utilize suitable protective device or devices provided by the employer capable of diminishing loss of hearing due to occupational exposure to hazardous noise.

14. On or before July 1, 1981, the Commissioner of Labor and Industry shall submit an accounting of the overall experience with this act to the appropriate legislative committees and leadership of both Houses of the Legislature. The Commissioner of Labor and Industry shall specifically report in detail the degree of success changes herein have achieved in increasing awards to workers with serious hearing losses and in standardizing the evaluation of occupational hearing loss. The commissioner shall also prepare a monthly analysis of all claims handled in the State. The analysis shall be available to interested parties and shall include each hearing loss claim filed and each claim settled during the month of his report. The commissioner's monthly report shall include specific details of the final disposition of claims including the nature and extent of disability, the amount awarded in the judgments to the petitioner, his attorneys and doctors and his witnesses.

15. This act shall take effect on the sixtieth day after its enactment and, where practicable, shall apply to all actions instituted thereafter, and to all proceedings taken subsequent thereto in all actions pending on such effective date; except that judgments theretofore entered or awards theretofore made pursuant to law shall not be affected by this act.

Approved January 10, 1980.

CHAPTER 286

AN ACT concerning civil actions for the collection of bonds or notes secured by mortgages, amending sections 2A:50–2 to 2A:50–10, inclusive and section 2A:50–22 of the New Jersey Statutes, and supplementing chapter 50 of the New Jersey Statutes.

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

1. N. J. S. 2A:50–2 is amended to read as follows:

Proceedings to collect debts secured by mortgage.

2A:50–2. Except as otherwise provided, all proceedings to collect any debt secured by a mortgage on real property, shall be as follows:

First, a foreclosure of the mortgage; and

Second, an action on the bond or note for any deficiency, if, at the sale in the foreclosure proceeding, the mortgaged premises do not bring an amount sufficient to satisfy the debt, interest and costs.

The action for any deficiency shall be commenced within 3 months from the date of the sale or, if confirmation is or was required, from the date of the confirmation of the sale of the mortgaged premises. In such action judgment shall be rendered and execution issued only for the balance due on the debt and interest and costs of the action.

No action shall be instituted against any person answerable on the bond or note unless he has been made a party in the action to foreclose the mortgage.

2. N. J. S. 2A:50–3 is amended to read as follows:

Disputing amount of deficiency sued for.

2A:50–3. The obligor in any bond or note specified in section 2A:50–2 of this Title, with respect to any bond given after March 29, 1933, and with respect to any note given after the effective date of this amendatory act may file an answer in the action for deficiency, disputing the amount of the deficiency sued for. In that event both parties may introduce evidence as to the fair market value of the mortgaged premises at the time of the sale thereof in the foreclosure action, and the court, with or without a jury, shall determine the amount of such deficiency, by deducting from the debt secured the amount determined as the fair market value of

the premises. If all parties to the action shall so agree, the court may accept as the fair market value of the mortgaged premises the value fixed by three appraisers, to be named by agreement of all the parties to the action, which agreement shall be evidenced by a stipulation to be filed in the action.

3. N. J. S. 2A:50–4 is amended to read as follows:

Recovery of judgment; redemption right; action for redemption; time.

2A:50–4. If, after the foreclosure and sale of mortgaged premises, the person entitled to the debt shall recover a judgment in an action on the bond or note for any balance of debt, such recovery shall open the foreclosure and sale of the premises, and the person against whom the judgment has been recovered may redeem the property by paying the full amout of money for which the judgment in the foreclosure action was granted, with interest to be computed from the date of the judgment in the foreclosure action, and all costs of the action for deficiency, and all reasonable expenses which the purchaser may have incurred in the meantime for taxes, assessments, other prior liens, necessary repairs upon the premises and interest on same, after deducting from the amount thereof such income as the holder may have derived from the possession of the premises, either as rent or otherwise.

An action for redemption of the premises shall be brought within 6 months after the entry of the judgment for the balance of the debt.

4. N. J. S. 2A:50–5 is amended to read as follows:

Disputing amount of deficiency; termination of right to redeem; foreclosure and sale not open.

2A:50–5. Where an action has been brought for a deficiency as provided by section 2A:50–2 of this Title, and where the party or parties liable for such deficiency shall have answered disputing the amount of the deficiency as provided by section 2A:50–3 of this Title, the effect of such answer shall be to terminate any right to redeem from foreclosure sale as provided by section 2A:50–4 of this Title, and the recovery for the deficiency shall not open the foreclosure and sale of the premises as provided by said section 2A:50–4.

5. N. J. S. 2A:50–6 is amended to read as follows:

Written notice of judgment.

2A:50–6. No judgment shall be entered by confession on any bond or note where a mortgage on real estate has been or may be

given for the same debt or in any action on the bond or note, unless, prior to the entry of the judgment, if by confession, or prior to the commencement of the action, if the proceeding be by action, there shall be filed in the office of the clerk or register of deeds and mortgages as the case may be, of the county, in which the real estate described in the mortgage is situate a written notice of the proposed judgment or action, setting forth the court in which it is proposed to enter the judgment or begin the action, the names of the parties to the bond or note and to the judgment or action, the book and page of the record of the mortgage, together with a description of the real estate described therein.

6. N. J. S. 2A:50–7 is amended to read as follows:

Recording of notice; fees for services.

2A:50–7. The county clerk or register of deeds and mortgages, as the case may be, shall forthwith record the notice required to be given by section 2A:50–6 of this Title, together with the time of the filing thereof, in the book by him kept for the record of notices of lis pendens.

For the filing and recording of such notice the clerk or register shall receive the fees provided by P. L. 1965, c. 123, s. 2 (C. 22A:4–4.1), which fees shall be included with the other costs to be taxed and recovered in the judgment or action for deficiency.

7. N. J. S. 2A:50–8 is amended to read as follows:

Commencement of action on bond or note.

2A:50–8. When any debt is evidenced by a bond or note and is secured by a mortgage on real property and the lien of the mortgage has been or shall be extinguished by the foreclosure of a prior mortgage and sale of the mortgaged premises, action on the bond or note shall be commenced within 1 year of the sale or, if confirmation was or is required, from the date of confirmation of the sale. All such actions not commenced within said period shall be thereafter completely and forever barred for lapse of time. However, the time during which any application for surplus moneys arising from the foreclosure of such prior mortgage shall be in litigation shall not be taken or computed as part of any such period of 1 year.

8. N. J. S. 2A:50–9 is amended to read as follows:

Recovery of judgment.

2A:50–9. The recovery of a judgment in an action pursuant to section 2A:50–8 shall not open the foreclosure and sale of the mortgaged premises or result in any right of redemption.

9. N. J. S. 2A:50–10 is amended to read as follows:

Written notice.

2A:50–10. No judgment shall be entered by confession or in any action upon any bond or note pursuant to section 2A:50–8 unless prior to the entry of the judgment, if by confession, or prior to the commencement of the action on the bond or note, if the proceeding be by action, there shall be filed and recorded in the office of the clerk or register of deeds and mortgages as the case may be, of the county, in which the mortgaged premises are situate, a written notice to the same effect and in the same manner as is required by sections 2A:50–6 and 2A:50–7 of this Title.

10. N. J. S. 2A:50–22 is amended to read as follows:

Action to enforce agreement.

2A:50–22. No action to enforce an agreement, express or implied, to assume or guarantee the payment of any mortgage, or of any bond or note secured by a mortgage, shall be maintained against a person making such agreement unless the mortgage shall have been first foreclosed, or extinguished by the foreclosure of a prior mortgage or lien, provided no such action may be maintained unless:

a. The person making such agreement was made a party defendant in the foreclosure action, and

b. The action is commenced within 3 months from the date of sale, or if confirmation was or is required, from the date of the confirmation of the sale of the mortgaged premises, in the foreclosure action or in the case of the extinguishment of the mortgage lien by the foreclosure of a prior mortgage or lien, then within 12 months from the date of such extinguishment, and

c. A notice of intention to bring the action, is filed in the office of the register or the clerk as the case may be, of the county wherein the mortgaged premises are located, before the commencement of the action, and

d. The plaintiff shall in his complaint offer to credit upon the indebtedness the fair market value, which shall be specified, of the mortgaged premises as of the date of the sale in the foreclosure suit, in any case where the plaintiff was the purchaser of the mort-

gaged premises at such sale, and in such case the defendant may contest, in the action, the amount of such fair market value; and

e. The plaintiff shall join in the action any and all persons within the jurisdiction of the State of New Jersey alleged to be liable upon the note or as obligors upon the bond and upon any other agreement of assumption of payment of the same note or bond, express or implied, and upon any and all agreements or covenants to pay the same note or bond, or any moneys alleged to be due thereon, as principal, guarantor, surety or otherwise, whether such persons are alleged to be liable directly, indirectly, jointly, severally, or in the alternative.

C. 2A:50-2.1 Commencement of action on note for deficiency.

11. (New section) In the case of a mortgage given to secure a debt evidenced by a note, where foreclosure proceedings are instituted within the time prescribed by the Statute of Limitations, action on the note for any deficiency may be commenced within the 3-month period provided by N. J. S. 2A:50–2, regardless of whether said action would otherwise be barred for lapse of time.

C. 2A:50-2.2 Waiver of rights by borrower; invalidity.

12. (New section) Any express agreement made or entered into by a borrower at the time of or in connection with the making of or renewal of any loan secured by a mortgage, or thereafter, whereby the borrower agrees to waive the rights, or privileges conferred, upon him by chapter 50 of Title 2A of the New Jersey Statutes shall be void and of no effect.

C. 2A:50-2.3 Applicability of act.

13. (New section) This act shall not apply to proceedings to collect a debt evidenced by a note and secured by a mortgage on real property in the following instances:

a. Where the debt secured is for a business or commercial purpose other than a two-family, three-family or four-family residence in which the owner or his immediate family resides;

b. Where the mortgaged property is other than a one-family, two-family, three-family or four-family dwelling in which the owner or his immediate family resides at the time of institution of proceedings to collect the debt;

c. Where a banking institution, savings and loan association or building and loan association, operating pursuant to State or Federal law, is the lender or his assignee and the mortgage is not the primary security for the debt, as evidenced by (1) the financial

condition of one or more persons directly or indirectly liable on the note, or (2) the giving of collateral in addition to the mortgage as security for the debt;

d. Where a banking institution, savings and loan association, or building and loan association, operating pursuant to State or Federal law, is the lender, and the mortgage is given to secure payment of a loan evidenced by a note, and where the mortgage so given is subject to the lien or liens of a prior mortgage or mortgages not held by such institution or association or by any holder in which such institution or association has an interest or with which such institution or association has an affiliation.

C. 2A:50-2.4 Partial invalidity.

14. (New section) If any provision or section of this act shall be held to be unconstitutional, said provision or section shall be exscinded and the remainder of the provisions and sections of the act as amended or supplemented shall be and remain valid with the same effect as if said provision so held to be unconstitutional had never been a part of the act.

15. This act shall take effect on the first day of the calendar month next following the ninetieth day after enactment.

Approved January 14, 1980.

CHAPTER 287

AN ACT to amend "An act to provide for the licensing and regulation of insurance premium finance companies, and supplementing Title 17 of the Revised Statutes," approved July 30, 1968 (P. L. 1968, c. 221).

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

1. Section 10 to P. L. 1968, c. 221 (C. 17:16D–10) is amended to read as follows:

C. 17:16D-10 Maximum finance charge.

10. Maximum finance charge. A premium finance company shall not charge, contract for, receive, or collect a finance charge other than as permitted by this act.

The finance charge shall be computed, using the actuarial method on the balance of the premiums due (after subtracting the down payment made by the insured in accordance with the premium finance agreement) from the effective date of the insurance coverage, for which the premiums are being advanced, to and including the date when the final installment of the premium finance agreement is payable.

The finance charge shall be computed at a maximum rate of 12% per annum plus an additional charge of $12.00 per premium finance agreement which additional charge need not be refunded upon prepayment. However, any insured may prepay his premium finance agreement in full at any time before due date of the final installment and in such event the unearned finance charge shall be refunded. The amount of any such refund shall be calculated in accordance with the rule commonly known as the "Rule of 78" and shall represent at least as great a proportion of the finance charge, if any, as the sum of the periodic balances after the month in which prepayment is made bears to the sum of all periodic balances under the schedule of installments in the agreement.

The Commissioner of Banking may by regulation adopted, amended and rescinded from time to time, provide that the finance charge which may be charged, contracted for, received or collected shall be more than 12% per annum but not more than 18% per annum, as shall be prescribed in such regulation. In making, amending and rescinding regulations pursuant to the preceding provision, the Commissioner of Banking shall consider the general state of the economy, the discount rates prescribed by the Federal Reserve Bank of New York and the Federal Reserve Bank of Philadelphia, the availability of funds for loans and such other factors and bases for determination as the commissioner may deem pertinent. The rate established by any such regulation shall reasonably reflect prevailing market conditions, regionally and nationally, based upon studies, statistics and factors considered, and shall remain in force until such time as such regulation is rescinded or such rate is increased or decreased by a subsequent regulation. Any such regulation shall have prospective effect only.

2. This act shall take effect immediately.

Approved January 14, 1980.

CHAPTER 288

AN ACT concerning annual school elections for 1980 and supplementing Title 18A of the New Jersey Statutes.

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

1. Notwithstanding any prior existing laws, for the 1979-80 school year, the annual school election shall be held on March 25, 1980.

2. The Commissioner of Education is authorized to make any necessary adjustments to the school budget and election calendar affected by section 1 of this act.

3. This act shall take effect immediately.

Approved January 14, 1980.

CHAPTER 289

AN ACT concerning the packaging of meat in certain cases and amending P. L. 1968, c. 428.

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

1. Section 2 of P. L. 1968, c. 428 (C. 24:15A–4) is amended to read as follows:

C. 24:15A-4 Application and enforcement of act.

2. The provisions of this act shall be applicable throughout the State and shall supersede any ordinance or regulation inconsistent therewith. The provisions of this act shall be enforced by the State Department of Health and local boards of health.

2. This act shall take effect immediately.

Approved January 14, 1980.

CHAPTER 290

AN ACT concerning civil service, and amending R. S. 11:22–2.

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

1. R. S. 11:22–2 is amended to read as follows:

Unclassified service; persons included.

11:22–2. The unclassified service shall not be subject to the provisions of this subtitle and shall include the following:

a. Officers elected by popular vote;

b. Members of district boards of elections; employees in voting machine departments and the chief deputy, chief clerk, secretary, clerical and other assistants or employees appointed by the superintendents of elections and commissioners of registration in counties of the first class having less than 800,000 inhabitants, and by the county boards of elections in all other counties and such of said officers, assistants and employees as are appointed by superintendents of elections in counties of the first class having more than 800,000 inhabitants to serve for terms of 6 months or less in any 1 year;

c. Appointments of the mayor;

d. Heads of municipal departments, the members of commissions and boards elected by the board of aldermen, common council or other governing body of any county, municipality or school district operating under this subtitle;

e. Heads of such county departments as are created by the administrative code of any county organized pursuant to any of the plans contained in the Optional County Charter Law (P. L. 1972, c. 154; C. 40:41A–1 et seq.), which departments shall not exceed 12 in number, and the heads of any divisions created within such departments; provided, however, that the total number of positions created pursuant to this subsection by the administrative code shall not exceed 20 in number;

f. Law officers of a county, municipality or school district operating under this subtitle;

g. Teaching staff members, as defined in N. J. S. 18A:1–1, in the public schools and county superintendents and members and business managers of boards of education;

h. Police magistrates appointed by the mayor or other head officer of the municipality operating under this subtitle;

i. Officers and employees of county park commissioners in counties of the second class appointed under the provisions of sections 40:37–96 to 40:37–174 of the Title, Municipalities and Counties;

j. The superintendent of a county hospital for persons suffering from communicable diseases appointed under the provisions of R. S. 30:9–61 and 30:9–69; and

k. The deputy or first assistant of principal executive officers authorized by law to act generally for and in place of his principal;

l. The legal assistants of the law department of the counties, municipalities or school districts operating under this subtitle except as herein otherwise provided;

m. One secretary, clerk or executive director of each department, appointed board or commission authorized by law to appoint a secretary, clerk or executive director;

n. One secretary or confidential aide, if so provided in the administrative code of any county organized pursuant to any of the plans contained in the Optional County Charter Law, to be appointed by each head of any county department or of any designated division within such department, when the head of any such division is an unclassified position;

o. One private secretary or clerk or stenographer of each judge or principal executive officer;

p. All officials of county or municipal institutions who must of necessity be physicians;

q. Offices or positions whose incumbents by specific statute serve for fixed terms, or whose incumbents by specific statute serve at the pleasure of the appointing authority;

r. One council secretary to the municipal council appointed by the council in any city of the first class with a population of less than 300,000;

s. All directors of municipal free public libraries in cities of the first class having a population of not less than 350,000 inhabitants;

t. The following positions in school districts which have been reorganized pursuant to P. L. 1975, c. 169 (C. 18A:17–1 et seq.):

Executive director of board affairs;

Executive director of personnel;

Executive director of the budget;

Executive director of purchasing;

Executive director of physical facilities;
Executive director of data processing;
Executive director of financial affairs;
Executive controller;
Executive director of internal audit; and
Public information officer; and

u. One confidential secretary, for each member of the board of freeholders of any county which has not adopted the provisions of the Optional County Charter Law (P. L. 1972, c. 154, C. 40A:41A–1 et seq.); provided, however, that this subsection shall not be construed so as to authorize a board of chosen freeholders to increase the number of secretaries attached to such board of chosen freeholders upon the effective date of this amendatory act;

v. Such other officers and positions not now included in the unclassified service by this section or by any other statute, as the Civil Service Commission shall, from time to time, determine, according to law, to be in the unclassified service.

2. This act shall take effect immediately.

Approved January 14, 1980.

CHAPTER 291

AN ACT to amend the "Sales and Use Tax Act," approved April 27, 1966 (P. L. 1966, c. 30).

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

1. Section 8 of P. L. 1966, c. 30 (C. 54:32B–8) is amended to read as follows:

C. 54:32B-8 Exempt sales.

8. Exempt sales. Receipts from the following shall be exempt from the tax on retail sales imposed under subsection (a) of section 3 and the use tax imposed under section 6:

(a) Sales of medicines and drugs sold pursuant to a doctor's prescription for human use; crutches, artificial limbs, artificial eyes, artificial hearing devices, corrective eyeglasses, prosthetic aids, artificial teeth or dentures, braces, tampons or like products, orthopedic appliances and artificial devices designed to correct or

alleviate physical incapacity, medical oxygen, human blood and its derivative when sold for human use, wheelchairs, and replacement parts for any of the foregoing;

(b) Sales of food, food products, beverages except alcoholic beverages, excluding draft beer sold by the barrel, as defined in the Alcoholic Beverage Tax Law, dietary foods and health supplements, sold for human consumption off the premises where sold but not including (i) candy and confectionery, and (ii) carbonated soft drinks and beverages all of which shall be subject to the retail sales and compensating use taxes, whether or not the item is sold in liquid form. Nothing herein shall be construed as exempting food or drink from the tax imposed under subsection (c) of section 3;

(c) Sales of food sold in an elementary or secondary school cafeteria, sales of food sold in an institution of higher education or in a fraternity, sorority or eating club operated in connection therewith, to students of such an institution;

(d) Sales of articles of clothing and footwear for human use except articles made of fur on the hide or pelt of an animal or animals where such fur is the component material of chief value of the article. "Clothing" as used herein, shall also mean and include sales to noncommercial purchasers of common wearing apparel materials intended to be incorporated into wearing apparel as a constituent part thereof, such as fabrics, thread, knitting yarn, buttons and zippers. The director shall prescribe regulations to carry out the provisions of this subsection;

(e) Sales of newspapers, magazines and periodicals;

(f) Casual sales except as to sales of motor vehicles, whether for use on the highways or otherwise, and except as to sales of boats or vessels registered or subject to registration under the New Jersey Boat Act of 1962 (P. L. 1962, c. 73, and all amendments thereto);

(g) Sales of gas, water, steam, fuel, electricity, telephone or telegraph services delivered to consumers through mains, lines, pipe, or in containers or bulk;

(h) Sales of motor fuels as motor fuels are defined for purposes of the New Jersey Motor Fuel Tax Law; and sale of fuel to an airline for use in its airplanes or to a railroad for use in its locomotives;

(i) Tangible personal property sold through coin-operated vending machines at $0.10 or less, provided the retailer is primarily

engaged in making such sales and maintains records satisfactory to the director;

(j) Sales not within the taxing power of this State under the Constitution of the United States;

(k) The transportation of persons or property;

(l) Sales, repairs, alterations or conversion of commercial ships or any component thereof including cargo containers of any type whatsoever, barges and other vessels of 50-ton burden or over, primarily engaged in interstate or foreign commerce, and of governmentally-owned ships, barges and other vessels and property used by or purchased for the use of such vessels for fuel, provisions, supplies, maintenance and repairs (other than articles purchased for the original equipping of a new ship);

(m) (1) Sales of machinery, apparatus or equipment for use or consumption directly and primarily in the production of tangible personal property by manufacturing, processing, assembling or refining;

(2) Sales of machinery, apparatus or equipment for use or consumption directly and primarily in the production, generation, transmission or distribution of gas, electricity, refrigeration, steam or water for sale or in the operation of sewerage systems;

(3) Sales of telephone lines, cables, central office equipment or station apparatus, or other machinery, equipment or apparatus, or comparable telegraph equipment, for use directly and primarily in receiving at destination or initiating, transmitting and switching telephone or telegraph communication;

(4) The exemptions granted under this subsection shall not be construed to apply to sales, otherwise taxable, of machinery, equipment or apparatus whose use is incidental to the activities described in paragraphs (1), (2) and (3) of this subsection;

(5) The exemptions granted in this subsection (m) shall not apply to motor vehicles or to parts with a useful life of 1 year or less or tools or supplies used in connection with the machinery, equipment or apparatus described in this subsection;

(n) Sales of tangible personal property purchased for use or consumption directly and exclusively in research and development in the experimental or laboratory sense. Such research and development shall not be deemed to include the ordinary testing or inspection of materials or products for quality control, efficiency surveys, management studies, consumer surveys, advertising, promotions or research in connection with literary, historical or similar projects;

(o) Sales or use of wrapping paper, wrapping twine, bags, cartons, tape, rope, labels, nonreturnable containers, reusable milk containers and all other wrapping supplies when such use is incidental to the delivery of any personal property;

(p) Sales of tangible personal property (except automobiles, and except property incorporated in a building or structure) for use and consumption directly and exclusively in the production for sale of tangible personal property on farms, including stock, dairy, poultry, fruit, fur-bearing animals, and truck farms, ranches, nurseries, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards;

(q) Sales of tangible personal property sold by a mortician, undertaker or funeral director. However, all tangible personal property sold to a mortician, undertaker or funeral director for use in the conducting of funerals shall not be deemed a sale for resale and shall not be exempt from the tax imposed by this act;

(r) Sales of films, records, tapes or any type of visual or sound transcriptions to, or produced for exhibition in or use through the medium of, theaters and radio and television broadcasting stations or networks, and not used for advertising purposes;

(s) Sales of tangible personal property and services taxable under any municipal ordinance heretofore adopted pursuant to P. L. 1947, c. 71, which is in effect on April 27, 1966, but only to the extent such sales are taxable under said ordinance;

(t) Sales of materials, such as chemicals and catalysts, used to induce or cause a refining or chemical process, where such materials are an integral or essential part of the processing operation, but do not become a component part of the finished product;

(u) Sales of school textbooks for use by students in a school, college, university or other educational institution, approved as such by the Department of Education or by the Department of Higher Education, when the educational institution, upon forms and pursuant to regulations prescribed by the director, has declared the books are required for school purposes and the purchaser has supplied the vendor with the form at the time of the sale;

(v) (Deleted by amendment.) P. L. 1970, c. 7, s. 5.

(w) Sales made to contractors, subcontractors or repairmen of materials, supplies or services for exclusive use in erecting structures or building on, or otherwise improving, altering or repairing real property of organizations described in subsections (a) and (b) of section 9 of this act, provided any person seeking to qualify

for this exemption shall do so pursuant to such rules and regulations and upon such forms as shall be prescribed by the director;

(x) The renting, leasing, licensing or interchanging of trucks, tractors, trailers or semitrailers by persons not engaged in a regular trade or business offering such renting, leasing, licensing or interchanging to the public, provided, that such renting, leasing, licensing or interchanging is carried on with persons engaged in a regular trade or business involving carriage of freight by such vehicles;

(y) Sales of cigarettes subject to tax under the Cigarette Tax Act;

(z) Sales of the Bible or similar sacred scripture of a bona fide church or religious denomination;

(aa) Sales of the flag of the United States of America and of the flag of the State of New Jersey;

(bb) Sales of locomotives, railroad cars and other railroad rolling stock, including repair and replacement parts therefor, track materials, and communication, signal and power transmission equipment, to a railroad whose rates are regulated by the Interstate Commerce Commission or by the Board of Public Utilities;

(cc) Sales of buses for public passenger transportation, including repair and replacement parts therefor, to bus companies whose rates are regulated by the Interstate Commerce Commission or the Board of Public Utilities or to an affiliate of said bus companies or to common or contract carriers for their use in the transportation of children to and from school. For the purposes of this subsection "affiliate" shall mean a corporation whose stock is wholly owned by the regulated bus company or whose stock is wholly owned by the same persons who own all the stock of the regulated bus company.

(dd) Sales of newspaper production machinery, apparatus and equipment for use and consumption directly and primarily in the publication of newspapers in the production departments of a newspaper plant, including, but not limited to: engraving, enlarging and development equipment, internal process cameras and news transmission equipment, composing and pressroom apparatus and equipment, type fonts, lead, mats, ink, plates, conveyors, stackers, sorting, bundling, stuffing, labeling and wrapping equipment and supplies for any of the foregoing except that sales of motor vehicles, typewriters, and other equipment and supplies otherwise taxable under this act are not exempt.

(ee) The sale of advertising to be published in a newspaper.

(ff) Sales, renting or leasing of: commercial motor vehicles, and vehicles used in combination therewith, as defined in R. S. 39:1–1 and registered in New Jersey for more than 18,000 pounds; or which are registered in New Jersey and operated pursuant to a certificate or permit issued by the Interstate Commerce Commission; and repair and replacement parts therefor.

(gg) The sale of gold or silver and storage thereof, in the form traded on any contract market or other board of trade or exchange licensed by the Federal Commodity Futures Trading Commission as defined in the Commodity Exchange Act, as amended; provided that the sale shall have been in fulfillment of the obligations of a contract for future delivery of gold or silver, or an option to purchase or sell such commodity, entered into on and in accordance with the rules of such licensed contract or options market; provided, further that this exemption shall not apply with respect to any gold or silver subsequently converted to use by a purchaser and in such event such purchaser shall be liable for the sales and use tax imposed hereunder.

(hh) Sales of solar energy devices or systems designed to provide heating or cooling, or electrical or mechanical power by collecting and transferring solar-generated energy and including mechanical or chemical devices for storing solar-generated energy. The Director of the Division of Energy Planning and Conservation in the Department of Energy shall establish standards with respect to the technical sufficiency of solar energy systems for purposes of qualification for exemption.

2. This act shall take effect immediately.

Approved January 14, 1980.

CHAPTER 292

A SUPPLEMENT to "An act concerning the adoption of children and revising and repealing various parts of the law relating to adoption," approved February 6, 1978 (P. L. 1977, c. 367, C. 9:3–37 et seq.).

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

C. 9:3-41.1 Surrender of child; available information relevant to child's development.

1. Any approved agency making an investigation of the facts and circumstances surrounding the surrender of a child shall provide a prospective parent with all available information relevant to the child's development, including his developmental and medical history, personality and temperament, the parent's complete medical histories, including conditions or diseases which are believed to be hereditary, any drugs or medications taken during pregnancy and any other conditions of the parent's health which may be a factor influencing the child's present or future health. Such information shall be made available to the prospective parent prior to the actual adoptive placement in the case of a placement made by an approved agency, or upon the completion of an investigation conducted by an approved agency pursuant to section 12 of P. L. 1977, c. 367 (C. 9:3–48).

b. The available information required of an approved agency by subsection a. of this section shall be presented to the adoptive parents on standardized forms prepared by the Commissioner of Human Services.

2. This act shall take effect 30 days after enactment but it shall not apply to any action for adoption commenced prior to such effective date.

Approved January 14, 1980.

CHAPTER 293

AN ACT to amend "An act fixing fees to be imposed upon the recording of deeds transferring title to real property and providing penalties for the violations thereof," approved June 3, 1968 (P. L. 1968, c. 49) (C. 46:15–5 et seq.).

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

1. Section 6 of P. L. 1968, c. 49 (C. 46:15–10) is amended to read as follows:

C. 46:15-10 Fees on deeds; exclusions.

6. The fee imposed by this act shall not apply to a deed:

(a) For a consideration, as defined in section 1 (c), of less than $100.00;

(b) By or to the United States of America, this State, or any instrumentality, agency, or subdivision thereof;

(c) Solely in order to provide or release security for a debt or obligation;

(d) Which confirms or corrects a deed previously recorded;

(e) On a sale for delinquent taxes or assessments;

(f) On partition;

(g) By a receiver, trustee in bankruptcy or liquidation, or assignee for the benefit of creditors;

(h) Eligible to be recorded as an "ancient deed" pursuant to R. S. 46:16–7;

(i) Acknowledged or proved on or before July 3, 1968;

(j) Between husband and wife, or parent and child;

(k) Conveying a cemetery lot or plot;

(l) In specific performance of a final judgment;

(m) Releasing a right of reversion;

(n) Previously recorded in another county and full realty transfer fee paid or accounted for, as evidenced by written instrument, attested by the grantee and acknowledged by the county recording officer of the county of such prior recording, specifying the county, book, page, date of prior recording, and amount of realty transfer fee previously paid;

(o) By an executor or administrator of a decedent to a devisee or heir to effect distribution of the decedent's estate in accordance with the provisions of the decedent's will or the intestate laws of this State.

2. This act shall take effect immediately.

Approved January 14, 1980.

CHAPTER 294

AN ACT concerning school district budgets and appropriations, amending N. J. S. 18A:22–8 and supplementing chapter 22 of Title 18A of the New Jersey Statutes.

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

1. N. J. S. 18A:22–8 is amended to read as follows:

Budget; contents; program budget system.

1. The budget shall be prepared in such detail and upon such forms as shall be prescribed by the commissioner and to it shall be annexed a statement so itemized as to make the same readily understandable, in which shall be shown:

a. In tabular form there shall be set forth the following:

(1) The amount of appropriation for the preceding school year, the amount transferred into or out of the item of appropriation for the preceding school year, the total expenditure for such item for the preceding school year, the amount appropriated for the current school year, the amount estimated to be necessary to be appropriated for the ensuing school year, indicated separately for at least the following items:

(a) Salaries—administration
(b) Salaries—teaching
(c) Salaries—custodial and maintenance
(d) Categorical programs
    (i) Salaries
    (ii) Other
(e) Utilities—including fuel
(f) Textbooks
(g) School supplies—educational
(h) School supplies—maintenance and other
(i) Libraries
(j) Transportation of pupils
(k) Insurance
(l) Furniture and equipment
(m) Repairs and renewals
(n) Evening schools
(o) Classes for the foreign born
(p) Vocational evening schools and courses
(q) Tuition paid to other districts
(r) Interest and debt redemption charges, in type II districts.
(s) Any other major purposes including any capital project which it is desired to include in the annual budget;

(2) The amount of the surplus account available at the beginning of the preceding school year, at the beginning of the current school year and the amount anticipated to be available for the ensuing school year;

(3) The amount of revenue available for budget purposes for the preceding school year, the amount available for the current

school year and the amount anticipated to be available for the ensuing school year in the following categories:

(a) Total to be raised by local property taxes
(b) Total State aid
    (i) Equalization aid
    (ii) Categorical aid
    (iii) Transportation aid
    (iv) Other
(c) Total Federal aid
    (i) E.S.E.A. (P. L. 89–10)
    (ii) Manpower development
    (iii) Other
    (iv) Other sources.

b. In addition, the commissioner may provide for a program budget system.

C. 18A:22-8.1 Transfers and changes of purpose.

2. (New section) Whenever a school district desires to transfer amounts among line items and program categories, or change the purpose for which funds were appropriated within line items and program categories such transfers and changes of purpose shall not be made except by a resolution of the board of education.

C. 18A:22-8.2 Certain transfers not allowed.

3. No transfer may be made under this section from appropriations for:

a. Interest and debt redemption charges;
b. Capital reserve fund;
c. Items classified as current expenses except to other items so classified;
d. Items classified as capital projects except to other items so classified.

C. 18A:22-8.3 Adjustments to State aid amounts; when made.

4. (New section) On or after December 1 of each school year, all adjustments to State aid amounts payable for the succeeding school year, pursuant to P. L. 1975, c. 212 (C. 18A:7A–1 et seq.), shall be made to the State aid amounts payable during the school year following the succeeding school year.

5. This act shall take effect immediately and be applicable to the school year 1980-81 and thereafter.

Approved January 14, 1980.

CHAPTER 295

AN ACT concerning certain corporate fees payable to the Secretary of State and amending N. J. S. 14A:15–3.

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

1. N. J. S. 14A:15–3 is amended to read as follows:

Additional fees.

14A:15–3. The Secretary of State shall also charge and collect for:

(1)	filing an application to reserve a specified corporate name and issuing a certificate of reservation if application is for the first name available for corporate use among not more than three specified names	$20.00 $25.00
(2)	filing a notice of transfer of a reserved corporate name	$10.00
(3)	filing an application by a foreign corporation to register its corporate name	$35.00
(4)	filing an application by a foreign corporation to renew the registration of its corporate name	$35.00
(5)	filing a statement of cancellation of shares	$25.00
(6)	filing a statement of reduction of stated capital	$25.00
(7)	filing a certificate as to the acquisition of the shares or a class of shares of a domestic corporation	$30.00
(8)	issuing a certificate of standing, including registered agent and registered office	$10.00
(9)	issuing a certificate of standing, same as above, but including incorporators, officers and directors, and authorized shares	$20.00
(10)	issuing a certificate of standing, listing charter documents	$20.00
(11)	issuing a certificate of availability of corporate name (1 to 3 names)	$10.00
(12)	filing a certificate of registration of fictitious name	$25.00
(13)	filing a certificate of renewal of registration of fictitious name	$25.00

(14) filing a certificate of correction, in addition to any applicable license fee $10.00

(15) all other certificates issued or papers filed, but not otherwise provided for $10.00

(16) corporate information searches or lookups —per name $1.00

2. This act shall take effect 30 days after enactment.

Approved January 14, 1980.

CHAPTER 296

AN ACT to validate certain proceedings for the issuance of bonds of school districts and any bonds or other obligations issued or to be issued in pursuance of such proceedings.

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

Validating act.

1. All proceedings heretofore had or taken by any school district or at any school district election for the authorization or issuance of bonds of the school district, and any bonds or other obligations of the school district issued or to be issued in pursuance of any proposal adopted by the legal voters at such election, are hereby ratified, validated and confirmed, notwithstanding that the adoption of such proposal authorized the board of education to issue bonds the principal amount of which, added to the amount of all bonds and notes of the school district then issued and outstanding or authorized but unissued less the amount of any sinking funds held for payment of the same, exceeded any limitation or other restriction prescribed by N. J. S. 18A:24–19 and such proposal did not disclose or correctly disclose the effect thereof on the borrowing margin of any municipality comprised within the school district in compliance with the provisions of N. J. S. 18A:24–20 and N. J. S. 18A:24–22 provided however, that a supplemental debt statement was heretofore prepared and filed and, provided further, that no action, suit or other proceedings of any nature to contest the validity of such proceedings has heretofore been instituted prior to the date on which this act takes effect and within the time fixed

therefor by or pursuant to law or rule of court, or when such time has not heretofore expired, is instituted within 30 days after the effective date of this act.

2. This act shall take effect immediately.

Approved January 14, 1980.

CHAPTER 297

A SUPPLEMENT to the "Condominium Act," approved January 7, 1970 (P. L. 1969, c. 257; C. 46:8B–1 et seq.).

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

C. 46:8B-31 Legislature's findings.

1. The Legislature finds and declares that many leases involving use of parking, recreational or other common facilities or areas by residents of condominiums were entered into by parties wholly representative of the interests of a condominium developer at a time when the condominium unit owners not only did not control the administration of their condominium but also had little or no voice in such administration. Such leases often contain numerous obligations on the part of either or both a condominium association and condominium unit owners with relatively few obligations on the part of the lessor. Such leases may or may not be unconscionable in any given case. Nevertheless, the Legislature finds that certain onerous obligations and circumstances warrant the establishment of a rebuttable presumption of unconscionability of certain leases, as specified in this act.

The Legislature also finds and declares that many contracts for sale of condominium units contain provisions affording the association a right of first refusal to purchase in the event of resale of condominium units by the purchaser, provisions which are in the financial interest of the association and are designed to limit the freedom of the purchaser to resell the property as he sees fit. Such provisions may or may not be unconscionable in any given case. Nevertheless, the Legislature finds that the relative balance between the consideration given the financial interests of the association and the limitations placed upon the property rights of the purchaser contained in such provisions is such as to warrant

the establishment of a rebuttable presumption of unconscionability with respect thereto.

C. 46:8B-32 Rebuttable presumption of unconscionability; elements of lease.

2. There is hereby established a rebuttable presumption of unconscionability with respect to leases involving condominium property, including, but not limited to, leases concerning the use by condominium unit owners of parking, recreational or other common facilities or areas. Such presumption may be rebutted by a lessor by the presentation of evidence of the existence of facts and circumstances sufficient to justify and validate a lease which would otherwise appear to be unconscionable under the provisions of this section. A rebuttable presumption of unconscionability shall arise if one or more of the following elements exist, but the failure of a lease to contain any of the following elements shall neither preclude a determination of its unconscionability nor raise a presumption of its conscionability:

a. The lease was executed by persons none of whom at the time of the execution of the lease were elected by condominium unit owners other than the developer, to represent their interests;

b. The lease requires either the condominium association or the condominium unit owners to pay real estate taxes on the subject real property;

c. The lease requires either the condominium association or the condominium unit owners to insure buildings or other facilities on the subject real property against fire or any other hazard;

d. The lease requires either the condominium association or the condominium unit owners to perform some or all maintenance obligations pertaining to the subject real property or facilities located upon the subject real property;

e. The lease requires either the condominium association or the condominium unit owners to pay rents to the lessor for a period of 10 years or more;

f. The lease provides that failure of the lessee to make payments of rents due under the lease either creates, establishes, or permits establishment of, a lien upon individual condominium units of the condominium to secure claims for rent;

g. The lease requires an annual rental which exceeds 20% of the appraised value of the leased property as improved; provided that for purposes of this subsection "annual rental" means the amount due during the first 12 months of the lease for all units regardless of whether such units were in fact occupied or sold during that period and "appraised value" means the appraised value placed

upon the leased property the first tax year after the sale of a unit in the condominium;

h. The lease provides for a periodic rental increase based upon reference to a price index;

i. The lease or other condominium documents require that every transferee of a condominium unit must assume obligations under the lease.

C. 46:8B-33 Partial invalidity.

3. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

C. 46:8B-34 Membership fees stated in selling price.

4. The developer shall separately state in the selling price of a unit in a condominium the full membership fee in the condominium association and all recreational membership fees.

C. 46:8B-35 Option to renew or purchase lease on parking, recreational or other common facilities.

5. When any parking, recreational or other common facility or area has been leased for the use of the unit owners of a condominium for 20 years or more, the condominium association or the condominium unit owners shall have the option of renewing the lease on the parking, recreational or other common facility or area or of buying such facility or area and subject real property at a conscionable price.

C. 46:8B-36 Rebuttable presumption of unconscionability with respect to bylaws of association.

6. There is hereby established a rebuttable presumption of unconscionability with respect to provisions of the bylaws of associations which shall arise whenever such bylaws shall contain any provision affording the association a right of first refusal to buy a condominium unit upon resale by the condominium unit owner. Such presumption may be rebutted by the association by the presentation of evidence of the existence of facts and circumstances sufficient to justify and validate a provision of the bylaws which would otherwise appear to be unconscionable under the provisions of this section. The provisions of this section shall be applicable to all association bylaws heretofore or hereafter adopted pursuant to the act to which this act is supplementary.

C. 46:8B-37 Applicability of act.

7. The provisions of this act shall not apply to any lease involving the use of parking, recreational or other common facilities or areas at a condominium project where such parking, recreational or other common facilities have been fully completed and in operation as of the effective date of this act and the lease therefor is duly executed, whether before or after the effective date of this act, by the developer and the association.

8. This act shall take effect immediately.

Approved January 17, 1980.

CHAPTER 298

AN ACT providing for the escheat of certain unclaimed pension payments held in State-administered pension and retirement systems, and supplementing article 2 of chapter 37 of Title 2A of the New Jersey Statutes and repealing P. L. 1972, c. 158.

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

C. 2A:37-48 Definitions.

1. As used in this act:

a. "Pension payment" means and includes inactive accounts, pensions, and allowances due and payable to a member or former member of a State-administered pension or retirement system, or to his survivors or estate.

b. "Years" means fiscal years commencing July 1 and ending June 30.

C. 2A:37-49 Presumption of abandonment of pension payment.

2. Whenever the whereabouts of a person to whom unclaimed pension payments are payable has been and remains unknown for a period of 5 years, or such a pension payment has been and remains unclaimed or inactive for a period of 5 years, the pension payment shall be presumed abandoned and subject to delivery to the State Treasurer for safekeeping in accordance with sections 2A:37-31, 2A:37-32, 2A:37-33, 2A:37-36, 2A:37-41 and 2A:37-43 of the New Jersey Statutes.

C. 2A:37-50 Action for escheat; grounds.

3. Upon receipt of a report made pursuant to section 2 of this act, the Attorney General shall institute an action for escheat in the name of the State in accordance with the provisions and procedures prescribed in article 2 of chapter 37 of Title 2A of the New Jersey Statutes (N. J. S. 2A:37–11 et seq.) except that the grounds for escheat shall be those set forth in section 2 of this act.

Repealer.

4. P. L. 1972, c. 158 (C. 2A:37–46 and 2A:37–47) is repealed.

5. This act shall take effect immediately.

Approved January 17, 1980.

CHAPTER 299

AN ACT concerning the return of unearned premiums upon cancellation of insurance, amending the "Insurance Premium Finance Company Act," approved June 30, 1968 (P. L. 1968, c. 221), and P. L. 1973, c. 252.

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

1. Section 14 of P. L. 1968, c. 221 (C. 17:16D–14) is amended to read as follows:

C. 17:16D-14 Application of unearned premiums.

14. Application of unearned premiums. (a) Whenever a financed insurance contract is canceled, the insurer on notice of such financing shall return whatever gross unearned premiums are due under the insurance contract to the premium finance company for the account of the insured or insureds within a reasonable time, not to exceed 60 days after the effective date of cancellation, or 60 days after the completion of any payroll audit necessary to determine the amount of premium earned while the policy was in force. Such audit shall be performed within 30 days after the effective date of cancellation.

(b) In the event that the crediting of return premiums to the account of the insured results in a surplus over the amount due from the insured, the premium finance company shall refund such

excess to the insured provided that no such refund shall be required if it amounts to less than $1.00.

(c) In the event that the premium finance company fails to return the amount due to the insured within the period designated, the company shall, as a penalty, in addition to the amount due to the insured, return to the insured an additional amount equal to 5% of the amount due to the insured computed on a monthly basis for each month or part thereof past the final date on which the refund was due.

2. Section 1 of P. L. 1973, c. 252 (C. 17:29C–4.1) is amended to read as follows:

C. 17:29C-4.1 Unearned premiums; return to insured.

1. Whenever an insurance policy or contract is canceled, the insurer on notice thereof shall return to the insured, within a reasonable time not to exceed 60 days of cancellation or notice whichever occurs last, or 60 days after the completion of any payroll audit necessary to determine the amount of premium earned while the policy was in force, on a short rate basis the amount of gross unearned premiums paid. In the event that the insurer fails to return the gross unearned premiums to the insured within the period provided for herein, the insurer shall, as a penalty, in addition to the gross unearned premium, return to the insured an additional amount equal to 5% of the gross unearned premium computed on a monthly basis for each month or part thereof past the final date on which the refund was due.

3. This act shall take effect immediately.

Approved January 17, 1980.

CHAPTER 300

AN ACT to amend "An act concerning banking and banking institutions (Revision of 1948)," approved April 29, 1948 (P. L. 1948, c. 67).

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

1. Section 3 of P. L. 1948, c. 67 (C. 17:9A–3) is amended to read as follows:

C. 17:9A-3 Incorporation; certificate of incorporation; officers, directors and employees as incorporators.

3. Incorporation; certificate of incorporation; officers, directors and employees as incorporators.

A. Seven or more persons, of full age, may incorporate a bank on the terms and conditions prescribed by this act. Such persons shall execute and acknowledge a certificate of incorporation stating:

(1) The name by which the bank shall be known;

(2) The street, street number, if any, and municipality in which the principal office of the bank is to be located;

(3) The powers authorized by this act which the bank will have power to exercise;

(4) The amount of the capital stock, the number of shares into which it is divided, and the par value of each share;

(5) The amount of surplus with which the bank will commence business;

(6) The amount of the fund reserved for organization expense pursuant to section 5;

(7) The names and residences of the incorporators, and the number of shares subscribed for by each;

(8) The number of directors, or that the number of directors shall be not less than a stated minimum, or more than a stated maximum;

(9) The names of the persons who will serve as directors until the first annual meeting of stockholders; and

(10) Such other provisions, not inconsistent with this act, as the incorporators may choose to insert for the regulation of the business and affairs of the bank.

B. An officer, director or employee of any bank may be an incorporator of another bank when not inconsistent with such person's fiduciary duty or other applicable law.

2. This act shall take effect immediately.

Approved January 17, 1980.

CHAPTER 301

AN ACT concerning the unenforceability of waivers of the right to file or enforce mechanic's liens and supplementing chapter 44 of Title 2A of the New Jersey Statutes.

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

C. 2A:44-124.1 Waiver of rights.

1. Any provision of any contract or other agreement whereby the rights afforded by article 10 or article 11 of this chapter are waived must be in writing, conspicuous, and signed by each party to be bound by the waiver.

2. This act shall take effect 45 days following enactment. This act shall apply to all contracts or other agreements executed on or after the effective date.

Approved January 17, 1980.

CHAPTER 302

AN ACT concerning vacancies in certain public offices and supplementing chapter 9 of Title 40A of the New Jersey Statutes.

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

C. 40A:9-12.1 Vacancies.

1. The office of any person appointed to a specified term, with or without compensation, by the governing body or chief executive of any local unit, including persons appointed to any board, committee, commission, authority or other agency of one or more local units, shall be deemed vacant:

a. Upon its being so declared by judicial determination;

b. Upon the filing by such officer of his written resignation;

c. Upon the refusal of a person designated for appointment to such office to qualify or serve;

d. Upon the determination of the appointing authority that such officer shall have become physically or mentally incapable of serving;

e. Upon the death of such officer;

f. Upon the determination of the appointing authority that, in violation of a lawful residency requirement, such officer no longer resides within the corporate limits of the local unit or other designated territorial area;

g. In the case of a member of a board, committee, commission, authority or other agency, whenever the member, without being excused by a majority of the authorized members of such body, fails to attend and participate at meetings of such body for a period of 8 consecutive weeks, or for four consecutive regular meetings, whichever shall be of longer duration, at the conclusion of such period, provided that such body shall notify the appointing authority in writing of such determination; provided, further, that such board, committee, commission, authority or other agency may refuse to excuse only with respect to those failures to attend and participate which are not due to legitimate illness;

h. Upon the removal of such officer for cause in accordance with law, or for any other reason prescribed by law.

Whenever any of the above shall occur the appointing authority shall forthwith fill the office for the unexpired term in the manner prescribed by law; provided, however, that in the case of a person failing to quality or refusing to serve pursuant to paragraph c., such office shall not be deemed vacant, if the incumbent officeholder is authorized by law to continue in such office until a successor is appointed and qualifies therefor.

2. This act shall take effect immediately, but shall remain inoperative for 30 days following enactment.

Approved January 17, 1980.

CHAPTER 303

A SUPPLEMENT to "The New Jersey Economic Development Authority Act," approved August 7, 1974 (P. L. 1974, c. 80; C. 34:1B–1 et seq.).

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

C. 34:1B-5.1 Rules and regulations.

1. The New Jersey Economic Development Authority shall adopt rules and regulations requiring that not less than the prevailing wage rate be paid to workers employed in the performance of construction contracts undertaken in connection with Authority financial assistance. The prevailing wage rate shall be the rate determined by the Commissioner of Labor and Industry pursuant to the provisions of P. L. 1963, c. 150 (C. 34:11–56.25 et seq.).

C. 34:1B-5.2 Administration and enforcement.

2. The rules and regulations adopted under section 1 of this act shall provide for the proper and appropriate administration and enforcement of such regulations, and for the coverage and exemptions, if any, of such rules and regulations, which the Authority may determine are appropriate and consistent with its public purpose and purpose of this act.

C. 34:1B-5.3 Violations.

3. A violation of the rules and regulations adopted pursuant to section 1 of this act shall be deemed to be a violation of P. L. 1963, c. 150 (C. 34:11–56.25 et seq.). The Commissioner of Labor and Industry and any worker shall have the same powers of enforcement against violations of such rules and regulations as are provided by Sections 11 through 16, inclusive, of P. L. 1963, c. 150 (C. 34:11–56.35 – 34:11–56.40).

C. 34:1B-5.4 Affirmative action program.

4. The New Jersey Economic Development Authority shall adopt rules and regulations to establish an affirmative action program for the hiring of minority workers employed in the performance of construction contracts undertaken in connection with projects receiving Authority assistance, consistent with the provisions of the "Law Against Discrimination," P. L. 1945, c. 169 (C. 10:5–1 et seq.) and the Authority shall provide for the proper enforcement and administration of such rules and regulations.

5. This act shall take effect immediately.

Approved January 17, 1980.

CHAPTER 304

AN ACT concerning the disposal of certain deer and other wild animals and birds amending R. S. 23:4–43 and supplementing Title 23 of the Revised Statutes.

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

1. R. S. 23:4–43 is amended to read as follows:

Possession of wild deer and legally killed deer; exceptions.

23:4–43. Except as provided by this section, no person shall have in possession in this State any wild deer other than during the open season for hunting deer as established in the State Fish and Game Code and such deer in possession must have been killed in the manner prescribed by the State Fish and Game Code for that particular open season. A legally killed deer and parts of a legally killed deer may be possessed until June 1 immediately following the season in which it was killed, provided the deer was properly registered and bears the possession tag affixed at the deer checking station, and any parts that have been separated from legally killed deer are clearly marked as prescribed in R. S. 23:4–47. A person desiring to retain a legally killed deer or parts thereof after June 1 may do so by contacting the nearest conservation officer, who may authorize such retention in a manner prescribed by the division. No person shall have in possession any deer of any description, except as provided in the State Fish and Game Code or as provided in this section.

Except as herein provided, the having in possession of any wild deer or parts thereof during the time and periods prohibited in the State Fish and Game Code, or the having in possession of any deer of any description, except during such time and periods and of such description as permitted by the State Fish and Game Code, shall be prima facie evidence in all courts that such wild deer is in possession unlawfully.

This article shall not apply to a deer killed on game preserves, the owners or lessees of which are licensed by the division, or to deer coming from another state, which is properly tagged, showing where the same was killed, or to the disposal, by State or municipal police officers, or by personnel authorized thereby, of deer found dead on or along any public highway or on any private property,

upon request of the owner thereof, provided that any such disposal is undertaken in conformance with procedures prescribed by the division.

C. 23:4-63.7 Disposal of certain dead animals by authorized personnel.

2. Except as provided in R. S. 23:4–23, nothing contained in the provisions of this Title shall be construed so as to prohibit or limit the disposal, by State or municipal police officers, or by personnel authorized thereby, of any wild bird, animal, fowl, or fur-bearing animal found dead on or along any public highway or on any private property, upon request of the owner thereof.

3. This act shall take effect immediately.

Approved January 17, 1980.

CHAPTER 305

AN ACT concerning conveyances by municipalities and amending P. L. 1971, c. 199.

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

1. Section 21 of P. L. 1971, c. 199 (C. 40A:12–21) is amended to read as follows:

C. 40A:12-21 Private sales to certain organizations upon nominal consideration.

21. Private sales to certain organizations upon nominal consideration. When the governing body of any county or municipality shall determine that all or any part of a tract of land, with or without improvements, owned by the county or municipality, is not then needed for county or municipal purposes, as the case may be, said governing body, by resolution or ordinance, may authorize a private sale and conveyance of the same, or any part thereof without compliance with any other law governing disposal of lands by counties and municipalities for a consideration, which may be nominal, and containing a limitation that such lands or buildings shall be used only for the purposes of such organization or association, and to render such services or to provide such facilities as may be agreed upon, and not for commercial business trade or manufacture, and that if said lands or buildings are not used in accordance with said limitation, title thereto shall revert

to the county or municipality without any entry or reentry made thereon on behalf of such county or municipality, to

(a) A duly incorporated volunteer fire company or board of fire commissioners or first aid and emergency or volunteer ambulance or rescue squad association of a municipality within the county, in the case of a county, or of the municipality, in the case of a municipality, for the construction thereon of a firehouse or fire school or a first aid and emergency or volunteer ambulance or rescue squad building or for the use of any existing building for any or all of said purposes and any such land or building sold to any duly incorporated volunteer fire company may be leased by such fire company to any volunteer firemen's association for the use thereof for fire school purposes for the benefit of the members of such association, or

(b) Any nationally chartered organization or association of veterans of any war, in which the United States has or shall have been engaged, by a conveyance for a consideration, a part of which may be an agreement by the organization or association to render service or to provide facilities for the general public of the county or municipality, of a kind which the county or municipality may furnish to its citizens and to the general public, or

(c) Any duly incorporated nonprofit hospital association for the construction or maintenance thereon of a general hospital, or

(d) Any paraplegic veteran, that is to say, any officer, soldier, sailor, marine, nurse or other person, regularly enlisted or inducted, who was or shall have been in the active military or naval forces of the United States in any war in which the United States was engaged, and who, at the time he was commissioned, enlisted, inducted, appointed or mustered into such military or naval service, was a resident of and who continues to reside in this State, who is suffering from paraplegia and has permanent paralysis of both legs or the lower parts of the body resulting from injuries sustained through enemy action or accident while in such active military or naval service, for the construction of a home to domicile him, or to any organization or association of veterans, for the construction of a home or homes to domicile paraplegic veterans, with powers to convey said lands and premises to the paraplegic veterans or veterans on whose behalf said organization or association shall acquire title to said land, or

(e) Any duly incorporated nonprofit association or any regional commission or authority composed of one or more municipalities

or one or more counties for the construction or maintenance thereon of an animal shelter, or

(f) Any duly incorporated nonprofit historical society for the acquisition of public owned historic sites for their restoration, preservation, improvement and utilization for the benefit of the general public, or

(g) Any duly incorporated nonprofit cemetery organization or association serving the residents of the municipality or county, or both, for the use thereof for cemetery purposes.

2. This act shall take effect immediately.

Approved January 17, 1980.

CHAPTER 306

AN ACT to repeal sections 4 through 8 and section 14 of "An act regulating the business of buying or receiving poultry; providing for the licensing of dealers and brokers who buy, receive or negotiate the sale of poultry, prescribing penalties for violations of the provisions thereof and making an appropriation therefor" approved May 23, 1942 (P. L. 1942, c. 248).

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

Repealer.

1. Sections 4 through 8 and 14 of P. L. 1942, c. 248 (C. 4:11–38 through 4:11–42 and 4:11–48) are repealed.

2. This act shall take effect immediately.

Approved January 17, 1980.

CHAPTER 307

AN ACT to amend "An act regulating the business of buying or receiving poultry; providing for the licensing of dealers and brokers who buy, receive or negotiate the sale of poultry, prescribing penalties for violations of the provisions thereof and making an appropriation therefor," approved May 23, 1942 (P. L. 1942, c. 248).

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

1. Section 9 of P. L. 1942, c. 248 (C. 4:11–43) is amended to read as follows:

C. 4:11-43 Power to subpena; failure to obey.

9. The superintendent shall have the power to issue subpenas to compel production of any pertinent records, books or documents or the attendance of witnesses in any matter pertaining to his duties under this act and shall have the power to administer oaths in taking testimony. Subpenas shall be issued under the seal of the superintendent and shall be served in the same manner as subpenas issued out of any court of this State.

Upon the failure of any person to obey a subpena as aforesaid, the superintendent may apply to the Superior Court for appropriate relief.

2. This act shall take effect immediately.

Approved January 17, 1980.

CHAPTER 308

AN ACT to extend the registration period for public accountants for 6 months and to supplement the "Public Accounting Act of 1977," approved July 5, 1977 (P. L. 1977, c. 144, C. 45:2B–1 et seq.).

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

1. Any person who met the requirements for registration as a public accountant on August 4, 1977, may apply for registration with the board as a public accountant on or before the one hundred and eightieth day following the effective date of this supplementary act.

2. This act shall take effect immediately.

Approved January 17, 1980.

CHAPTER 309

Note: In approving the following act certain items, designated by *, were deleted or reduced by the Governor. See Statement appended following the text of the act.

AN ACT to amend "An act concerning the care, custody, guardianship, maintenance and supervision of dependent and neglected children, promoting home life therefor, providing for the financing thereof, and repealing certain statutes relating thereto," approved May 31, 1951 (P. L. 1951, c. 138), and amending P. L. 1962, c. 142.

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

1. Section 1 of P. L. 1951, c. 138 (C. 30:4C–1) is amended to read as follows:

C. 30:4C-1 Declaration of policy.

1. This act is to be administered strictly in accordance with the general principles laid down in this section, which are declared to be the public policy of this State:

(a) That the preservation and strengthening of family life is a matter of public concern as being in the interests of the general welfare;

(b) That the prevention and correction of dependency and delinquency among children should be accomplished so far as practicable through welfare services which will seek to continue the living of such children in their own homes;

(c) That necessary welfare services to children should be strengthened and extended through the development of private and voluntary agencies qualified to provide such services;

(d) That wherever in this State necessary welfare services are not available to children who are dependent or adjudged delinquent by proper judicial tribunal, or in danger of so becoming, then such services should be provided by this State until such times as they are made available by private and voluntary agencies; and

(e) That the State may assist private, public and voluntary agencies to construct, purchase, upgrade or renovate youth facilities for the residential care or day treatment of children in need of these services.

2. Section 2 of P. L. 1951, c. 138 (C. 30:4C–2) is amended to read as follows:

C. 30:4C-2 Definitions.

2. For the purposes of this act the following words and terms shall, unless otherwise indicated, be deemed and taken to have the meanings herein given to them:

(a) The title "Division of Youth and Family Services" successor to the "Bureau of Childrens Services" means the State agency for the care, custody, guardianship, maintenance and protection of children, as more specifically described by the provisions of this act, and succeeding the agency heretofore variously designated by the laws of this State as the State Board of Child Welfare or the State Board of Children's Guardians.

(b) The word "child" includes stepchild and illegitimate child, and further means any person under the age of 18 years.

(c) The term "care" means cognizance of a child for the purpose of providing necessary welfare services, or maintenance, or both.

(d) The term "custody" means continuing responsibility for the person of a child, as established by a surrender and release of custody or consent to adoption, for the purpose of providing necessary welfare services, or maintenance, or both.

(e) The term "guardianship" means control over the person and property of a child as established by the order of a court of competent jurisdiction, and as more specifically defined by the provisions of this act. Guardianship by the Division of Youth and Family Services shall be treated as guardianship by the Commissioner of Human Services exercised on his behalf wholly by and in the name of the Division of Youth and Family Services, acting

through the chief executive officer of the division or his authorized representative. Such exercise of guardianship by the division shall be at all times and in all respects subject to the supervision of the commissioner.

(f) The term "maintenance" means moneys expended by the Division of Youth and Family Services to procure board, lodging, clothing, medical, dental, and hospital care, or any other similar or specialized commodity or service furnished to, on behalf of, or for a child pursuant to the provisions of this act.

(g) The term "welfare services" means consultation, counseling, and referral to or utilization of available resources, for the purpose of determining and correcting or adjusting matters and circumstances which are endangering the welfare of a child, and for the purpose of promoting his proper development and adjustment in the family and the community.

(h) The term "foster parent" means any person other than a natural or adoptive parent with whom a child in the care, custody or guardianship of the Division of Youth and Family Services is placed by said division, or with its approval, for temporary or long-term care, but shall not include any persons with whom a child is placed for the purpose of adoption.

(i) The term "foster home" means and includes private residences, group homes and institutions wherein any child in the care, custody or guardianship of the Division of Youth and Family Services may be placed by the said division or with its approval for temporary or long-term care, and shall include any private residence maintained by persons with whom any such child is placed for adoption.

(j) The singular includes the plural form.

(k) The masculine noun and pronoun include the feminine.

(l) The word "may" shall be construed to be permissive.

(m) The term "group home" means and includes any single family dwelling used in the placement of 12 children or less pursuant to law recognized as a group home by the Department of Human Services in accordance with rules and regulations adopted by the Commissioner of Human Services; provided, however, that no group home shall contain more than 12 children.

(n) The term "youth facility" means a facility within this State used to house or provide services to children under this act, including but not limited to group homes, residential facilities, day care centers, and day treatment centers.

(o) The term "youth facility aid" means aid provided by the Division of Youth and Family Services to public, private or voluntary agencies to purchase, construct, renovate, repair, upgrade or otherwise improve a youth facility in consideration for an agreement for the agency to provide residential care, day treatment or other youth services for children in need of such services.

(p) The term "day treatment center" means a facility used to provide counseling, supplemental educational services, therapy, and other related services to children for whom it has been determined that such services are necessary, but is not used to house these children in a residential setting.

(q) The term "residential facility" means a facility used to house and provide treatment and other related services on a 24-hour basis to children determined to be in need of such housing and services.

3. Section 4 of P. L. 1951, c. 138 (C. 30:4C–4) is amended to read as follows:

C. 30:4C-4 Powers of division of youth and family services.

4. The Division of Youth and Family Services shall have the requisite powers to:

(a) Exercise general supervision over children for whom care, custody or guardianship is provided in accordance with article 2 of this act;

(b) Administer for the Department of Human Services the powers and duties provided in chapter 3 of Title 9 of the Revised Statutes (Adoption), as amended and supplemented, as the same may be delegated and assigned by the said department;

(c) Administer for the Commissioner of Human Services the powers and duties as provided in chapter 7 of Title 9 of the Revised Statutes (dependent children; bringing into State), as amended and supplemented, as the same may be delegated and assigned by the said commissioner;

(d) Administer for the State Board of Institutional Trustees the powers and duties provided in sections 30:1–14 through 30:1–17 of chapter 1 of Title 30 of the Revised Statutes (visitation and inspection), as amended and supplemented, so far as the same may be delegated and assigned by the said State Board of Institutional Trustees with respect to institutions, organizations and noninstitutional agencies for the care, custody and welfare of children;

(e) Provide care and exercise supervision over children paroled or released from State correctional institutions for juveniles in ac-

cordance with rules and regulations established by the State Board of Control;

(f) Make investigations or provide supervision of any child in this State at the request and on behalf of a public or private agency or institution of any other State;

(g) Meet and confer, as the unmet needs of New Jersey's children may require, with representatives of the public welfare boards and the private agencies and institutions for the care of children in this State in order that the programs of such boards, agencies and institutions may be developed and fully utilized and that there may be a coordination of all public and private facilities for the protection and care of children;

(h) Issue such reasonable rules and regulations as may be necessary for the purpose of carrying into effect the meaning of this act, which rules and regulations shall be binding so far as they are consistent with such purpose.

(i) Promulgate and file with the Secretary of State, subject to the approval of the Board of Public Welfare, rules and regulations as may be necessary as a basis for the provision for payment for services rendered by privately sponsored agencies or institutions to children under the care, custody or guardianship of the Division of Youth and Family Services. Such rules and regulations shall include, but shall not be limited to, standards of professional training, experience and practices, and requirements relating to the moral responsibility of the trustees, officers or other persons supervising or conducting the program, the adequacy of the facilities, the maintenance of adequate casework records, and the furnishing of comprehensive reports;

(j) Enter into written agreements with public, private or voluntary agencies to provide youth facility aid to such agencies, subject to a preaward qualification review of the agency's fiscal and programmatic abilities and periodic reviews.

4. Section 1 of P. L. 1962, c. 142 (C. 30:4C–29.1) is amended to read as follows:

C. 30:4C-29.1 Payment to division for care and custody of child; lien against property; priority.

1. In any case in which the Department of Human Services, through the Division of Youth and Family Services, is providing care and custody for any child, the division may, on behalf of the department, accept an agreement in writing made by any person or persons for the payment to the division for said services of such amount or amounts as shall be prescribed therefor by schedule

approved by the department and of such person or persons are legally obligated to provide support for any such child, the division shall have a lien against the property of any person so contracting in an amount equal to the amount or amounts so contracted to be paid, which lien shall have priority over all unrecorded encumbrances.

In any case in which the department, through the Division of Youth and Family Services, has agreed to provide youth facilities aid to a public, private or voluntary agency pursuant to this act, the division shall have a lien against the property of any person, persons or agency so contracting, in an amount equal to the amount or amounts so contracted to be paid, which lien shall have priority over all unrecorded encumbrances. Such lien shall be reduced for each year of service provided by the agency at a rate to be negotiated by the division and the agency, but in no case more than 20% a year; provided, however, that annual reductions shall not exceed $10,000.00.

5. Section 2 of P. L. 1962, c. 142 (C. 30:4C–29.2) is amended to read as follows:

C. 30:4C-29.2 Execution and filing of certificate of lien.

2. At any time during the period during which said child is within the care and custody of the division and within 2 years after the date upon which said care and custody is terminated, the division, through any officer or employee authorized by it so to do, may execute and file a certificate with the county clerk, or if there be such an officer in the county, with the register of deeds and mortgages of the county, or with the clerk of the Superior Court, as the case may be, which certificate shall state the name of the child, the date when the child came under the care and custody of the division and the date of the agreement, the name of the person or persons by whom the agreement was made, and the sum or sums which said person or persons agreed to pay to the division for the support and maintenance of said child, and the amount due the division for such service at the time of the filing of the certificate, and the rate of accumulation, if any shall occur thereafter, and the person or persons from whom such sum or sums are or will become due, and upon the filing of said certificate the lien shall immediately attach to and become binding upon all real property in the ownership of the person or persons against whom it is filed in the county if it is filed in the county, or wherever situate in the State,

if it is filed in the Superior Court, and it shall have the force and effect of a judgment at law.

At any time after the signing of an agreement to provide youth facilities aid under this act for the duration of both that agreement and any service agreement, the division, through any officer or employee authorized so to do, may execute and file a lien certificate with the county clerk or with the clerk of the Superior Court, which shall state the names and addresses of both parties, the date of the signing of the contract, the sum or sums which were disbursed to the agency in the expectation that the agency would provide contract services to the division in the future, and the amount due the division at the time of filing of said certificate.

6. There is hereby appropriated to the Department of Human Services *$310,000.00 for the purposes of this act.

7. This act shall take effect immediately.

Approved January 17, 1980.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
January 17, 1980.

ASSEMBLY BILL No. 3255 (OCR)

To the Assembly:

Pursuant to Article V, Section 1, Paragraph 15 of the Constitution, I am appending to Assembly Bill No. 3255 (OCR) at the time of signing it, this statement of the items or parts thereof, to which I object so that each item, or part thereof, so objected to shall not take effect.

On page 6, section 6, line 2, The appropriation of $310,000 to the Department of Human Services for the purposes of this act is deleted in its entirety.

The purpose of this bill is to authorize the Department of Human Services to enter into agreements with public, private or voluntary agencies to provide assistance in the construction, renovation, purchase or upgrading of facilities for the residential care or day treatment of children in need of such services.

Although this bill was introduced with my support and authorizes an activity which I believe is important, I find it impossible to provide the funds appropriated in this bill within the limitations

of the fiscal year 1980 budget. I have, however, included funds for this program in my fiscal year 1981 budget proposal.

Respectfully,

[SEAL] /s/ BRENDAN BYRNE,
Attest: *Governor.*

/s/ HAROLD L. HODES,
Chief of Staff, Secretary.

CHAPTER 310

A SUPPLEMENT to "An act concerning water supplies, providing for increased water supplies for public potable, industrial, irrigation and other purposes, prescribing the functions, powers and duties of the Department of Conservation and Economic Development in connection therewith, and supplementing Title 58 of the Revised Statutes," approved May 12, 1958 (P. L. 1958, c. 34).

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

1. From funds heretofore appropriated to the Department of Environmental Protection from the State Water Development Fund created pursuant to the "New Jersey Water Bond Act, 1958" (P. L. 1958, c. 35), the department is authorized to expend the sum of $1,013,519.00 for the purposes of providing funds required to carry out the public participation elements of the State-wide supply master plan, other studies relating to water transfer, conservation, and management including the testing of water supply interconnections and water conservation devices, and improved ground and surface water management, and administrative costs incident thereto.

2. In order to provide flexibility in administering this act and all prior acts appropriating moneys from the Water Development Fund, the Commissioner of the Department of Environmental Protection may apply to the Director of the Division of Budget and Accounting for permission to transfer a part of any item to any other item in such appropriations. Upon approval of such application by said director and by the Legislative Budget Officer, in writing, said director shall make such transfer.

3. The expenditure of the sum pursuant to this act is subject to the provisions and conditions of P. L. 1958, c. 35.

4. This act shall take effect immediately.

Approved January 17, 1980.

CHAPTER 311

AN ACT concerning riparian lands, and amending R. S. 12:3–12, R. S. 12:3–13 and R. S. 12:3–26, and repealing R. S. 12:3–17.

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

1. R. S. 12:3–12 is amended to read as follows:

Grants or leases regarding lands under tidewater.

12:3–12. The council with the concurrence of the Governor and Attorney General, in all cases of application for grants or leases of land now, or at the time of the application, or at the time of the lease or grant, under tidewater; and in all cases of application for grants or leases of lands which are not now, or shall not at the time of the application, or at the time of the lease or grant be under tidewater, and in all cases of applications for leases or grants for all or any of such lands may, notwithstanding the first proviso in section 12:3–5 of this Title, or any other clause or matter contained in sections 12:3–2 to 12:3–9 of this Title, grant or lease, or lease first with a covenant to grant, and grant afterwards, for such principal sum that the interest thereof at 7% will produce the rental, such lands, or any part thereof lying between what was, at any time heretofore, the original high-water line and the seaward territorial jurisdiction of the State, and grant or lease in all cases in which, in their discretion, they shall think such grant or lease should be made, such rights, privileges and franchises as they are authorized to grant in cases coming directly within said section 12:3–5 of this Title, and enter into the same covenants in the name of the State, in all cases of grants or leases where they deem such covenants proper, as are authorized in grants or leases under said section 12:3–5 and insert such other covenants, clauses and conditions in said grants or leases as they shall think proper to require from the grantee or lessee, or ought to be made by the

State; provided, that nothing herein contained shall authorize grants or leases in front of a riparian owner to any other than such riparian owner, except upon the proceedings and conditions provided in sections 12:3–2 to 12:3–9 of this Title; and provided also, that the applications for grants or leases, and the certificates of said council, Governor and Attorney General, may in the cases hereby provided for, vary from the provisions of said sections 12:3–2 to 12:3–9 in such manner as to conform to this section, and any party who has already asked for or accepted a lease or conveyance may apply for and have the benefits of this section, notwithstanding such former application or former acceptance of a lease or conveyance.

2. R. S. 12:3–13 is amended to read as follows:

Changes in lines other than pier lines or lines for solid filling.

12:3–13. The council may change, fix and establish any other lines than those now fixed and established for pier lines, or lines for solid filling in the tidewaters of the State, or make any changes in any basin now fixed and established, or lay out and fix and establish any new basin or basins in the tidewaters of the State, and when so fixed and established, the council shall file a map and surveys in the office of the secretary of state, showing what lines have been fixed and established by it for the exterior lines for solid filling and pier lines, as well as for any changes in basins or new basins fixed, laid out and established by it under this section.

3. R. S. 12:3–26 is amended to read as follows:

License to lay pipes on or under lands of State's tidewaters.

12:3–26. The council, with the approval of the Governor, may license any person or corporation to lay any pipe or pipes on or under the lands of the State under tidewaters under such terms and restrictions as to duration, compensation to be paid, and such other conditions and restrictions as the interests of the State may require. Such license shall be granted by a written instrument and executed in the same manner as grants of land under tidewaters are required to be executed.

Repealer.

4. R. S. 12:3–17 is repealed.

5. This act shall take effect immediately.

Approved January 17, 1980.

CHAPTER 312

AN ACT concerning the examination and licensing of insurance agents, brokers and solicitors, amending P. L. 1944, c. 175, P. L. 1959, c. 167, N. J. S. 17B:22–23 and N. J. S. 17B:28–23 and supplementing Title 17 of the Revised Statutes and Title 17B of the New Jersey Statutes.

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

1. Section 6 of P. L. 1944, c. 175 (C. 17:22–6.6) is amended to read as follows:

C. 17:22-6.6 Application for license; requirements; waiver by commissioner.

6. Any person not now engaged in the insurance business in this State as agent or broker, and hereafter desiring to engage in said business as agent, broker, or solicitor, and any licensed agent or solicitor hereafter desiring to be licensed for an additional group or groups of insurance as may be provided by section 5 of this act, shall apply, in accordance with the provisions of this act, to the commissioner for a license authorizing him to engage in and transact such business, or such group or groups thereof respectively. Every applicant for a broker's license shall be at least 18 years of age and if such applicant be a nonresident he shall show that he is the holder of an unexpired license as an insurance broker or agent in the state of his residence, or in which he maintains his principal office for the conduct of his insurance business, or that he has established a principal office in this State for the transaction of such business. If the application be for a solicitor's license it shall be accompanied by a written request of a licensed agent or broker with whom such solicitor has established a solicitor relationship. All such applications shall be in writing on uniform forms and supplements prepared by the commissioner, and shall be accompanied by a nonrefundable examination fee of $20.00 for each examination scheduled for such applicant (unless applicant be exempt from examination as set forth in section 10 of this act) and an application fee as provided for in section 13 of P. L. 1944, c. 175 (C. 17:22–6.13). The applicant shall make sworn answers to such interrogatories as the commissioner may require, and the application shall include a certificate by a resident representative of an insurance company lawfully authorized to transact business

in this State, or by a licensed insurance agent or broker of this State, certifying:

(a) That the applicant is a resident of this State, or if a nonresident has his principal office for the conduct of such business in this State, or that he is an applicant for a nonresident broker's or solicitor's license;

(b) That the applicant is personally known to him;

(c) That the applicant has had experience or instruction in the general insurance business or (if seeking an agent or solicitor license) some group or groups of the kind or kinds of insurance for which he may desire to be specifically licensed;

(d) That the applicant is of good reputation and is worthy of a license.

Before a first-time applicant for an insurance agent's, broker's or solicitor's license shall be admitted to a written examination, the applicant shall be required to have taken, and successfully completed a program of studies established by regulation of the commissioner to the end that the applicant shall be reasonably familiar with the groups of insurance for which he desires to be licensed.

The commissioner may waive the educational requirement set forth herein if the commissioner is satisfied that the applicant possesses sufficient knowledge of the group or groups of kinds of insurance for which such applicant desires a license.

2. Section 9 of P. L. 1944, c. 175 (C. 17:22–6.9) is amended to read as follows:

C. 17:22-6.9 Examination; exceptions; issuance of license; suspension; expiration.

9. The commissioner shall issue a license to a first time applicant or applicant for renewal of license when he has satisfied himself, upon evidence presented, that the applicant is trustworthy and competent to act as an agent, broker, or solicitor. Applicants shall pass, unless a waiver has been granted hereunder, a written examination as to their qualifications to perform the functions authorized under the license applied for prior to submitting an application unless the applicant is exempt from examination as provided for in section 10 of this act (C. 17:22–6.10). If the applicant for a broker's or solicitor's license be a broker, solicitor or agent licensed in another state, the commissioner may waive such examination; provided, the state issuing such license requires no like examination of licensed brokers,

solicitors or agents of this State. The commissioner shall have the power to enter into written reciprocal agreement with other states where he deems same to be necessary. If the application is for license as an insurance agent, either first-time or for an additional group or groups of insurance, the commissioner may waive the examination if, the applicant provides certification that he is a designated chartered property and casualty underwriter, or if at the time, the applicant has previously passed the examination for and holds an unexpired broker's license issued in accordance with the provisions of this act or if the application is for a license as an insurance agent, broker or solicitor and the applicant is a citizen of this State and has served in the Armed Forces of the United States in any war and has been honorably discharged or released under conditions other than dishonorable and was the holder at any time of an agent's certicate of authority or license, a broker's license or a solicitor's license, in this State, the commissioner may waive examination, for license for the same kind or kinds of insurance the applicant was previously authorized to transact. When it is shown from such application and examination, except where waived, that the applicant

(a) Intends in good faith to act as an insurance agent, broker or solicitor, and

(b) Is actively to engage in the general insurance business, or a particular group or groups thereof with the general public, and

(c) Is of good reputation, and

(d) Has had experience or training, or is otherwise qualified by education in the kind or kinds of insurance for which he desires to be licensed, and

(e) Is a resident of this State or has his principal office for the conduct of such business in this State (unless such application be for a nonresident broker's or solicitor's license), and

(f) Is reasonably familiar with the insurance laws of this State, and with the provisions, terms and conditions of the policies or contracts he is proposing to solicit, negotiate or effect, and

(g) He is then engaged in or intends to engage in the business of writing or negotiating insurance as his principal business or occupation or as a substantial part thereof, separate and apart from any connection which he may have with any partnership or corporation whose principal business is lending of money, and

(h) Is not seeking such license principally for the purpose of negotiating or writing insurance on property owned by him, or in

which he has an insurable interest, or on property or insurable interests of a relative or his employer, and

(i) Is worthy of a license, and

(j) Has not been convicted of a crime involving moral turpitude, the commissioner shall issue to the applicant a license to transact business in this State as an insurance agent, broker or solicitor, as the case may be. A license may be issued by the commissioner to and in the name of any copartnership or corporation engaged in the insurance brokerage business upon written request and payment of the $50.00 fee prescribed in section 13 of this chapter; provided, all members of the copartnership or all of the officers of the corporation, as the case may be, actively engaged in the insurance brokerage business of the copartnership or corporation in this State hold an unexpired license as an insurance broker issued in accordance with the provisions of this act. Where the request is for license in the name of a corporation organized under the laws of a foreign state or jurisdiction and it shall appear in the application, by affidavit of the president or other officer of a foreign corporation, that the sole business sought to be transacted by it is that of a broker, as herein defined, the commissioner may grant such license, notwithstanding the corporation has not complied with the provisions of the general corporation act and obtained a license thereunder to transact business in this State, if with the first request for such license the corporation shall file with the commissioner a duly executed power of attorney as is required in section 7 of this act to be filed by a nonresident individual applicant for a broker's license. Licenses so issued shall expire annually as follows:

To agents on April 30; and to brokers and solicitors on October 31, unless sooner revoked by the commissioner for cause as provided in this act. A license so issued to a solicitor shall be suspended upon termination of the required established solicitor relationship but shall be reinstated upon a written request from another licensed agent or broker with whom such solicitor has established a solicitor relationship.

3. Section 13 of P. L. 1944, c. 175 (C. 17:22–6.13) is amended to read as follows:

C. 17:22-6.13 Fees.

13. a. Each application for a license shall be accompanied by a nonrefundable application fee of $20.00.

b. The annual fee to be paid to the commissioner by each person licensed at the time of the original application and at the time of the biennial renewal thereof shall be $20.00 per year for an agent's license except that the annual fee shall be $10.00 for persons exempt from examination under the provisions of section 10 (a), and shall be $50.00 for a broker's license and $50.00 for a solicitor's license.

c. If the applicant fails to qualify for, or is refused a license, the license fee shall be returned. The application fee shall not be returned.

4. Section 29 of P. L. 1959, c. 167 (C. 17:44A–29) is amended to read as follows:

C. 17:44A-29 License to agents of societies.

29. Agents of societies shall be licensed in accordance with the provisions of this section.

(1) Insurance agent defined. The term "insurance agent" as used in this section means any authorized or acknowledged agent of a society who acts as such in the solicitation, negotiation or procurement or making of a life insurance, accident and health insurance or annuity contract, except that the term "insurance agent" shall not include:

(a) Any regular salaried officer or employee of a licensed society who devotes substantially all of his services to activities other than the solicitation of fraternal insurance contracts from the public, and who receives for the solicitation of such contracts no commission or other compensation directly dependent upon the amount of business obtained; or

(b) Any agent or representative of a society who devotes, or intends to devote, less than 50% of his time to the solicitation and procurement of insurance contracts for such society. Any person who in the preceding calendar year has solicited and procured life insurance contracts on behalf of any society in an amount of insurance in excess of $50,000.00, or, in the case of any other kind or kinds of insurance which the society might write, on the persons of more than 25 individuals and who has received or will receive a commission or other compensation, therefor, shall be presumed to be devoting, or intending to devote, 50% of his time to the solicitation or procurement of insurance contracts for such society.

(2) License required. No person shall act in this State as an insurance agent, as defined in subsection (1) hereof, for a society without having authority so to do by virtue of a license issued and in force pursuant to the provisions of this section.

(3) Payment of commissions forbidden. No society doing business in this State shall pay any commission or other compensation to any person for any services in obtaining in this State any new contract of life, accident or health insurance, or any new annuity contract, except to a licensed insurance agent of such society and except an agent exempted under subsection (1) (b) of this section.

(4) Prerequisites, issuance and renewal of insurance agent's licenses.

(a) The commissioner may issue a license to any person who has complied with the requirements of this section, authorizing the licensee to act as an insurance agent on behalf of any society named in such license which is authorized to do business in this State. The annual fee for each license issued shall be $5.00.

(b) Before any insurance agent's license shall be issued there shall be on file in the office of the commissioner the following documents:

(1) A written application by the prospective licensee in such form or forms and supplements thereto, and containing such information, as the commissioner may prescribe, which application shall be accompanied by a nonrefundable application fee of $20.00;

(2) A certificate by the society which is to be named in such license, stating that such society has satisfied itself that the named applicant is trustworthy and competent to act as such insurance agent and that the society will appoint such applicant to act as its agent if the license applied for is issued by the commissioner. Such certificates shall be executed and acknowledged by an officer or managing agent of such society; and

(3) A certificate that the applicant for a license shall have taken, and successfully completed, a program of studies established by regulation of the commissioner to the end that the applicant shall be reasonably familiar with the kinds of insurance he intends to solicit or negotiate. The commissioner may waive the educational requirement set forth herein if the applicant was previously licensed for the authority he is seeking.

(c) A written examination shall be required to be satisfactorily completed by any individual seeking to be named as a licensee to represent a fraternal benefit society as its agent. An examination fee of $15.00 shall be paid at the time of the original application for each examination scheduled unless the applicant be exempt hereunder. An examination fee shall be paid for each examination and reexamination permitted. If the applicant fails to qualify for, or is refused, a license, the license fee shall be returned. The

examination fee shall not be returned for any reason. The commissioner shall provide for the preparation and administration of written licensing examinations and may designate an independent testing service to prepare and administer such examinations.

No written examination or program of studies as prescribed in subsection 4 (b) (3) of this section will be required of:

(1) An applicant who is the holder of a valid agent's license issued by the commissioner or an applicant for a renewal license, except in a case where the commissioner has good and sufficient cause to believe that the applicant for renewal has demonstrated incompetency in the conduct of his business as an agent to the detriment of the insurance-buying public;

(2) An applicant whose license to do business or act as an insurance agent for life insurance, health insurance or annuities in this State has expired less than 3 years prior to the date of application. If the applicant has permitted his license to lapse for a period of more than 3 years, he must submit to and pass an examination the same as a new applicant, except where the applicant is a veteran who meets the requirements of paragraph (c) (3) hereunder, when no reexamination shall be required;

(3) An applicant who is a citizen of New Jersey and has served in the Armed Forces of the United States and has been honorably discharged or released under conditions other than dishonorable and was the holder at any time of an agent's license or a broker's license, in New Jersey, which authorized the applicant to transact the business of life insurance, health insurance or annuity;

(4) An applicant who provides certification that he is a designated fraternal insurance counselor.

(d) The commissioner may refuse to issue or renew any insurance agent's license if in his judgment the proposed licensee is not trustworthy and competent to act as such agent, or has given cause for revocation or suspension of such license, or has failed to comply with any prerequisite for the issuance or renewal, as the case may be, of such license.

(e) Every license issued pursuant to this section, and every renewal thereof, shall expire biennially on December 31.

(f) If the application for renewal license shall have been filed with the commissioner on or before December 31 of the year in which the existing license is to expire, such applicant named in such existing license may continue to act as insurance agent under such existing license, unless same shall be revoked or suspended, until the issuance by the commissioner of the renewal

license or until the expiration of 5 days after he shall have refused to renew such license and shall have served written notice of such refusal on the applicant. If the applicant shall, within 30 days after such notice is given, notify the commissioner in writing of his request for a hearing on such refusal, the commissioner shall, within a reasonable time after receipt of such notice, grant such hearing, and he may, in his discretion, reinstate such license.

(g) Any such renewal license of an insurance agent may be issued upon the application of a society named in the existing license. Such application shall be in the form or forms prescribed by the commissioner and shall contain such information as he may require. Such application shall contain a certificate executed by the president, or by a vice president, a secretary, an assistant secretary, or corresponding officer by whatever name known, or by an employee expressly designated and authorized to execute such certificate of a domestic or foreign society or by the United States manager of an alien society, stating that the addresses therein given of the agents of such society for whom renewal licenses are requested therein have been verified in each instance immediately preceding the preparation of the application. Notwithstanding the filing of such application, the commissioner may, after reasonable notice to any such society, require that any or all agents of such society to be named as licensees in renewal licenses shall execute and file separate applications for the renewal of such licenses, as hereinbefore specified, and he may also require that each such application shall be accompanied by the certificate specified in paragraph (b) (2) of subsection (4) of this section.

(5) Notice of termination of appointment of insurance agent. Every society doing business in this State shall, upon the termination of the appointment of any insurance agent licensed to represent it in this State, forthwith file with the commissioner a statement, in such form as he may prescribe, of the facts relative to such termination and the cause thereof. Every statement made pursuant to this section shall be deemed a privileged communication.

(6) Revocation or suspension of insurance agent's license.

(a) The commissioner may revoke, or may suspend for such period as he may determine, any insurance agent's license if, after notice and hearing as specified in this section, he determines that the licensee has:

(1) Violated any provision of, or any obligation imposed by, this section, or has violated any law in the course of his dealings as agent;

(2) Made a material misstatement in the application for such license;

(3) Been guilty of fraudulent or dishonest practices;

(4) Demonstrated his incompetency or untrustworthiness to act as an insurance agent; or

(5) Been guilty of rebating as defined by the laws of this State applicable to life insurance companies;

(6) The revocation or suspension of any insurance agent's license shall terminate forthwith the license of such agent. No individual whose license has been revoked shall be entitled to obtain any individual agent's license under the provisions of this section for a period of 1 year after such revocation or, if such revocation be judicially reviewed, for 1 year after the final determination thereof affirming the action of the commissioner in revoking such license.

C. 17:22-6.9a Preparation and administration of written examinations; fees.

5. (New section) The commissioner shall provide for the preparation and administration of written licensing examinations for insurance agents, brokers, and solicitors regulated under Title 17 of the Revised Statutes and may designate an independent testing service to prepare and administer such examinations.

A nonrefundable examination fee for each examination scheduled shall be paid to the Department of Insurance or directly to an independent testing service if so designated by the commissioner. The examination fee shall be established by the commissioner in an amount sufficient to cover the actual cost of preparation and administration of examinations. The examination fee shall be apart from any fee required by subsection a. of section 13 of P. L. 1944, c. 175 (C. 17:22–6.13a.) to be paid to the department as an application fee.

The commissioner shall promulgate regulations as he deems necessary governing the form, content, and administration of any examination conducted by an independent testing service and the commissioner may enter into a contract with such testing service, provided the contract conforms with the regulations and contains such other provisions as the commissioner deems necessary to hold the testing service accountable on an annual basis to him.

6. N. J. S. 17B:22–23 is amended to read as follows:

Fees.

17B:22–23. a. The following annual license fees shall be paid to the commissioner at the time of the original application and at the time of the biennial renewal thereof:

(1) Agent's license $5.00
(2) Broker's license $50.00
(3) Solicitor's license $50.00

b. The following temporary license fees shall be paid to the commissioner at the time of the application:

(1) Agent's temporary license fee $5.00
(2) Broker's temporary license fee $50.00

Notwithstanding anything in this section to the contrary, an applicant who having paid the above cited temporary license fee and who shall thereafter pass his examination and be properly licensed, such applicant shall not be required to pay any further license fee until the next ensuing annual license renewal date.

c. Each application for a license shall be accompanied by a nonrefundable application fee of $20.00.

d. If the applicant fails to qualify for, or is refused, a license, the license fee shall be returned. The examination fee shall not be returned for any reason.

e. An examination fee shall be paid for each examination and reexamination permitted pursuant to this chapter. One examination fee shall entitle the applicant to take an examination for life insurance, health insurance or annuity or any combination thereof.

7. N. J. S. 17B:28–3 is amended to read as follows:

Certificate to sell.

17B:28–3. Certificate to sell. a. No agent heretofore or hereafter licensed shall be authorized to sell or act or aid in any manner in the negotiation of a contract on a variable basis until he has received a certificate to sell contracts on a variable basis from the commissioner, which certificate shall not be issued by the commissioner until he has satisfied himself, upon evidence presented, that the applicant is trustworthy and competent to act as such agent. All applicants shall be required to pass, unless an exemption has been granted hereunder, a written examination as to his qualifications to perform the functions authorized under the license applied for prior to submitting an application.

The commissioner shall provide for the preparation and administration of written licensing examinations for insurance agents, brokers, and solicitors and may designate an independent testing service to prepare and administer such examinations. A nonrefundable examination fee for each examination scheduled shall be paid to the Department of Insurance or directly to an independent testing service if so designated by the commissioner.

b. Before a first-time applicant for an agent's license to solicit and negotiate contracts on a variable basis shall be admitted to the examination, the applicant shall be required to concurrently hold an agent's license granting authority to solicit and negotiate contracts of life insurance in this State. Application for a license must be made on such forms as the commissioner may prescribe.

c. The examination fee shall be $10.00 for each examination scheduled and such examination fee shall not be returned for any reason. The annual license fee shall be $5.00. A renewal license shall be issued from year to year subject to the payment of the renewal license fee as required by this section and upon request of the insurer. Licenses issued in accordance with this section shall expire on April 30 of each year. Each original application for a license shall be accompanied by a nonrefundable application fee of $20.00.

d. No written examination shall be required of:

(1) An applicant who is the holder of a valid agent's license issued pursuant to this section by the commissioner or an applicant for a renewal of such license, except in a case where the commissioner has good and sufficient cause to believe that the applicant for renewal has demonstrated incompetence in the conduct of his business as such agent to the detriment of the public;

(2) An applicant whose license to do business as an agent issued pursuant to this section has expired less than 3 years prior to the date of application. If the applicant has permitted his license to lapse for a period of more than 3 years he must submit to and pass an examination in the same manner as a new applicant, except where the applicant is a veteran who meets the requirements of subsection (4) hereunder, when no reexamination shall be required;

(3) An applicant whose previous license issued pursuant to this section has been revoked or suspended; provided this examination exemption is only at the discretion of the commissioner;

(4) An applicant who is a citizen of New Jersey and has served in the Armed Forces of the United States and has been honorably discharged or released under conditions other than dishonorable and was the holder at any time of a license in New Jersey which authorized the applicant to solicit or negotiate contracts on a variable basis.

e. The commissioner may issue a nonresident agent's license upon the application of a nonresident who is duly licensed under the law of the state of his residence or domicile to act as an agent for contracts on a variable basis if said state does not prohibit

residents of this State from acting as nonresident agents therein, when:

(1) The applicant has shown by a statement from the proper official of the state in which he has his resident license that he is authorized to do business as an agent in such state with authority for which the applicant is to be licensed under the New Jersey nonresident license.

(2) The applicant has paid the annual license fee as provided for in this section.

(3) The applicant has no place of business in this State.

(4) The commissioner may enter into reciprocal agreements with the appropriate supervisory insurance official of any other state waiving the written examination of any applicant resident in such other state, provided:

(a) A written examination is required of applicants for an agent's license in such other state.

(b) The appropriate supervisory insurance official of such other state certifies that the applicant holds a currently valid license as an agent in such other state, and either,

(i) passed a written examination,

(ii) was the holder of an agent's license prior to the time a written examination was required, or,

(iii) was not required to take such examination by reason of provisions of the applicable agents' licensing law.

(c) That in such other state, a resident of this State is privileged to procure such an agent's license upon the foregoing conditions and without discrimination as to fees or otherwise in favor of residents of such other state. If the laws of another state require the sharing of commissions with resident agents of that state on application for contracts on a variable basis written by nonresident agents, then the same provision shall apply when resident agents of that state, licensed as nonresident agents of New Jersey write applications for contracts on a variable basis in this State.

C. 17B:22-9.1 Preparation and administration of license examination; fees; rules and regulations.

8. (New section) The commissioner shall provide for the preparation and administration of written licensing examinations for insurance agents, brokers, and solicitors regulated under Title 17B of the New Jersey Statutes and may designate an independent testing service to prepare and administer such examinations.

A nonrefundable examination fee for each examination scheduled shall be paid to the Department of Insurance or directly to an

independent testing service if so designated by the commissioner. The examination fee shall be established by the commissioner in an amount sufficient to cover the actual cost of preparation and administration of examinations. The examination fee shall be apart from any fee required by N. J. S. 17B:22–23 to be paid to the department as an application fee.

The commissioner shall promulgate regulations as he deems necessary governing the form, content, and administration of any examination conducted by an independent testing service and the commissioner may enter into a contract with such testing service, provided the contract conforms with the regulations and contains such other provisions as the commissioner deems necessary to hold the testing service accountable on an annual basis to him.

9. This act shall take effect immediately.

Approved January 17, 1980.

CHAPTER 313

AN ACT to amend the "Safe Drinking Water Act," approved September 17, 1977 (P. L. 1977, c. 224).

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

1. Section 4 of P. L. 1977, c. 224 (C. 58:12A–4) is amended to read as follows:

C. 58:12A-4 Commissioner's powers and duties in connection with drinking water regulations; records; legislative approval of rules and regulations.

4. a. The commissioner shall prepare, promulgate and enforce and may amend or repeal (1) State primary drinking water regulations that at any given time shall be no less stringent than the complete interim or revised national primary drinking water regulations in effect at that time; (2) State secondary drinking water regulations; and (3) other regulations to protect potable waters, regulate public and nonpublic water systems, and carry out the intent of this act in any one or more areas of the State requiring a particular safe drinking water program.

b. Subject to section 5. of this act, State primary drinking water regulations shall apply to each public water system in the State,

except that such regulations shall not apply to a public water system:

(1) Which consists only of distribution and storage facilities and which does not have any collection and treatment facilities;

(2) Which obtains all of its water from, but is not owned or operated by, a public water system to which such regulations apply;

(3) Which does not sell water to any person; and

(4) Which does not provide water for potable purposes to any carrier which conveys passengers in interstate commerce.

c. The commissioner shall adopt and implement adequate procedures, promulgate appropriate rules and regulations, and issue such orders as are necessary for the enforcement of State primary drinking water regulations and for the provision of potable water of adequate volume and pressure; such regulations and procedures to include but not be limited to:

(1) Monitoring and inspection procedures;

(2) Maintenance of an inventory of public water systems in the State;

(3) A systematic program for conducting sanitary surveys of public water systems throughout the State or in a part thereof whenever the commissioner determines that such surveys are necessary or advisable;

(4) The establishment and maintenance of a program for the certification of laboratories conducting analytical measurements of drinking water contaminants specified in the State primary and secondary drinking water regulations; and the assurance of the availability to the department of laboratory facilities certified by the administrator and capable of performing analytic measurements of all contaminants specified in the State primary and secondary drinking water regulations;

(5) The establishment and maintenance of a program concerning plans and specifications for the design and construction of new or substantially modified public water systems, which program (a) requires all such plans and specifications, or either, to be first approved by the department before any work thereunder shall be commenced and (b) assures that all such projects, upon completion, will comply with any rules and regulations of the department concerning their construction; will be capable of compliance with the State primary drinking water regulations or such requirements of the State secondary drinking water regulations as the commissioner

deems applicable, and will deliver water with sufficient volume and pressure to the users of such systems.

d. The commissioner shall keep such records and make such reports with respect to his activities under subsections a. and c. of this section as may be required by regulations established by the administrator pursuant to the Federal act;

e. The commissioner may require any public water system to install, use, and maintain such monitoring equipment and methods, to perform such sampling, to maintain and retain such records of information from monitoring and sampling activities, to submit such reports of monitoring and sampling results, and to provide such other information as he may require to assist in the establishment of regulations under this act, or to determine compliance or noncompliance with this act or with regulations promulgated pursuant to this act;

f. The commissioner shall have the right to enter any premise upon presentation of appropriate credentials during regular business hours, in order to test, inspect or sample any feature of a public water system and in order to inspect, copy or photograph any monitoring equipment or records required to be kept under provisions of this act.

g. The department shall further transmit copies of all rules and regulations proposed pursuant to this act to the Senate and General Assembly on a day on which both Houses shall be meeting in the course of a regular or special session. The provisions of the aforesaid "Administrative Procedure Act" or any other law to the contrary notwithstanding, no such rule or regulation shall take effect if, within 60 days of the date of its transmittal to the Senate and General Assembly, the Legislature shall pass a concurrent resolution stating in substance that the Legislature does not favor such proposed rule or regulation.

2. This act shall take effect immediately.

Approved January 17, 1980.

CHAPTER 314

AN ACT authorizing the use of special vehicle identification lights by certain licensed private detective businesses and supplementing chapter 3 of Title 39 of the Revised Statutes.

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

C. 39:3-54.14 Permit for special identification lights; violations; penalty.

1. a. The director may issue permits authorizing vehicles of licensed private detective businesses under contractual agreement to provide community security services in planned developments as defined in the "Municipal Land Use Law" P. L. 1975, c. 291 (C. 40:55D–1 et seq.), to be equipped with and display a special identification light. Issuance of such permits shall, in addition, be approved and signed by the chief law enforcement official in the municipality in which such permit shall be used. The permit shall specify the type of light, the manner in which it shall be displayed and the conditions under which the operator of the vehicle may drive or move the vehicle when the light is in use. The permit shall also specify the color of the light, which shall be other than red. The permit for the use of the special identification light shall be carried by the operator while the light is displayed on the vehicle.

b. The permit shall be valid only when the specifications and conditions contained therein are complied with, and the director may cancel or revoke a permit issued pursuant to this act whenever the conditions for its issuance no longer exist or on any other reasonable grounds. The director shall charge a $25.00 fee for the issuance of each such permit.

c. Any person authorized to display a special identification light pursuant to this act who displays or uses said light in violation of the provisions of this act shall be liable to a penalty of $50.00 for the first offense, and $100.00 for the second and each subsequent offense.

2. This act shall take effect immediately.

Approved January 18, 1980.

CHAPTER 315

AN ACT concerning the "Local Fiscal Affairs Law," and amending N. J. S. 40A:5–14.

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

1. N. J. S. 40A:5–14 is amended to read as follows:

Public depository; designation.

40A:5–14. Each local unit shall designate as a depository for its moneys a public depository as defined in section 1 of P. L. 1970, c. 236 (C. 17:9–41), or the State of New Jersey Cash Management Fund established pursuant to section 1 of P. L. 1977, c. 281 (C. 52:18A–90.4), or any combination thereof.

Except as otherwise provided in this section, any public depository so designated pursuant to this section shall be one which will allow interest on all balances of moneys deposited therein, and all moneys deposited with such depository, other than minimum amounts deposited in checking accounts for cash disbursement purposes, shall be deposited in interest bearing accounts or may, whenever more compatible with the cash flow requirements of the local unit, be deposited therewith in time accounts with interest subject to withdrawal upon notice. Whenever any such public depository shall agree to perform for the local unit certain services of a nature or amount sufficient to compensate for interest which would otherwise be received on such balances deposited therein, the local unit may, upon certification by the Division of Local Government Services that the nature or amount of such services would be so sufficient, designate such public depository as a depository for its moneys, and may deposit such portion of its moneys with such depository in other than interest bearing accounts as shall be necessary to compensate the depository for such services. A list of the services to be so performed and a cost estimate of the value of such services shall be submitted to the division for certification purposes.

The official charged with the custody of such moneys shall deposit them in the depository or depositories so designated and shall thereafter be relieved of any liability or loss of such moneys due to the insolvency or closing of the depository or depositories.

C. 40A:5-14.1 Rules and regulations.

2. (New section) The Division of Local Government Services shall adopt rules and regulations to implement this act. The division may provide for a grace period of time to permit local administrators flexibility in transferring funds between accounts and for variances from the rules and regulations for the handling of small amounts of money as defined by the division.

3. This act shall take effect January 1 next following enactment.

Approved January 18, 1980.

CHAPTER 316

AN ACT concerning the administration of decedents' estates and amending N. J. S. 3A:6–5 and N. J. S. 3A:6–6.

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

1. N. J. S. 3A:6–5 is amended to read as follows:

Entitlement to assets.

3A:6–5. Where the total value of the real and personal assets of the estate of an intestate will not exceed $10,000.00, the surviving spouse upon the execution of an affidavit before the surrogate of the county where the intestate resided at his death, or, if then nonresident in this State, where any of the assets are located, or before the Superior Court, shall be entitled absolutely to all the real and personal assets without administration and up to $5,000.00 of such assets shall be free from all debts of the intestate. Upon executing the affidavit, and upon filing it, the surviving spouse shall have all the rights, powers and duties of an administrator duly appointed for the estate and, as such, may be sued and required to account as if he had been appointed administrator by the surrogate or the Superior Court, as the case may be. The affidavit shall state that the affiant is the surviving spouse of the intestate and that the value of the intestate's real and personal assets will not exceed $10,000.00, and shall set forth the residence of the intestate at his death, and specifically the nature, location and value of the intestate's real and personal assets. The affidavit shall be filed and recorded in the office of such surrogate or, if the proceeding is

before the Superior Court, then in the office of the clerk of that court.

2. N. J. S. 3A:6–6 is amended to read as follows:

Entitlement of next of kin to assets.

3A:6–6. Where the total value of the real and personal assets of the estate of an intestate will not exceed $5,000.00 and the intestate leaves no surviving spouse, such one of the next of kin as shall have obtained the consent in writing of the remaining next of kin, if any, and shall have executed before the surrogate of the county where the intestate resided at his death, or, if then nonresident in this State, where any of the personal assets are located, or before the Superior Court, the affidavit herein provided for, shall be entitled to receive the personal assets of the intestate for the benefits of all the next of kin and creditors without administration or entering into a bond. Upon executing the affidavit, and upon filing it and the consent, he shall have all the rights, powers and duties of an administrator duly appointed for the estate and, as such, may be sued and required to account as if he had been appointed administrator by the surrogate or the Superior Court, as the case may be.

In the affidavit aforesaid there shall be set forth the residence of the intestate at his death, the names, residences and relationships of all the next of kin and specifically the nature, location and value of the real and personal assets and also a statement that the value of the intestate's real and personal assets will not exceed $5,000.00.

The consent shall be filed, and the affidavit filed and recorded, in the office of such surrogate or, if the proceeding is before the Superior Court, then in the office of the clerk of that court.

3. This act shall take effect immediately.

Approved January 18, 1980.

CHAPTER 317

AN ACT to protect the civil rights of persons serving in the armed forces, providing for the deferment of certain tax and contractual obligations of such persons, providing for stays of proceedings to evict such persons and their families from their homes, according reemployment rights to persons returning from military service and providing penalties for persons violating this act.

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

C. 38:23C-1 Declaration of policy; construction of act.

1. It is hereby declared to be the public policy of the State to maintain, secure and protect the civil and property rights of persons in the military service, as hereinafter defined, and of employees who are members of the organized militia or members of a reserve component of the Armed Forces of the United States.

All the provisions of this act shall be liberally construed for the accomplishment of this purpose.

This act shall be deemed an exercise of the police power of the State, for the protection of the public welfare, prosperity, health and peace of the people of the State.

C. 38:23C-2 Definitions.

2. As used in this act:

a. The term "military service" means duty by any person, male or female, in the active military service of the United States and active duty in the military service of the State pursuant to an order of the Governor issued pursuant to law.

b. The term "person" when used herein with reference to the holder of any right alleged to exist against a person in military service, or against a person secondarily liable under such right, shall include individuals, partnerships, corporations, and any other forms of business association.

c. The term "court" as used herein, shall include any State court of competent jurisdiction, whether or not a court of record.

C. 38:23C-3 Stay, postponement or suspension of enforcement; vocation of judgment or decree; waiver of benefits.

3. a. Whenever, pursuant to any of the provisions of this act, the enforcement of any obligation or liability, the prosecution of

any suit or proceeding, the entry or enforcement of any order, writ, judgment or decree, or the performance of any act, may be stayed, postponed or suspended, such stay, postponement or suspension may, in the discretion of the court, likewise be granted to sureties, guarantors, endorsers and others subject to the obligation or liability, the performance or enforcement of which is stayed, postponed or suspended.

b. When a judgment or decree is vacated or set aside, in whole or in part, as provided in this act, the same may, in the discretion of the court, likewise be set aside and vacated as to any surety, guarantor, endorsers, accommodation maker or other person whether primarily or secondarily liable upon the contract or liability for the enforcement of which the judgment or decree was entered.

c. Nothing contained in this act shall prevent a waiver in writing of the benefits afforded by paragraphs a. and b. of this section by any surety, guarantor, endorser, accommodation maker, or other persons whether primarily or secondarily liable upon the obligation or liability except that after the date of enactment of this act no such waiver shall be valid unless it is executed as an instrument separate from the obligation or liability in respect of which it applies, and no such waiver shall be valid after the beginning of the period of military service if executed by an individual who, subsequent to the execution of such waiver becomes a person in military service.

C. 38:23C-4 Default of appearance by defendant; filing affidavit; filing bond to indemnify defendant.

4. In any civil action or proceeding commenced in any court, if there shall be a default of an appearance by the defendant, the plaintiff, within 20 days before the entry of judgment or final order, shall file in the court an affidavit setting forth facts showing that the defendant is not in military service. If unable to file such affidavit, plaintiff shall in lieu thereof file an affidavit setting forth either that the defendant is in the military service or that plaintiff is not able to determine whether or not defendant is in such service. If an affidavit is not filed showing that the defendant is not in the military service, no judgment or final order shall be entered without first securing an order of court directing such entry, and no such order shall be made if the defendant is in such service until after the court shall have appointed an attorney to represent defendant and protect his interest, and the court shall on application make such appointment. Unless it appears that the defendant

is not in such service the court may require, as a condition before judgment or final order is entered, that the plaintiff file a bond, approved by the court, conditioned to indemnify the defendant, if in military service, against any loss or damage that he may suffer by reason of any judgment or final order should the judgment or final order be thereafter set aside in whole or in part. And the court may make such other and further order or enter such judgment as in its opinion may be necessary to protect the rights of the defendant under this act.

C. 38:23C-5 False affidavit; perjury.

5. Any person who shall make or use an affidavit required under section 4, above, knowing it to be false, shall be guilty of perjury.

C. 38:23C-6 Appointment of attorney by court.

6. In any action or proceeding in which a person in military service is a party, if such party does not personally appear therein or is not represented by an authorized attorney, the court may appoint an attorney to represent him; and in such case a like bond may be required and an order made to protect the rights of such person. But no attorney appointed under this act to protect a person in military service shall have power to waive any right of the person for whom he is appointed or bind him by his acts.

C. 38:23C-7 Opening judgment by court.

7. If any judgment or final order shall be rendered in any action or proceeding governed by sections 4, 5 and 6, above against any person in military service during the period of such service, or within 30 days thereafter, and it appears that such person was prejudiced by reason of his military service in making his defense thereto, such judgment or order may, upon application, made by such person or his legal representative, not later than 90 days after the termination of such service, be opened by the court rendering the same and such defendant or his legal representative let in to defend; provided it is made to appear that the defendant has a meritorious or legal defense to the action or proceeding, or to some part thereof. Vacating, setting aside, or reversing any judgment or final order because of any of the provisions of this act shall not impair any right or title acquired by any bona fide purchaser for value under such judgment or order.

C. 38:23C-8 Stay of proceedings.

8. At any stage thereof, any action or proceeding in any court in which a person in military service is involved, either as plaintiff or defendant, during the period of such service or within 60 days

thereafter may, in the discretion of the court in which it is pending, on its own motion, and shall, on application to it by such person or some person on his behalf, be stayed as provided in this act, unless, in the opinion of the court, the ability of plaintiff to prosecute the action, or the defendant to conduct his defense, is not materially affected by reason of his military service.

C. 38:23C-9 Enforcement of fines and penalties.

9. When an action for compliance with the terms of any contract is stayed pursuant to this act no fine or penalty shall accrue by reason of failure to comply with the terms of such contract during the period of such stay, and in any case where a person fails to perform any obligation and a fine or penalty for such nonperformance is incurred a court may, on such terms as may be just, relieve against the enforcement of such fine or penalty if it shall appear that the person who would suffer by such fine or penalty was in the military service when the penalty was incurred, and that by reason of such service the ability of such person to pay or perform was thereby materially impaired.

C. 38:23C-10 Stay of execution of judgment or order; attachment or garnishment.

10. In any action or proceeding commenced in any court against a person in military service, before or during the period of such service, or within 60 days thereafter, the court may, in its discretion, on its own motion, or on application to it by such person or some person on his behalf shall, unless in the opinion of the court the ability of the defendant to comply with the judgment or order entered or sought is not materially affected by reason of his military service:

a. Stay the execution of any judgment or order entered against such person, as provided in this act; and

b. Vacate or stay any attachment or garnishment of property, money, or debts in the hands of another, whether before or after judgment as provided in this act.

C. 38:23C-11 Duration of stay.

11. Any stay of any action, proceeding, attachment, or execution ordered by any court under the provisions of this act may, except as otherwise provided, be ordered for the period of military service and 3 months thereafter or any part of such period, and subject to such terms as may be just, whether as to payment in installments of such amounts and at such times as the court may fix or otherwise. Where the person in military service is a codefendant

with others the plaintiff may nevertheless, by leave of court, proceed against the others.

C. 38:23C-12 Period of military service not included in computation of period for bringing action.

12. The period of military service shall not be included in computing any period now or hereafter to be limited by any law, regulation or order for the bringing of any action or proceeding in any court, board, bureau, commission, department or other agency of government of this State or any of its governmental subdivisions by or against any person in military service, or by or against his heirs, executors, administrators, or assigns, whether such cause of action or the right or privilege to institute such an action or proceeding shall have accrued prior to or during the period of such service, nor shall any part of such period which occurs after the date of enactment of this act be included in computing any period now or hereafter provided by any law for the redemption of real property sold or forfeited to enforce any obligation, tax or assessment.

C. 38:23C-13 Eviction or distress of dependents; stay of proceedings; fine.

13. a. No eviction or distress shall be made during the period of military service in respect of any premises for which the agreed rent does not exceed $150.00 per month, occupied chiefly for dwelling purposes by the spouse, children, or other dependents of a person in military service, except upon leave of court granted upon application therefor or granted in any action or proceeding affecting the right of possession.

b. On any such application or in any such action the court may, in its discretion, on its own motion, and shall, on application, unless in the opinion of the court the ability of the tenant to pay the agreed rent is not materially affected by reason of military service, stay the proceedings for not longer than 3 months, as provided in this act, or it may make such other order as may be just.

c. Any person who shall knowingly take part in any eviction or distress otherwise than as provided in paragraph a. of this section, or attempts so to do, shall be adjudged a disorderly person, and shall be punishable by imprisonment not to exceed 6 months or by fine not to exceed $1,000.00, or both.

C. 38:23C-14 Application of act's provisions; termination of lease; detention of personal property; penalty.

14. a. The provisions of this section shall apply to any lease covering premises occupied for dwelling, professional, business, agricultural, or similar purposes in any case in which such lease

was executed by or on the behalf of a person who, after the execution of such lease, entered military service, and the premises so leased have been occupied for such purposes, or for a combination of such purposes by such person or by him and his dependents.

b. Any such lease may be terminated by notice in writing delivered to the lessor (or his grantee) or to the lessor's (or his grantee's) agent by the lessee at any time following the date of the beginning of his period of military service. Delivery of such notice may be accomplished by placing it in an envelope properly stamped and duly addressed to the lessor (or his grantee) or to the lessor's (or his grantee's) agent and depositing the notice in the United States mails. Termination of any such lease providing for monthly payment of rent shall not be effective until 30 days after the first date on which the next rental payment is due and payable subsequent to the date when such notice is delivered or mailed. In the case of all other leases, termination shall be effected on the last day of the month following the month in which such notice is delivered or mailed and in such case any unpaid rental for a period preceding termination shall be proratably computed and any rental paid in advance for a period succeeding termination shall be refunded by the lessor (or his assignee). Upon application by the lessor to the appropriate court prior to the termination period provided for in the notice, any relief granted in this paragraph shall be subject to such modifications or restrictions as in the opinion of the court justice and equity may in the circumstances require.

c. Any person who shall knowingly seize, hold or detain the personal effects, clothing, furniture or other property of any person who has lawfully terminated a lease covered by this section, or in any manner interfere with the removal of such property from the premises covered by such lease, for the purpose of subjecting or attempting to subject any of such property to a claim for rent accruing subsequent to the date of termination of such lease, or attempts so to do, shall be adjudged a disorderly person and shall be punished by imprisonment not to exceed 6 months or by fine not to exceed $1,000.00, or both.

C. 38:23C-15 Purchase of real or personal property or of lease or bailment under contract; deposit or installment; violations; penalty.

15. a. No person who has received, or whose assignor has received, under a contract for the purchase of real or personal property, or of lease or bailment with a view to purchase of such property, a deposit or installment of the purchase price or a deposit

or installment under the contract, lease or bailment from a person or from the assignor of a person who, after the date of payment of such deposit or installment, has entered military service, shall exercise any right or option under such contract to rescind or terminate the contract or resume possession of the property for nonpayment of any installment thereunder due or for any other breach of the terms thereof occurring prior to or during the period of such military service, except by action in a court of competent jurisdiction; provided, that nothing contained in this section shall prevent the modification, termination, or cancellation of any such contract, or prevent the repossession, retention, foreclosure, sale or taking possession of property purchased or received or which is security for any obligation under such contract, pursuant to a mutual agreement of the parties thereto, or their assignees, if such agreement is executed in writing subsequent to the making of such contract and during or after the period of military service of the person concerned.

b. Any person who shall knowingly resume possession of property which is the subject of this section otherwise than as provided in paragraph a. of this section or attempt so to do, shall be adjudged a disorderly person and shall be punished by imprisonment not to exceed 6 months, or by fine not to exceed $1,000.00, or both.

c. Upon the hearing of such action the court may order the repayment of prior installments or deposits or any part thereof, as a condition of terminating the contract and resuming possession of the property, or may, in its discretion, on its own motion, and shall, except as provided in section 17 of this act, on application to it by such person in military service or some person on his behalf, order a stay of proceedings as provided in this act except that such stay under this section may be ordered for the period of military service and 6 months thereafter or any part of such period, unless, in the opinion of the court, the ability of the defendant to comply with the terms of the contract is not materially affected by reason of such service; or it may make such other disposition of the case as may be equitable to conserve the interests of all parties.

C. 38:23C-16 Application of act; enforcement of obligation; foreclosure.

16. a. The provisions of this section shall apply only to obligations secured by mortgage, trust deed, or other security in the nature of a mortgage upon real or personal property owned by a person in military service at the commencement of the period of his military service and still so owned by him which obligations originated prior to such person's period of military service.

b. In any proceeding commenced in any court during the period of military service to enforce such obligation arising out of nonpayment of any sum thereunder due or out of any other breach of the terms thereof occurring prior to or during the period of such service the court may, after hearing, in its discretion, on its own motion, and shall, except as hereinafter provided in this act, on application to it by such person in military service or some person on his behalf, unless in the opinion of the court the ability of the defendant to comply with the terms of the obligation is not materially affected by reason of his military service.

(1) Stay the proceedings as provided in this act; or

(2) Make such other disposition of the case as may be equitable to conserve the interests of all parties.

c. No sale, foreclosure, or seizure of property for nonpayment of any sum due under any such obligation, or for any other breach of the terms thereof, whether under a power of sale, under a judgment entered upon warrant of attorney to confess judgment contained therein, or otherwise, shall be valid if made during the period of military service, or within 3 months thereafter, unless upon an order of sale previously granted by the court and a return thereto made and approved by the court.

d. Any person who shall knowingly cause to be made any sale, foreclosure or seizure of property defined as invalid by paragraph c. hereof, or attempts so to do, shall be adjudged a disorderly person and shall be punished by imprisonment not to exceed 6 months, or by fine not to exceed $1,000.00, or both.

C. 38:23C-17 Conditions of foreclosure, possession or termination.

17. Where a proceeding to foreclose a mortgage upon or to resume possession of personal property, or to rescind or terminate a contract for the purchase thereof, has been stayed as provided in this act, the court may, unless in its opinion an undue hardship would result to the dependents of the person in military service, appoint three disinterested parties to appraise the property and, based upon the report of the appraisers, order such sum, if any, as may be just, paid to the person in military service or his dependent, as the case may be, as a condition of foreclosing the mortgage, resuming possession of the property, or rescinding or terminating the contract.

C. 38:23C-18 Application of provisions on taxes or assessments; nonpayment when due; interest and penalties.

18. a. The provisions of this section shall apply when any taxes or assessments, whether general or special, other than taxes on

income, whether falling due prior or during the period of military service in respect of personal property, money or credits or real property owned and occupied for dwelling, agricultural, or business purposes by a person in military service, or his dependents, at the commencement of his period of military service and still so occupied by his dependents or employees, are not paid.

b. No sale of such property shall be made to enforce the collection of such tax or assessment, or any proceeding or action for such purpose commenced, except upon leave of court granted upon application made therefor by the collector of taxes or other officer whose duty it is to enforce the collection of taxes or assessments. The court thereupon, unless in its opinion the ability of the person in military service to pay such taxes or assessments is not materially affected by reason of such service, may stay such proceedings or such sale, as provided in this act, for a period extending not more than 6 months after the termination of the period of military service of such person.

c. When by law such property may be sold or forfeited to enforce the collection of such tax or assessment, such person in military service shall have the right to redeem or commence an action to redeem such property, at any time not later than 6 months after the termination of such service, but in no case later than 6 months after the date when this act ceases to be in force; but this shall not be taken to shorten any period, now or hereafter provided by the laws of the State, or any political subdivision thereof, for such redemption.

d. Whenever any tax or assessment shall not be paid when due, such tax or assessment due and unpaid shall bear interest until paid at the rate of 6% per annum from the date when such tax first became a lien, and no other penalty or interest shall be incurred by reason of such nonpayment, whether such penalty or interest shall have accrued prior or shall accrue subsequent to the commencement of the period of military service of such person. Any lien for such unpaid taxes or assessment shall also include such interest thereon.

C. 38:23C-19 Nonpayment of premium on insurance policies.

19. a. No policy which has not lapsed for the nonpayment of premium before the commencement of the period of military service of the insured, and which has been brought within the benefits of the Federal "soldiers' and sailors' civil relief act" shall lapse or be forfeited for the nonpayment of premium during the period of such service, or during 1 year after the expiration

of such period, provided that in no case shall this prohibition extend for more than 1 year after this act ceases to be in force.

b. For the purposes of this section, the term "policy" shall include any contract of life insurance on the level premium or legal reserve plan. It shall also include any benefit in the nature of life insurance arising out of membership in any fraternal or beneficial association. In no case, however, shall the term "policy" include insurance exceeding a total face value of $5,000.00 whether in one or more companies. The term "premium" shall include membership dues or assessments in such association, and the date of issuance of policy as herein limited shall refer to the date of admission to membership in such association; the term "insured" shall include any person who is the holder of a policy as defined in this section; the term "insurer" shall include any corporation, partnership, or other form of association which secures or provides insurance under any policy as defined herein.

C. 38:23C-20 Reemployment of persons after completion of military service.

20. a. In the case of any person who, in order to perform military service, has left or leaves a position, other than a temporary position, in the employ of any employer, and who

(1) Receives a certificate of completion of military service duly executed by an officer of the applicable force of the Armed Forces of the United States or by an officer of the applicable force of the organized militia;

(2) Is still qualified to perform the duties of such position; and

(3) Makes application for reemployment within 90 days after he is relieved from such service, if such position was in the employ of a private employer, such employer shall restore such person to such position, or to a position of like seniority, status and pay, unless the employer's circumstances have so changed as to make it impossible or unreasonable to do so.

b. The benefits, rights and privileges granted to persons in the military service by this section shall be extended to and be applicable to any person who, in order to participate in assemblies or annual training or in order to attend service schools conducted by the Armed Forces of the United States for a period or periods up to and including 3 months, temporarily leaves or has left his position, other than a temporary position, in the employ of any employer and who, being qualified to perform the duties of such position, makes application for reemployment within 10 days after completion of such temporary period of service; provided that no such person shall be entitled to the said benefits, rights and privi-

leges for such attendance at any service school or schools exceeding a total of 3 months during any 4-year period.

c. The benefits, rights and privileges granted to persons in the military service by this section shall be extended to and be applicable to any person who is or becomes a member of the organized militia or of a reserve component of the Armed Forces of the United States and who, because of such membership is discharged by his employer or whose employment is suspended by his employer because of such membership and who, being qualified to perform the duties of such position, makes application for reemployment or termination of the period of his suspension within 10 days after such discharge or suspension.

d. Any person who is restored to a position in accordance with the provision of this section shall be considered as having been on furlough or leave of absence during his period of military service, temporary service under paragraph b. hereof, or of discharge or suspension under paragraph c. hereof, shall be so restored without loss of seniority, shall be entitled to participate in insurance or other benefits offered by the employer pursuant to established rules and practices relating to employees on furlough or leave of absence in effect with the employer at the time such person entered the military service or commenced such temporary service or was so discharged or suspended and shall not be discharged from such position without cause, within 1 year after such restoration.

e. In case any private employer fails or refuses to comply with the provisions of this section the County Court of the county in which such private employer maintains a place of business, shall have the power, upon the filing of a complaint, by the person entitled to the benefits of such provisions, to specifically require such employer to comply with such provisions, and may, as an incident thereto, compensate such person for any loss of wages or benefits suffered by reason of such employer's unlawful action. The court shall order a speedy hearing in any such case, and shall advance it on the calendar. Any person claiming to be entitled to the benefits of the provisions of this section may appear and be represented by counsel, or, upon application to the Attorney General of the State, may request that the Attorney General appear and act on his behalf. If the Attorney General is reasonably satisfied that the person so applying is entitled to such benefits, he shall appear and act as attorney for such person in the amicable adjustment of the claim, or in the filing of any complaint

and the prosecution thereof. In the hearing and determination of such applications under this section no fees or court costs shall be assessed against a person so applying for such benefits.

C. 38:23C-21 Intent to delay just enforcement.

21. Where in any proceeding to enforce a civil right in any court it is made to appear to the satisfaction of the court that any interest, property, or contract has since the date of the approval of this act been transferred or acquired with intent to delay the just enforcement of such right by taking advantage of this act, the court shall enter such judgment or make such order as might lawfully be entered or made, the provisions of this act to the contrary notwithstanding.

C. 38:23C-22 Certificates executed by officers of armed forces; missing persons.

22. a. In any proceeding under this act a certificate executed by an officer of the applicable force of the Armed Forces of the United States or by an officer of the applicable force of the organized militia shall, when produced, be prima facie evidence of the facts therein certified and of the authority of the signer to issue the same.

b. When a person in military service has been reported missing, he shall be presumed to continue in such service until accounted for, and no period herein limited which begins or ends with the death of such person shall begin or end until the death of such person is in fact reported to or proved by the applicable force of the Armed Forces of the United States or of the organized militia, or until such death is proved by a court of competent jurisdiction; provided, that no period herein limited which begins or ends with the death of such person shall be extended beyond a period of 6 months after the time when this act ceases to be in force.

C. 38:23C-23 Relief from liability or obligation; application.

23. a. A person may, at any time during his period of military service or within 6 months thereafter, apply to a court for relief in respect of any obligation or liability incurred by such person prior to his period of military service or in respect of any tax or assessment whether falling due prior to or during his period of military service. The court, after appropriate notice and hearing, unless in its opinion the ability of the applicant to comply with the terms of such obligation or liability or to pay such tax or assessment has not been materially affected by reason of his military service, may grant the following relief:

In the case of an obligation payable under its terms in installments under a contract for the purchase of real estate, or secured by a mortgage or other instrument in the nature of a mortgage upon real estate, a stay of the enforcement of such obligation during the applicant's period of military service and, from the date of termination of such period of military service or from the date of application if made after such service, for a period equal to the period of the remaining life of the installment contract or other instrument plus a period of time equal to the period of military service of the applicant, or any part of such combined period, subject to payment of the balance of principal and accumulated interest due and unpaid at the date of termination of the period of military service or from the date of application, as the case may be, in equal installments during such combined period at such rate of interest on the unpaid balance as is prescribed in such contract, or other instrument evidencing the obligation, for installments paid when due, and subject to such other terms as may be just.

In the case of any other obligation, liability, tax, or assessment, a stay of the enforcement thereof during the applicant's period of military service and, from the date of termination of such period of military service or from the date of application if made after such service, for a period of time equal to the period of military service of the applicant or any part of such period, subject to payment of the balance of principal and accumulated interest due and unpaid at the date of the termination of such period of military service or the date of application as the case may be, in equal periodic installments during such extended period at such rate of interest as may be prescribed for such obligation, liability, tax, or assessment, if paid when due, and subject to such other terms as may be just.

b. When any court has granted a stay as provided in this section, no fine or penalty shall accrue during the period the terms and conditions of such stay are complied with by reason of failure to comply with the terms or conditions of the obligation, liability, tax, or assessment in respect of which such stay was granted.

C. 38:23C-24 Partial invalidity.

24. If any clause, sentence, paragraph, section or part of this act or the application thereof to any person or circumstances, shall, for any reason, be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this act, and the application thereof to other persons or circumstances, but shall be confined in its oper-

ation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered and to the person or circumstances involved. It is hereby declared to be the legislative intent that this act would have been adopted had such invalid provisions not been included.

C. 38:23C-25 Inconsistent acts superseded.

25. Insofar as the provisions of this act are inconsistent with the provisions of any other act, the provisions of this act shall be controlling.

C. 38:23C-26 Short title.

26. This act shall be known and may be cited and referred to as the "New Jersey Soldiers' and Sailors' Civil Relief Act of 1979."

27. This act shall take effect immediately.

Approved January 18, 1980.

CHAPTER 318

AN ACT to amend the title of "An act in relation to liability of a parent, guardian or other person having custody of an infant 16 years of age or under who wilfully, maliciously or unlawfully destroys or injures property of another," approved June 15, 1965 (P. L. 1965, c. 111) so that the same shall read "An act in relation to the liability of a parent, guardian or other person having custody of an infant under 18 years of age who willfully, maliciously or unlawfully destroys or injures property of another," and to amend the body of said act.

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

1. The title of P. L. 1965, c. 111 is amended to read as follows:

Title amended.

An act in relation to liability of a parent, guardian or other person having custody of an infant under 18 years of age who willfully, maliciously or unlawfully destroys or injures property of another.

2. Section 2 of P. L. 1965, c. 111 (C. 2A:53A-15) is amended to read as follows:

C. 2A:53A-15 Parent or guardian having legal custody of an infant; negligence; liability.

2. A parent, guardian or other person having legal custody of an infant under 18 years of age who fails or neglects to exercise reasonable supervision and control of the conduct of such infant, shall be liable in a civil action for any willful, malicious or unlawful injury or destruction by such infant of the real or personal property of another.

3. This act shall take effect immediately.

Approved January 21, 1980.

CHAPTER 319

AN ACT to amend "An act concerning loans made by banks to small business concerns, and supplementing an act concerning banking and banking institutions (Revision of 1948), approved April 29, 1948 (P. L. 1948, c. 67)," approved July 31, 1964 (P. L. 1964, c. 162).

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

1. Section 1 of P. L. 1964, c. 162 (C. 17:9A–59.25) is amended to read as follows:

C. 17:9A-59.25 Definitions.

1. As used in this act, unless the context requires otherwise,

(a) "Concern" means any trade, business or professional entity conducted for profit, and includes, but is not limited to, individuals, partnerships, corporations, joint ventures, associations and cooperatives;

(b) "Bank" means a bank as defined in section 1 of the act of which this act is a supplement and also means a national bank having its principal office in this State; "bank" excludes savings banks;

(c) "Small business concern" means a concern whose gross income from operations during its most recently completed fiscal year, as represented in writing by the concern, totaled not more than $1,000,000.00, but nothing herein shall prevent a bank from making a small business loan to a small business concern at any

time during the first year of its existence, and such loan shall be enforceable by the bank according to its terms notwithstanding that it subsequently develops that the small business concern's gross income from operations during its first fiscal year totals more than $1,000,000.00;

(d) "Small business loan" means a loan which is made to a small business concern pursuant to this act and the purpose of which, as represented to the bank in writing by the small business concern, is to furnish the concern with funds for use in the conduct of the concern's trade, business or profession;

(e) "Payment-period" means the period of time scheduled by the terms of the note evidencing a small business loan to elapse between the days upon which installment payments are required to be made on such loan; except that, in a case where installment payments are omitted pursuant to subsection b of section 4 of this act, "payment-period" means the period of time scheduled to elapse between the days upon which installment payments are required to be made during that portion of the term of such loan in which no installment payment may be omitted;

(f) "Actuarial method" means the method of applying payments made on a loan between principal and interest pursuant to which a payment is applied first to accumulated interest on the principal amount of the loan and the remainder is applied to the unpaid principal balance of the loan in reduction thereof;

(g) "Precomputed finance charge" means an amount equal to the whole amount of interest payable on a small business loan for the period from the making of the loan to the date scheduled by the terms of the loan for the payment of the final installment;

(h) "Precomputed loan" means a small business loan which is evidenced by a note the face amount of which consists of the aggregate of the principal amount of the loan so evidenced, and the precomputed interest thereon;

(i) "Nonprecomputed loan" means a small business loan which is evidenced by a note the face amount of which consists solely of the principal amount of the loan so evidenced;

(j) "Unpaid balance" of a small business loan means the aggregate of the following:

(1) The face amount of the note evidencing such loan; and

(2) All amounts paid by the bank and added to such loan as provided in paragraph (c) of section 6 of this act; and

(3) All interest charges accrued and unpaid; and

(4) Such further charges as the bank may make pursuant to law in protecting or enforcing a security interest in any property securing the payment of such loan or otherwise; and

(5) In the case of precomputed loans, the amount of all late charges imposed pursuant to section 8 of this act;

less the aggregate of the following:

(6) All installment payments made in the case of a precomputed loan, or all payments made in reduction of principal in the case of a nonprecomputed loan; and

(7) All payments made on account of or in payment in full of any charges or amounts referred to in subparagraphs (2), (3), (4) and (5) of this paragraph (j) and

(8) In the case of a precomputed loan, the amount of the credit to which the borrower is entitled pursuant to section 11 of this act.

(k) "Legal rate" means a rate of interest not in excess of the rate authorized by section 3 to be paid on small business loans.

2. Section 3 of P. L. 1964, c. 162 (C. 17:9A–59.27) is amended to read as follows:

C. 17:9A-59.27 Interest rates.

3. (a) A bank may contract for and receive interest on a small business loan calculated according to the actuarial method, at a rate not exceeding 12% per annum on the unpaid balances of the principal; except that the Commissioner of Banking may, with advice of the special advisory board created pursuant to P. L. 1970, c. 205, section 11 (C. 17:11A–44) by regulation adopted, amended and rescinded from time to time, provide that the rate of interest which may be contracted for and received on any such loan may be more than 12% per annum but not more than 15% per annum as shall be established by such regulation. In adopting, amending, and rescinding regulations pursuant to this subsection, the commissioner and the special advisory board shall consider the general state of the economy, the discount rates prescribed by the Federal Reserve Bank of New York and the Federal Reserve Bank of Philadelphia, the advance rate as prescribed by the Federal Home Loan Bank of New York, the availability of funds for loans, studies and statistics published by the Federal Home Loan Bank Board and other agencies of the United States and of this State, and such other factors and bases for determination as the commissioner and the board may deem pertinent. The rate established by any such regulation shall reasonably reflect prevailing market condi-

tions, regionally and nationally, based upon the studies, statistics and factors considered, and shall remain in force until such time as such regulation is rescinded or such rate is increased or decreased by a subsequent regulation. Any such regulation shall have prospective effect only. This subsection shall not limit or restrict the manner of contracting for the interest charge, whether by way of add-on, discount or otherwise, so long as such charge does not exceed the limitation imposed by this section. In the case of a precomputed loan, the interest charge may be computed on the assumption that all scheduled payments will be made when due, and all scheduled installment payments made on a precomputed loan may be applied as if they were received on their scheduled due dates. In the case of nonprecomputed loans, all installment payments shall be applied no later than the next day, other than a public holiday, after the date of receipt, and a day shall be counted as one-three-hundred-sixty-fifth of a year.

(b) (Deleted by amendment.)

3. Section 4 of P. L. 1964, c. 162 (C. 17:9A–59.28) is amended to read as follows:

C. 17:9A-59.28 Note evidencing loan; amount; payments.

4. (a) Every small business loan shall be evidenced by a note which shall be dated the day of the making of such loan, and the face amount of which shall be in an amount determined pursuant to paragraph (h) or (i) of section 1, of this act as the case may require.

(b) Each such note shall provide that the amount thereof shall be payable in installments on dates separated by payment-periods of equal duration measured in terms of months. Any such note may provide for the omission of installments, including the first installment, during any period not exceeding 93 days in any one 12-month period. Except as herein otherwise provided, no note shall provide for payment-periods shorter than 1 month or longer than 3 months. Each such note shall provide for installment payments in equal amounts, except that the final installment may be not more than $1.00 more or less than any previous installment, and no such note shall provide that the final installment shall be payable more than 7 years and 3 months from the date of such note.

4. Section 5 of P. L. 1964, c. 162 (C. 17:9A–59.29) is amended to read as follows:

C. 17:9A-59.29 Limitation on small business loans.

5. No bank shall make a small business loan in a sum in excess of $50,000.00, nor shall a bank make any such loan for the payment of which a small business concern will be liable to it in any capacity, if the amount of such loan, exclusive of the interest thereon, when added to the principal balances owing on all other small business loans made by such bank for the payment of which such small business concern is liable in any capacity, will, in the aggregate, exceed $50,000.00.

5. Section 8 of P. L. 1964, c. 162 (C. 17:9A-59.32) is amended to read as follows:

C. 17:9A-59.32 Maturity; acceleration.

8. (a) The note evidencing a small business loan may provide that

(1) Upon default in the payment of any installment on its due date, the entire unpaid balance owing thereon shall, at the election of the bank, become immediately due and payable;

(2) When the maturity of the unpaid balance owing on a note is accelerated as provided by this section, the bank may charge interest at the legal rate, as defined in section 1 of this act from the date such acceleration takes place upon the unpaid principal balance thereof;

(3) On any installment of a precomputed loan in arrears for more than 10 days, the bank may make a late charge which shall not exceed 5% of such installment, or $5, whichever is the lesser; provided, (A) (deleted by amendment) (B) that only one such late charge shall be made on any one installment; and (C) that no such late charge shall be made upon any installment scheduled, by the terms of such note, to fall due upon a date subsequent to the date upon which the maturity of the unpaid balance of the loan is accelerated as provided by this section;

(4) No party to such note shall be released or discharged from liability to the bank by reason of the bank's extending the time for the payment of an installment or installments owing or due upon such note, or by reason of the bank's waiver of any term or condition of such note, or of the instrument intended to secure payment thereof;

(5) All parties to such note shall waive presentation for payment, demand for payment, protest and notice of protest, nonpayment, dishonor, and the bank's election to accelerate the maturity of the unpaid balance owing thereon.

(b) (Deleted by amendment).

(c) In addition to the provisions expressly authorized by subsection (a) of this section, the note evidencing a small business loan, or the agreement pursuant to which such loan is made, may contain such provisions, not contrary to law or inconsistent with the provisions of this act, as the bank and the small business concern may agree upon, but no such note or agreement shall provide that payment of the note shall be accelerated because the bank, or other holder of the note, deems itself insecure. No bank shall take any power of attorney to confess judgment on any note evidencing a small business loan.

6. Section 11 of P. L. 1964, c. 162 (C. 17:9A–59.35) is amended to read as follows:

C. 17:9A-59.35 Precomputed interest charge; credit; formula.

11. (a) When the unpaid balance owing on a precomputed small business loan is repaid in full, or when the maturity of the unpaid balance of such loan is accelerated before the date scheduled for the payment of the final installment, the bank shall allow a credit on account of the precomputed interest charge made on such loan, the amount of which shall not be less than the amount determined by the application of the formula $C = AN \div D$ (''the rule of 78's'') in which ''C'' represents the amount of the credit to be given; ''A'' represents the amount of the precomputed interest charge; and ''D'' is determined by ascribing to each month included in the period for which the precomputed interest charge was computed, reckoning from the day upon which the loan was made, the cardinal number descriptive of the number of months scheduled, by the terms of the loan, to elapse from the beginning of each such month, to the date to which the precomputed interest charge was computed, and the total of all the cardinal numbers so ascribed constitutes the quantity ''D''; and ''N'' represents the difference between the quantity ''D'' and the total of all the cardinal numbers ascribed to the months which have elapsed, in whole or in part, from the making of the loan, to the day upon which such repayment is made, or to the day upon which the maturity of the unpaid balance of such loan is accelerated, as the case may be.

(b) The Commissioner of Banking may prepare and distribute to such banks as shall make a request therefor, a schedule or schedules based upon the formula stated in subsection (a) of this section, and credits allowed as provided in such schedule shall constitute a complete compliance with such subsection. A copy of such schedule, duly certified by the commissioner, shall be evidence in all courts and places.

(c) This section shall not apply where the amount of the credit to be allowed is less than $5.00.

(d) The unpaid balance owing on a nonprecomputed small business loan may be repaid in full at any time without penalty.

7. Section 14 of P. L. 1964, c. 162 (C. 17:9A–59.38) is amended to read as follows:

C. 17:9A-59.38 Application of act.

14. Application of act. Nothing in this act applies to any loan or extension of credit which a bank may make pursuant to any other law of this State or any regulation promulgated pursuant to such law, nor does this act apply to any loan or extension of credit otherwise authorized or not prohibited by law, or otherwise enforceable at law.

8. This act shall take effect immediately.

Approved January 18, 1980.

CHAPTER 320

AN ACT concerning the utilization of real and physical property owned or leased by the State and amending P. L. 1975, c. 208.

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

1. Section 3 of P. L. 1975, c. 208 (C. 52:9S–3) is amended to read as follows:

C. 52:9S-3 State capital improvement plan; annual preparation; contents; copies to Governor, legislature and division of budget and accounting; submission of information by State agencies.

3. a. The commission shall each year prepare a State Capital Improvement Plan containing its proposals for State spending for capital projects. Copies of the plan shall be submitted to the Governor and the Legislature no later than December 1 of each year. The plan shall provide

(1) A detailed list of all capital projects of the State which the commission recommends be undertaken or continued by any State agency in the next 3 fiscal years, together with information as to the effect of such capital projects on future operating expenses of the State, and with recommendations as to the priority of such capital projects and the means of funding them;

(2) The forecasts of the commission as to the requirements for capital projects of State agencies for the 4 fiscal years next following such 3 fiscal years and for such additional periods, if any, as may be necessary or desirable for adequate presentation of particular capital projects, and a schedule for the planning and implementation or construction of such capital projects;

(3) A schedule for the next fiscal year of recommended appropriations of bond funds from issues of bonds previously authorized;

(4) A review of capital projects which have recently been implemented or completed or are in process of implementation or completion;

(5) Recommendations as to the maintenance of physical properties and equipment of State agencies;

(6) Recommendations which the commission deems appropriate as to the use of properties reported in subsection b. (6) of this section; and

(7) Such other information as the commission deems relevant to the foregoing matters.

b. Each State agency shall no later than August 15 of each year provide the commission with

(1) A detailed list of capital projects which each State agency seeks to undertake or continue for its purposes in the next 3 fiscal years, together with information as to the effect of such capital projects on future operating expenses of the State, and with such relevant supporting data as the commission requests;

(2) Forecasts as to the requirements for capital projects of such agency for the 4 fiscal years next following such 4 fiscal years and for such additional periods, if any, as may be necessary or desirable for adequate presentation of particular capital projects, and a schedule for the planning and implementation or construction of such capital projects;

(3) A schedule for the next fiscal year of requested appropriations of bond funds from issues of bonds previously authorized;

(4) A report on capital projects which have recently been implemented or completed or are in process of implementation or completion;

(5) A report as to the maintenance of its physical properties and capital equipment;

(6) Such other information as the commission may request.

c. Each State agency shall, when requested, provide the commission with supplemental information in addition to that to be

available to the commission under the computerized record keeping of the Department of the Treasury, Bureau of Real Property Management, concerning any real property owned or leased by the agency including its current or future availability for other State uses.

d. A copy of the plan shall also be forwarded to the Division of Budget and Accounting each year upon its completion, and the portion of the plan relating to the first fiscal year thereof shall, to the extent it treats of capital appropriations in the annual budget, constitute the recommendations of the commission with respect to such capital appropriations in the budget for the next fiscal year.

2. This act shall take effect January 1 next following enactment.

Approved January 18, 1980.

CHAPTER 321

AN ACT revising penalties for the violation of the statutes concerning condemned shellfish and shellfish beds, transferring certain water pollution control statutes from Titles 13, 24 and 26 to Title 58, supplementing Title 58 of the Revised Statutes and repealing parts of the statutory law.

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

C. 58:24-1 Inspection of oyster and clam beds and shellfish.

1. The Department of Environmental Protection shall inspect as often as it may deem necessary, the various places within the jurisdiction of the State from which oysters, clams or other shellfish are taken to be distributed or sold for use as food, for the purpose of ascertaining the sanitary conditions of such oyster and clam beds and other places and the fitness of such shellfish therein or taken therefrom for use as food. (Source. R. S. 24:14-1)

C. 58:24-2 Beds dangerous to health; condemnation.

2. The department shall immediately condemn any oyster or clam bed or other place from which oysters, clams or other shellfish are or may be taken upon discovering that such place is subject to pollution or to any other condition which may render the oysters,

clams or other shellfish in such place or which may be taken therefrom, dangerous to health. (Source. R. S. 24:14–2)

C. 58:24-3 Taking of oysters, clams or other shellfish from condemned beds; sale or distribution; prohibition; fee.

3. The department shall prohibit the taking of oysters, clams or other shellfish from a place which has been condemned by the department pursuant to this act, and shall also prohibit the distribution, sale, offering for sale or having in possession of any such shellfish so taken, without a permit so to take, distribute, sell, offer to sell, or have in possession, first obtained from the department, under such rules and regulations as it shall adopt. A fee of $25.00 shall be charged for any permit so issued. (Source. R. S. 24:14–3 as amended P. L. 1971, c. 156, s. 2)

C. 58:24-4 Distribution and sale of shellfish; prima facie evidence.

4. For the purposes of sections 1 through 10 of this act, the distribution, sale, offering for sale, or having in possession with intent to distribute or sell, any oysters, clams or other shellfish shall be prima facie evidence that such shellfish were intended for use as food. (Source. R. S. 24:14–4)

C. 58:24-5 Discharge of excremental or other polluting matter prohibition.

5. No excremental or other polluting matter shall be discharged into or placed in the waters or placed or suffered to remain upon the banks of any stream or tributary thereof or body of water in which oysters, clams or other shellfish grow or are or may be placed.

Nothing in this section shall apply to the discharge of effluents from sewage plants heretofore or hereafter installed in accordance with the requirements of law and the rules and regulations of the department. (Source. R. S. 24:14–5)

C. 58:24-6 Specific orders of department.

6. The department may make such specific orders regarding the growing and handling of shellfish and the disposal of polluting matter which may affect the purity of shellfish, as it may deem necessary to enforce the provisions of this act. (Source. R. S. 24:14–6)

C. 58:24-7 Inspection and taking of samples.

7. The department shall have free access to all oyster or clam beds, places of business, buildings and all other places where oysters, clams or other shellfish are grown, kept, stored, held in possession with intent to distribute or sell, or sold, and also to all streams, tributaries thereof and lands adjacent thereto, the waters draining from which may come in contact with such shellfish.

The department may make such inspections of such places and take such samples of oysters, clams or other shellfish or other substances as it may deem necessary to carry out the purposes of this act. (Source. R. S. 24:14–7)

C. 58:24-8 Employees, supplies and buildings.

8. The department may employ such persons; purchase and maintain such apparatus and supplies, including suitable boats; and, lease appropriate lands or buildings, when it deems it necessary to carry out the provisions of this act and as may be within the limits of funds appropriated or otherwise made available. (Source. R. S. 24:14–8 and R. S. 24:14–16)

C. 58:24-9 Violation of act; penalties.

9. Any person who violates any of the provisions of sections 1 through 8 of this act or any rule, regulation, order or permit promulgated or issued pursuant to this act is guilty of a petty disorderly persons offense and any such person convicted of a subsequent offense is guilty of a disorderly persons offense. (Source. R. S. 24:14–9 as amended by P. L. 1953, c. 24)

C. 58:24-10 Vessel, vehicle or equipment used in violation of act; seizure; disposal.

10. Any vessel, vehicle or equipment used in violation of sections 1 through 8 of this act or any rule, regulation, order or permit issued or promulgated pursuant to said sections may be confiscated and forfeited. The department may seize and secure any such vessel, vehicle or equipment and shall immediately thereafter give notice thereof to a court located in the county where the seizure is made which shall, at an appointed time and place, summarily hear and determine whether such vessel, vehicle or equipment was unlawfully used and if it does so determine, it may direct the confiscation and forfeiture of such vessel, vehicle or equipment to the use of the department. The Commissioner of Environmental Protection may dispose of any such confiscated and forfeited vessel, vehicle or equipment at his discretion. Nothing contained in sections 1 through 8 of this act shall be construed to limit the powers and responsibilities of the Department of Health pursuant to any provisions of Title 24 of the Revised Statutes. (Source. New)

C. 58:25-1 Short title.

11. The State aid program created by sections 11 through 20 of this act shall be known as the "Sewerage Facilities Aid Program." (Source. P. L. 1965, c. 121, s. 1; C. 26:2E–1)

C. 58:25-2 Declaration of policy.

12. It is hereby declared to be public policy of the State of New Jersey to encourage and support, as hereinafter provided, the promotion, planning, development and construction of public sanitary sewerage facilities, including sewage collection, transmission, treatment and disposal works on a regional or multi-unit basis. (Source. P. L. 1965, c. 121, s. 2; C. 26:2E–2)

C. 58:25-3 Definitions.

13. For the purposes of sections 11 through 20 of this act unless the context clearly requires a different meaning:

a. "Local governmental unit" shall mean and include a county, municipality or any public agency established by the State as a regional agency or authority or by a county or a municipality for the purpose of constructing or operating a public sanitary sewerage facility.

b. "Commissioner" shall mean the Commissioner of Environmental Protection. (Source. P. L. 1965, c. 121, s. 3; C. 26:2E–3)

C. 58:25-4 Grants to local government.

14. a. The commissioner may make grants to any two or more local governmental units, acting together on a joint basis; applying therefor:

(1) For the preparation of a feasibility study and report for the future collection, treatment and disposal of sewage in such units; or

(2) For the preparation of a feasibility study and report for the extension of any existing sewerage facility now operated by some or all of the applying units, provided that said extension would contemplate providing sanitary sewerage facilities for at least one local governmental unit in addition to those units now contributing to the existing sewerage facilities, or provided that said extension would contemplate expansion or intensification of the degree of treatment to be provided at existing treatment facilities.

b. The commissioner may make grants to an individual local governmental unit applying therefor for the preparation of a feasibility report and study for the future collection, treatment and disposal of sewage within the unit in the case of a regional agency or authority established by the State or in the case in which the commissioner shall find that it is not practical for the unit to join with other units in the establishment of a multiunit sewerage facility, or in the case where the local governmental unit is formally committed to become a participant of a multiunit sewerage facility.

c. All grants under this section shall be subject to such terms and conditions as shall be prescribed by the commissioner to carry out the purpose of sections 11 through 20 of this act and may be for any amount not in excess of the entire cost of the study and report but such grants shall not be made for minor sewer extensions or for sewer plans for subdivisions and shall not include the preparation of detail design and engineering drawings, specifications and contract documents. (Source. P. L. 1965, c. 121, s. 4, amended P. L. 1967, c. 109, s. 5; C. 26:2E–4)

C. 58:25-5 Loans to local government.

15. a. Upon application therefor, the commissioner may make loans from the State Sewerage Facilities Loan Fund to any local governmental unit or units which would have been eligible for a grant under the provisions of section 14 of this act for the preparation of preliminary engineering plans and detail design and engineering drawings and specifications and contract documents for the construction of a new or the expansion of an existing sewerage facility for the collection, treatment and disposal of sewage in such unit or units; provided a feasibility study or report upon such facility has been filed with and approved by the commissioner. Such report and study need not have been prepared with a grant provided under the provisions of section 14 of this act but must otherwise satisfy the standards set forth therein.

b. All loans shall be subject to such terms and conditions as shall be prescribed by the commissioner to carry out the purpose of this act provided the entire loan shall be repaid to the State Sewerage Facilities Loan Fund on or before the date when contracts shall have been awarded for the construction of the proposed sewerage works or 3 years from the date of the loan whichever is the earlier. The loans shall be repaid without interest unless construction is not started within 3 years of the date of the loan in which case the loan shall be repaid together with 2% interest per annum thereon.

c. Loans may be made for any amount not in excess of the entire cost of such plans, drawings and documents but shall not be applied to any costs of engineering supervision or inspection during or after the construction of the proposed sewerage works. (Source. P. L. 1965, c. 121, s. 5; C. 26:2E–5)

C. 58:25-6 State sewerage facilities loan fund; establishment.

16. There is hereby established a State Sewerage Facilities Loan Fund which shall be administered by the State Treasurer. All funds appropriated or otherwise made available for this pur-

pose, including funds received from the repayment of loans made under the provisions of section 15 of this act, shall be deposited in such depositories as may be selected by the State Treasurer to the credit of the fund. The moneys in the fund, unless otherwise provided by law, shall be held for the purpose of making grants and loans to local units as provided in sections 14 and 15 of this act. Pending their application to the purposes provided in sections 11 through 20 of this act, moneys in the State Sewerage Facilities Loan Fund may be invested and reinvested as other trust funds in the custody of the State Treasurer in the manner provided by law. All earnings received from the investment or deposit of such funds shall be paid into and become a part of the fund. (Source. P. L. 1965, c. 121, s. 6; C. 26:2E–6)

C. 58:25-7 Procedures for grant and loan applications.

17. The commissioner shall prescribe the procedures for applying for the grants and loans authorized by sections 11 through 20 of this act and may adopt such rules and regulations as may be necessary to implement the provisions of said sections and to carry out the purpose thereof. (Source. P. L. 1965, c. 121; C. 26:2E–7)

C. 58:25-8 Authorization to make grants for water pollution control projects.

18. a. The commissioner is hereby authorized, subject to the availability of funds, to make grants to any county or municipality, or any combination or agency thereof, or to any State or interstate agency, to assist such governmental units or agencies in the construction of those water pollution control projects as qualify for Federal aid and assistance under the provisions of the "Federal Water Pollution Control Act," and any acts amendatory thereof or supplemental thereto or revisions thereof, and any regulations promulgated pursuant thereto.

b. The State's contribution toward the construction of such projects shall not exceed 25% of the cost of that portion of said projects which qualify for Federal assistance.

c. The determination of the relative need, the priority of projects, and the standards of construction shall be consistent with the provisions of the "Federal Water Pollution Control Act," as aforesaid, and sections 11 through 20 of this act.

d. The Commissioner of Environmental Protection shall prescribe the procedures for applying for the grants authorized by this section and may adopt such rules and regulations as may be necessary to implement the provisions of this section and to carry out its purpose.

e. The commissioner is hereby authorized, and with the approval of the Board of Public Utilities as to any public utility which is subject to Title 48 of the Revised Statutes, to condition the award of the grant on the adoption by the grantee of an equitable schedule and classification of rents, rates, fees or other charges for direct or indirect connection with, or the use or services of, the sewerage system. This schedule and classification shall, to the extent practicable, be based on the amount and the characteristics of the sewage and other wastes and other special matters affecting the cost of treatment and disposal thereof, including, but not limited to, chlorine demand, chemical oxygen demand, biochemical oxygen demand, concentration of solids, chemical composition and an allowance for amortization of the sewerage system. (Source. P. L. 1967, c. 109, s. 6; amended P. L. 1973, c. 21; C. 26:2E–8)

C. 58:25-9 Sanitary sewerage collector system; State aid when inoperable.

19. Whenever any local governmental unit, pursuant to an order of the Department of Environmental Protection and in compliance therewith, has completed installation of a sanitary sewerage collector system and issued bonds or bond anticipation notes to finance such system, and such system is inoperable because the sewerage authority charged with the duty of providing an interceptor system has not yet so provided and therefore no interceptor system is ready to receive the effluent from such municipal collector system through no fault of the local governmental unit, the State shall reimburse such governmental unit for annual interest and debt service costs for the collector system. Such payments shall be made for such period that the collector system remains inoperative and should the system become operable for any portion of a year, payment shall be made for the entire year. (Source. P. L. 1972, c. 145, s. 1; C. 26:2E–8.1)

C. 58:25-10 Procedures for grant applications.

20. The commissioner shall prescribe the procedures for applying for the grants authorized by sections 11 through 20 of this act and may adopt such rules and regulations as may be necessary to implement the provisions of said sections and to carry out their purposes. (Source. P. L. 1972, c. 145, s. 2; C. 26:2E–8.2)

C. 58:25-11 Clean water council; reconstitution; membership; terms; compensation; officers.

21. a. The Clean Water Council as created by P. L. 1967, c. 109 and as continued, transferred and constituted the Clean Water Council in the Department of Environmental Protection is continued in the Department of Environmental Protection. The council

shall consist of 18 members, seven of whom shall be the Commissioner of Labor and Industry or a member of the Department of Labor and Industry designated by him, the Commissioner of Community Affairs or a member of the Department of Community Affairs designated by him, the Commissioner of Energy or a member of the Department of Energy designated by him, the Commissioner of Environmental Protection or a member of the Department of Environmental Protection designated by him, the Secretary of Agriculture or a member of the Department of Agriculture designated by him, the Chairman of the Water Policy and Supply Council in the Department of Environmental Protection and the Executive Director of the Delaware River Basin Commission, who shall serve ex officio, five citizens of the State representing the general public and six members to be appointed from persons to be nominated by the organizations hereinafter enumerated, by the Governor.

b. The members of council in office on the effective date of this act shall continue in office for the duration of their respective terms. At least 1 month prior to the expiration of the term of the member chosen from nominees of each organization hereafter enumerated, each such organization shall submit to the Governor a list of three recommended nominees for membership on the council from which list the Governor shall appoint one.

If any organization does not submit a list of recommended nominees at any time required by this act, the Governor may appoint a member of his choice.

The organizations which shall be entitled to submit recommended nominees are: New Jersey State Chamber of Commerce, New Jersey Business and Industry Association, New Jersey State League of Municipalities, the New Jersey Association of Counties, New Jersey Society of Professional Engineers, Inc. and the New Jersey AFL-CIO.

c. Appointed members shall serve for terms of 4 years. All appointed members shall serve after the expiration of their terms until their respective successors are appointed and shall qualify, and any vacancy occurring in the appointed membership of the council by expiration of term or otherwise, shall be filled in the same manner as the original appointment for the unexpired term only, notwithstanding that the previous incumbent may have held over and continued in office as aforesaid. The Governor may remove any appointed member of the council for cause after a public hearing.

d. Members of the council shall serve without compensation but shall be reimbursed for expenses actually incurred in attending meetings of the council and in the performance of their duties as members thereof.

e. The council shall elect annually a chairman and vice-chairman from its own membership. (Source. P. L. 1967, c. 109, s. 1 amended P. L. 1967, c. 286, s. 6; C. 26:2E–9)

C. 58:25-12 Powers and duties of council.

22. The Clean Water Council shall:

a. Request from the commissioner such information concerning the Water Pollution Control Program as it may deem necessary;

b. Consider any matter relating to the preservation and improvement of the Water Pollution Control Program and advise the commissioner thereof;

c. From time to time submit to the commissioner any recommendations which it deems necessary for the proper conduct and improvement of the Water Pollution Control Program;

d. Study the Water Pollution Control Program and make its recommendations thereon to the commissioner;

e. Study the regulations promulgated by the department in regard to water pollution control and make its recommendations for their improvement to the commissioner;

f. Study and investigate the state of the art and the technical capabilities and limitations of water pollution control and report their findings and recommendations thereon to the commissioner;

g. Study and investigate the need for programs for the long-range technical support of the water pollution control program and report their findings and recommendations thereon to the commissioner; and

h. Hold public hearings at least once a year in regard to existing water pollution control statutes and regulations and upon the state of the art and technical capabilities and limitations in water pollution control and report its recommendations thereon to the commissioner. (Source. P. L. 1967, c. 109, c. 2; C. 26:2E–10)

C. 58:25-13 Clean water scholarship intern program; establishment; eligibility; appointments; administration.

23. a. There is hereby established a Clean Water Scholarship Intern Program.

b. The commissioner may provide for the payment of room, board, tuition and fees for eligible persons to attend any accredited college or university authorized by the commissioner as a regular

student to receive an engineering degree or a degree with a major in the biological, physical or environmental sciences satisfactory to the commissioner until the eligible person satisfactorily completes 4 scholastic years.

c. To be eligible for the Clean Water Scholarship Intern Program a person must:

(1) Be a citizen of the United States and the State of New Jersey;

(2) Be a high school graduate or have an equivalent education;

(3) Have been accepted for admission to the accredited college or university authorized by the commissioner as a regular student and accepted in said college or university to pursue a course of instruction satisfactory to the commissioner;

(4) Contract, with the consent of his parent or legal guardian if he is a minor, with the commissioner or his designated representative, to serve with the Department of Environmental Protection for a period of 3 years following graduation and further, to serve with the Department of Environmental Protection during the regular periods of summer vacation except for such vacation periods as the commissioner shall establish by regulation and provided further that the department shall not be liable to pay wages to said student during said vacation periods.

d. The appointments made by the commissioner hereunder shall be subject to available appropriations and shall be awarded on a competitive basis.

e. The Scholarship Intern Program shall be administered by the commissioner under such regulations as the commissioner shall prescribe. (Source. P. L. 1967, c. 109, s. 3 amended by P. L. 1970, c. 274, s. 2; C. 26:2E–11)

C. 58:25-14 Graduate study program; administration.

24. The commissioner, subject to available appropriations and grants from other sources, may provide within the Department of Environmental Protection for a program of graduate study for eligible persons to attend any accredited graduate program at a college or university in order to further the training of personnel for the purposes of administering this act. Said graduate program shall be administered by the commissioner under such regulations as the commissioner shall prescribe. (Source. P. L. 1967, c. 109, s. 4; C. 26:2E–12)

C. 58:25-15 Summer intern program; establishment.

25. There is hereby established a Summer Intern Program in Water Pollution Control. (Source. P. L. 1973, c. 79, s. 2; C. 13:1D–21)

C. 58:25-16 Administration of program.

26. The Summer Intern Program shall be administered by the Director of the Division of Water Resources in the Department of Environmental Protection. The director may delegate day-to-day supervision of one or more interns to any officer of the Division of Water Resources or to any officer of a county engineer or a county health office. (Source. P. L. 1973, c. 79, s. 3; C. 13:1D–22)

C. 58:25-17 Assignment to projects.

27. Interns shall be assigned to projects such as a. making surveys of all places where polluting materials are entering streams, b. providing water sampling and monitoring activities as directed, c. desnagging and removing debris, bushes, boards, tires and other materials, and d. performing any other projects designed to carry out the intent of this act. (Source. P. L. 1973, c. 79, s. 4; C. 13:1D–23)

C. 58:25-18 Application; eligibility.

28. Any resident of New Jersey who is enrolled full-time as an undergraduate or graduate in any college or university and plans to continue his education after the internship may apply as an intern. An applicant must have completed his freshman year before beginning an internship, and may not serve as an intern after his final year of schooling. (Source. P. L. 1973, c. 79, s. 5; C. 13:1D–24)

C. 58:25-19 Interview.

29. The director or a member of his staff delegated by him shall interview each student to corroborate the student's intentions and to verify his prospective capabilities. (Source. P. L. 1973, c. 79, s. 6; C. 13:1D–25)

C. 58:25-20 Evaluation of intern's supervisor.

30. The director or a member of his staff delegated by him shall evaluate any prospective supervisor of an intern to determine if he is a competent professional who will seriously plan the internship and utilize the intern to help reduce water pollution. (Source. P. L. 1973, c. 79, s. 7; C. 13:1D–26)

C. 58:25-21 Interns; how chosen.

31. Interns shall be chosen from every county and shall be assigned to work on water pollution control projects in every county. (Source. P. L. 1973, c. 79, s. 8; C. 13:1D–27)

C. 58:25-22 Compensation.

32. Interns shall be paid by the department, based on the regular civil service pay scale for student assistants. (Source. P. L. 1973, c. 79, s. 9; C. 13:1D–28)

Repealer.

33. The following statutes are repealed:

R. S. 24:14–1 through 16
P. L. 1965, c. 121 (C. 26:2E–1 through 7)
P. L. 1967, c. 109 (C. 26:2E–8 through 12)
P. L. 1972, c. 145 (C. 26:2E–8.1 and 8.2)
P. L. 1973, c. 79 (C. 13:1D–20 through 28)

34. This act shall take effect immediately.

Approved January 18, 1980.

CHAPTER 322

AN ACT to authorize real estate brokers licensed in other states or countries to bring actions in State courts for collection of compensation for real estate services and supplementing Article 1 of chapter 15 of Title 45 of the Revised Statutes.

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

C. 45:15-3.1 Payment of referral fee or commission to person licensed in another jurisdiction.

1. A duly licensed real estate broker of this State may pay a referral fee or referral commission to a person not licensed as a nonresident broker under R. S. 45:15–20 if the person is a licensed real estate broker of another jurisdiction in which the licensed broker maintains a bona fide office. A licensed real estate broker of another jurisdiction may make a referral, receive a referral fee or referral commission, and bring or maintain an action in the courts of this State against a duly licensed real estate broker of this State for the collection of the fee or commission.

For the purposes of this section, "referral" means the introduction, assisting, or directing of a person by one broker to another broker for real estate brokerage services, aid, or information; "referral fee" or "referral commission" means the compensation paid or received for the referral.

2. This act shall take effect immediately.

Approved January 18, 1980.

CHAPTER 323

AN ACT concerning county supervisors and repealing N. J. S. 40A:9-36, 40A:9-37, 40A:9-38, 40A:9-39, 40A:9-40 and 40A:9-41.

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

Repealer.

1. N. J. S. 40A:9-36, 40A:9-37, 40A:9-38, 40A:9-39, 40A:9-40 and 40A:9-41 are repealed.

2. This act shall take effect immediately.

Approved January 18, 1980.

CHAPTER 324

AN ACT concerning the payment of funeral expenses for persons receiving old-age assistance and amending R. S. 44:7-13.

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

1. R. S. 44:7-13 is amended to read as follows:

Funeral expenses for persons receiving old age assistance; payment.

44:7-13. If, on the death of a person receiving old-age assistance, it shall appear to the satisfaction of the county welfare agency after investigation that there are insufficient funds to pay his burial and funeral expenses, and that there are no relatives or other persons responsible to pay such expenses, or other persons willing to pay them, the county welfare agency may order the payment of such sum as may be necessary, but not exceeding the sum of $350.00, to such person as the county welfare agency may direct for the funeral expenses of the deceased aged needy person; provided, however, that said sum of $350.00 shall not include the cost of a cemetery plot, the opening or closing of a grave, or other similar burial or interment expenses, all of which shall be included in an additional sum, not to exceed $200.00 which shall be paid by the county welfare board directly to the cemetery expressly for such

purposes. The next of kin or other interested parties may incur additional expenses to be paid by them, but the total cost of such expenses shall not exceed $250.00 or such higher sum as may be established by regulation of the Department of Human Services, not less than every 2 years, pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.).

Any sum so ordered to be paid for or on account of burial and funeral expenses shall be first paid, so far as possible, from any fund otherwise undistributed received by the county welfare agency from or for the account of the individual recipient, and may thereafter be paid, so far as necessary, from funds appropriated for old-age assistance payments. Any amounts so paid from funds appropriated for old-age assistance payments shall be deemed a part of the assistance granted to the individual recipient for the purpose of claims for reimbursement, and recovery under sections 44:7–14, 44:7–15 and 44:7–19, Revised Statutes, and shall be a proper charge for division of cost between the State and county as referred to in section 44:7–25 of this Title.

Payment of burial and funeral expenses as provided above may be authorized with respect to any person who, while lawfully receiving old-age assistance is committed or admitted to any tax-supported institution other than a penal or correctional institution, and who dies while confined at such institution.

The county welfare agency shall not be liable to pay costs of burial and funeral expenses for a deceased recipient of old-age assistance incurred pursuant to a contract or contracts entered into without the knowledge and consent of the board, but may, at its discretion, pay such costs, or a portion thereof, within the limitations of this section.

2. This act shall take effect July 1, 1980.

Approved January 18, 1980.

CHAPTER 325

AN ACT concerning fire districts, amending N. J. S. 40A:14–70, and validating, confirming and ratifying certain actions and proceedings by the commissioners of a fire district.

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

1. N. J. S. 40A:14–70 is amended to read as follows:

Fire districts; designation; fire commissioners; election; meetings.

40A:14–70. In any municipality not having a paid or part-paid fire department and force, the governing body, upon application of at least 20 legal voters, by ordinance, shall designate a territorial location or locations for use as a fire district or fire districts and, by resolution, provide for the election of a board of fire commissioners for the district or each district to consist of five persons, residents therein, and specify the time and place for such election.

The district or each district shall be assigned a number and the commissioners thereof and their successors shall be a body corporate, to be known as "the commissioners of first district No. ..... in ..... (name of municipality), county of ..... (name of county)". The said body corporate shall have the power to acquire, hold, lease, sell or otherwise convey in its corporate name, such real and personal property as the purposes of the corporation shall require. All sales and leases of real and personal property shall be in accordance with the provisions of sections 13 or 14, as appropriate, of the "Local Lands and Buildings Law", P. L. 1971, c. 199 (C. 40A:12–13 and 40A:12–14). Said body corporate may adopt and use a corporate seal, sue or be sued and shall have such powers, duties and functions as are usual and necessary for said purposes.

At the time and place specified for the election of the first board the clerk of the municipality shall conduct the election and shall preside at the meeting until the board shall have been elected.

At the first meeting of a newly elected board of fire commissioners of a district the board shall choose a chairman and fix the time and place for the annual election. The members of the board shall divide themselves by lot into three classes: the first to consist of two members to be elected for terms of 1 year; the second, two members for terms of 2 years; and the third, one member for a term of 3 years. Upon the expiration of said terms their successors shall be elected for terms of 3 years.

Any vacancy in the membership shall be filled by the remaining members until the next succeeding annual election, at which time a resident of the district shall be elected for the unexpired term.

Validation.

2. (New section) Any actions or proceedings relating to any sale of real or personal property by the commissioners of a fire district made in accordance with any of the methods set forth in section 13

of the "Local Lands and Buildings Law", P. L. 1971, c. 199 (C. 40A:12–13) prior to the effective date of this act, are hereby validated, ratified and confirmed.

3. This act shall take effect immediately.

Approved January 18, 1980.

CHAPTER 326

AN ACT concerning fire and police in cities and repealing certain statutes.

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

Repealer.

1. The following statutes compiled and assigned section numbers in the Revised Statutes are repealed:

R. S. 40:174–62 to 40:174–64, inclusive;
R. S. 40:174–88 to 40:174–91, inclusive;
R. S. 40:174–92 and 40:174–93;
R. S. 40:174–95 to 40:174–112, inclusive;
R. S. 40:174–113 and 40:174–114;
R. S. 40:174–120 to 40:174–125, inclusive;
R. S. 40:174–144 to 40:174–146, inclusive;
R. S. 40:174–149;
R. S. 40:174–151 to 40:174–170, inclusive;
R. S. 40:174–181 to 40:174–200, inclusive.

Repealer.

2. The following sections of the New Jersey Statutes are repealed:

N. J. S. 40A:14–104 (saved R. S. 40:174–62 to 40:174–64, inclusive, from repeal);

N. J. S. 40A:14–105 (saved R. S. 40:174–120 to 40:174–125, inclusive, from repeal);

N. J. S. 40A:14–167 (saved R. S. 40:174–88 to 40:174–91, inclusive, from repeal);

N. J. S. 40A:14–168 (saved R. S. 40:174–92 and 40:174–93 from repeal);

N. J. S. 40A:14–169 (saved R. S. 40:174–95 to 40:174–112, inclusive, from repeal);

N. J. S. 40A:14–170 (saved R. S. 40:174–113 and 40:174–114 from repeal);
N. J. S. 40A:14–171 (saved R. S. 40:174–144 to 40:174–146, inclusive, from repeal);
N. J. S. 40A:14–173 (saved R. S. 40:174–149 from repeal);
N. J. S. 40A:14–174 (saved R. S. 40:174–151 to 40:174–170, inclusive, from repeal);
N. J. S. 40A:14–175 (saved R. S. 40:174–181 to 40:174–200, inclusive, from repeal).

3. This act shall take effect immediately.

Approved January 18, 1980.

CHAPTER 327

AN ACT concerning second surgical opinions and supplementing chapter 48A of Title 17 of the Revised Statutes.

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

C. 17:48A-6.1 Definitions.

1. As used in this act:

a. "Elective surgical procedure" means any nonemergency surgical procedure which may be scheduled at the convenience of the patient or the surgeon without jeopardizing the patient's life or causing serious impairment to the patient's bodily functions.

b. "Second surgical opinion" means an opinion of an eligible physician based on that physician's examination of a person for the purpose of evaluating the medical advisability of that person undergoing an elective surgical procedure. The examination must be performed after another physician licensed to practice medicine and surgery has recommended such surgical procedure, but prior to the performance of such surgical procedure.

c. "Eligible physician" means a physician licensed to practice medicine and surgery who holds the rank of Diplomate of an American Board (M.D.) or Certified Specialist (D.O.) in the surgical or medical specialty for which surgery is proposed. The program may be limited to eligible physicians who have agreed to participate in the corporation's second surgical opinion program.

C. 17:48A-6.2 Benefits for second surgical opinion.

2. Any corporation issuing a group or individual contract in accordance with chapter 48A of Title 17 of the Revised Statutes, which provides payment for surgical services rendered to a person while confined in a hospital as an inpatient, shall make available benefits for a second surgical opinion for elective surgical procedures, which would require an inpatient admission to a hospital. In the case of a group contract, benefits for a second surgical opinion shall be available only if requested by the group policyholder.

C. 17:48A-6.3 Payment.

3. A second surgical opinion program shall provide for payment for the second surgical opinion of an eligible physician and for essential laboratory and X-ray services incidental thereto.

C. 17:48A-6.4 Third surgical opinion.

4. If a second surgical opinion does not confirm that the proposed elective surgical procedure is medically advisable, the program shall cover a third surgical opinion in the same manner as the second opinion.

C. 17:48A-6.5 Benefits excluded.

5. A second surgical opinion program may exclude benefits while a patient is confined in a hospital as an inpatient, any surgical procedure not covered by the group or individual contract, and surgical procedures in the following categories: cosmetic surgery, pregnancy-related surgery, dental surgery, podiatric surgery, and sterilizations.

C. 17:48A-6.6 Payment to physicians for services.

6. If a physician who furnishes a second or third surgical opinion also performs the surgical procedure, the second surgical opinion program need not provide payment for the second or third opinion services.

C. 17:48A-6.7 Application of act.

7. This act shall apply to all contracts in which the corporation has reserved the right to change the premium.

8. This act shall take effect 180 days after enactment.

Approved January 21, 1980.

CHAPTER 328

AN ACT requiring insurers to make benefits available for second surgical opinions and supplementing chapter 26 of Title 17B of the New Jersey Statutes.

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

C. 17B:26-2.2 Definitions.

1. As used in this act:

a. "Elective surgical procedure" means any nonemergency surgical procedure which may be scheduled at the convenience of the patient or the surgeon without jeopardizing the patient's life or causing serious impairment to the patient's bodily functions.

b. "Second surgical opinion" means an opinion of an eligible physician based on that physician's examination of a person for the purpose of evaluating the medical advisability of that person undergoing an elective surgical procedure. The examinations must be performed after another physician licensed to practice medicine and surgery has proposed to perform such surgical procedure on the person but prior to the performance of such surgical procedure.

c. "Eligible physician" means a physician licensed to practice medicine and surgery who holds the rank of Diplomate of an American Board (M.D.) or Certified Specialist (D.O.) in the surgical or medical specialty for which surgery is proposed.

C. 17B:26-2.3 Benefits for second surgical opinion.

2. Any insurer issuing an individual insurance policy in accordance with chapter 26 of Title 17B of the New Jersey Statutes which provides coverage of surgical operations performed on a person while confined in a hospital as an inpatient shall make available under the policy benefits for a second surgical opinion for elective surgical procedures which would require inpatient admission to a hospital.

C. 17B:26-2.4 Payments for services.

3. Benefits for a second surgical opinion shall include payment for the second surgical opinion services of an eligible physician and for essential laboratory and X-ray services incidental thereto, either as a benefit under the individual policy or, at the insurer's option, as an additional benefit offered to the prospective policyholder at issue of a policy. Benefit payments may be limited to

second surgical opinion services of eligible physicians who have agreed to participate in an insurer's second surgical opinion program. The benefits shall be reasonably related to amounts payable under the policy for covered surgical procedures.

C. 17B:26-2.5 Benefits for third surgical opinion.

4. If a second surgical opinion does not confirm that a proposed elective surgical procedure is medically advisable, benefits must be provided under the policy for a third surgical opinion in the same manner as for the second opinion.

C. 17B:26-2.6 Benefits excluded.

5. The second surgical opinion benefit provisions of a policy may exclude benefits while the patient is confined in a hospital as an inpatient, any surgical procedures not covered by the policy and surgical procedures in the following categories: cosmetic surgery, pregnancy-related surgery, dental surgery, podiatric surgery, and sterilization.

C. 17B:26-2.7 Payments to physicians.

6. If a physician who furnishes a second or third surgical opinion also performs the surgical procedure, the policy need not provide payment for the second or third opinion services of that physician.

C. 17B:26-2.8 Application of act.

7. This act shall apply to all contracts in which the insurer has reserved the right to change the premium.

8. This act shall take effect 180 days after enactment.

Approved January 21, 1980.

CHAPTER 329

AN ACT requiring insurers to make second surgical opinion programs available and supplementing chapter 27 of Title 17B of the New Jersey Statutes.

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

C. 17B:27-46.2 Definitions.

1. As used in this act:

a. "Elective surgical procedure" means any nonemergency surgical procedure which may be scheduled at the convenience of

the patient or the surgeon without jeopardizing the patient's life or causing serious impairment to the patient's bodily functions.

b. "Second surgical opinion" means an opinion of an eligible physician based on that physician's examination of a person for the purpose of evaluating the medical advisability of that person undergoing an elective surgical procedure. The examination must be performed after another physician licensed to practice medicine and surgery has proposed to perform such surgical procedure on the person but prior to the performance of such surgical procedure.

c. "Eligible physician" means a physician licensed to practice medicine and surgery who holds the rank of Diplomate of an American Board (M.D.) or Certified Specialist (D.O.) in the surgical or medical specialty for which surgery is proposed.

C. 17B:27-46.3 Surgical operations covered by group insurance policies.

2. Any insurer issuing a group insurance policy in accordance with chapter 27 of Title 17B of the New Jersey Statutes which provides coverage of surgical operations performed on a person while confined in a hospital as an inpatient shall make available, and if requested by the group policyholder, provide a second surgical opinion program for elective surgical procedures which would require inpatient admission to a hospital for persons insured under the group policy for such surgical coverage.

C. 17B:27-46.4 Second surgical opinion; payment.

3. A second surgical opinion program shall provide for payment for the second surgical opinion services of an eligible physician and for essential laboratory and X-ray services incidental thereto, either as a benefit under the group policy or, at the insurer's option, by a separate arrangement with the group policyholder. The program may be limited to eligible physicians who have agreed to participate in the insurer's second surgical opinion program. If the benefits are provided by the group insurance policy, the amount shall be reasonably related to amounts payable under the group policy for covered surgical procedures.

C. 17B:27-46.5 Third surgical opinion.

4. If a second surgical opinion does not confirm that a proposed elective surgical procedure is medically advisable, the program must cover a third surgical opinion in the same manner as the second opinion.

C. 17B:27-46.6 Reduced benefits for surgeon to utilize program.

5. Where a second surgical opinion program is operative in connection with surgical coverage under a group insurance policy, and

provides second and third surgical opinion services at no cost to the insured or patient, the group policy may, as an incentive to encourage utilization of the program when elective surgery is proposed, provide reduced benefits for the surgeon's charges for such elective surgery if it is performed without first obtaining a second or third opinion confirming that the proposed elective surgery was advisable.

C. 17B:27-46.7 Benefits excluded.

6. A second surgical opinion program may exclude benefits while the patient is confined in a hospital as an inpatient, any surgical procedure not covered by the group insurance policy, and surgical procedures in the following categories: cosmetic surgery, pregnancy-related surgery, dental surgery, podiatric surgery, and sterilizations.

C. 17B:27-46.8 Payments to physicians.

7. If a physician who furnishes a second or third surgical opinion also performs the surgical procedure, the second surgical opinion program need not provide payment for the second or third opinion services of that physician.

C. 17B:27-46.9 Application of act.

8. This act shall apply to all contracts in which the insurer has reserved the right to change the premium.

9. This act shall take effect 180 days after enactment.

Approved January 21, 1980.

CHAPTER 330

AN ACT to amend "An act concerning the production, handling and distribution of milk, cream and milk products, supplementing Title 24 of the Revised Statutes and repealing sections 24:10-1 to 24:10–57, inclusive, and 24:10–89 to 24:10–103, inclusive, of the Revised Statutes and chapter 195 of the laws of 1938", approved May 18, 1964 (P. L. 1964, c. 62).

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

1. Section 23 of P. L. 1964, c. 62 (C. 24:10–57.23) is amended to read as follows:

C. 24:10-57.23 Container regulations.

23. Containers of milk, certified milk, Vitamin D milk, homogenized milk, low fat milk, protein fortified low fat milk, skim milk, protein fortified skim milk, nonfat milk, protein fortified nonfat milk, flavored milks and dairy drinks, buttermilk, cultured buttermilk, yogurt, eggnog, creams, half-and-half and all other fluid milk products designated by the department shall be marked with the name and address of the processor or the pasteurizing plant number as assigned by the department or the state of origin and the name and address of the distributor. All containers of fluid milk products, including those mentioned above, intended for sale to consumers, (except for those products which are sterilized and packaged in hermetically sealed containers), shall be marked with a legend "NOT TO BE SOLD AFTER", or "SELL BY", or any other clearly understandable legend approved by the department, followed or accompanied by the first three letters of the month where possible, but in no instance less than two letters, or numerical designation approved by the department to designate the month and the day of the month which shall be a date established in regulation by the department following the date of pasteurization. The date shall be based on consideration of wholesomeness and consumer palatability of the product. The date of pasteurization shall be that of 6 a.m. at the end of the 24-hour period during which pasteurization took place. If two letters are used the letters MR shall mean MARCH and MY shall mean MAY; JN shall mean JUNE and JL shall mean JULY. No fluid milk product listed in this section shall be sold or offered for sale after 11:59 p.m. of the date appearing on the containers so marked.

Based upon differences in manufacturing procedures and evidence relating to keeping quality of the product, the department may determine that the "shelf-life expiration date" applicable to some fluid milk products other than milk be determined by the processor. When any processor is authorized by the department to establish a "shelf-life expiration date" for a fluid milk product other than milk, the processor, prior to determining the date beyond which any such fluid milk product may not be sold or offered for sale, shall notify the department of the intended "shelf-life expiration date" selected by him for such fluid milk product intended for sale. All data and material used by the processor or manufacturer in his determination of this date shall be made available to the commissioner upon request. If the data and material submitted does not, in the opinion of the commissioner, justify the

"shelf-life expiration date", the commissioner shall prohibit the sale of the product until such time as satisfactory data is supplied or until a new "shelf-life expiration date" consistent with the data is applied to the product.

The department shall periodically review the keeping quality of milk and milk products by scientific shelf-life tests, recognizing the different methods of pasteurization, processing and packaging, to determine that shelf-life expiration dates stated on the containers assure the consumer of acceptable quality milk and milk products when kept under normal storage conditions. Samples for shelf-life evaluation will be obtained at the processing plant, from delivery trucks or from retail outlets. The temperature of the sample at the time of collection shall be officially recorded by the collector. Nothing herein contained shall be construed to prohibit the department from taking special samples for analysis and making special tests in order to assure all milk and milk products comply with the minimum standards of freshness, quality and palatability. In the event the department determines a processor's or a manufacturer's shelf-life for a given product is improper, the department shall immediately take such samples as are necessary for full and complete recheck of the shelf-life of the product. If the full and complete recheck confirms that the shelf-life of the product is improper, the department shall serve written notice on the processor or manufacturer and the processor or manufacturer immediately upon receipt of such notice shall alter the shelf-life expiration date of the product to comply with the department findings. Compliance shall be with the next processing of the product after receipt of such department notice. This rule does not apply to containers of fluid milk products which are not to be sold in the State of New Jersey.

2. This act shall take effect immediately.

Approved January 21, 1980.

CHAPTER 331

AN ACT to amend "An act providing for the establishment, development, improvement and expansion of community mental health services and providing for payment by the State of financial grants-in-aid for community mental health projects," approved July 15, 1957 (P. L. 1957, c. 146).

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

1. Section 1 of P. L. 1957, c. 146 (C. 30:9A–1) is amended to read as follows:

C. 30:9A-1 Declaration of policy.

1. It is declared to be the public policy of this State to encourage the development of preventive, treatment and transitional services for mental health clients through the improvement and expansion of community mental health programs in designated service areas for the entire State which will provide these elements of adequate services:

(a) In-patient services;

(b) Out-patient services;

(c) Partial hospitalization services such as day care, night care, weekend care;

(d) Emergency services 24 hours per day to be available within at least one of the first 3 services listed above;

(e) Consultation and education services available to community agencies and professional personnel;

(f) Children's services;

(g) Services for the elderly;

(h) Screening services;

(i) Rehabilitative services including vocational and educational programs;

(j) Transitional services;

(k) Advocacy services;

(l) Training services; and

(m) Research and evaluation.

The aforementioned services are to be provided principally for persons residing in a particular community or communities which

are designated as the community mental health center service area, in or near which the facilities providing the elements of service are situated.

It is further declared to be the public policy of this State to establish a Community Mental Health Citizens Advisory Board for mental health services to plan, establish and recommend to the Commissioner of Human Services and the Director of the Division of Mental Health and Hospitals those policies which are necessary to ensure the development and adequate delivery of the aforementioned elements of mental health services.

2. Section 2 of P. L. 1957, c. 146 (C. 30:9A–2) is amended to read as follows:

C. 30:9A-2 Definitions.

2. For the purpose of this act the following terms are hereby defined:

"Community Mental Health Citizens Advisory Board" shall mean a board of 15 members to be appointed by the State Board of Institutional Trustees with the approval of the Governor. Of these 15, eight members shall be chosen from among citizens of the State who, as consumers, have demonstrated an interest in the delivery of mental health services and are not providers of mental health services; one from among persons recommended by the State Association of Freeholders; one from among persons recommended by the State League of Municipalities; two from among providers of mental health services and one from among persons recommended by the chairpersons of the standing Assembly and Senate Institutions, Health and Welfare Committees.

The term of each member shall be for 3 years and shall commence on July 1 and shall terminate on June 30; provided, however, that of the new members appointed three shall be appointed for a term expiring 1 year, three for a term expiring 2 years, and four for a term expiring 3 years from July 1 following the date of appointment. Members of the present Community Mental Health Board serving on the effective date of this amendatory act shall continue to serve until the expiration of their current terms.

In addition, the Board of Institutional Trustees will designate two members from among persons currently serving as members of the Board of Managers of each of the four State psychiatric hospitals to be appointed in July of each year. The Director of the Division of Mental Health and Hospitals or his designee shall be

a nonvoting ex officio member of the Community Mental Health Citizens Advisory Board.

The role of the board shall be to serve as both advocate and advisor to the department for the development of effective mental health services in the community. To fulfill this role, the board shall become and continue to be thoroughly acquainted with those programs of the Department of Human Services dealing with mental health and related social services, particularly those administered by the Office of Community Services, and shall regularly review all such programs. It shall advise and recommend on the development of policies and procedures within the general directives of the department covering these programs.

The board shall promote and maintain constructive relationships with the county mental health boards, community mental health center boards and other official bodies and organized agencies concerned with mental health services. It shall also serve, where possible, in such advisory capacities to the department in the area of community mental health as are required by Federal statutes.

The board shall choose one of its members to act as chairman and shall meet as often as required to conduct the business of the board and to assist and advise in the administration of the duties and responsibilities imposed by this chapter, but not less than 6 times each year.

The board, acting on behalf of the State Board of Institutional Trustees and subject to the authority and direction thereof, may establish within itself committees directly concerned with State-operated facilities, State grant-in-aid programs, Federal grant-in-aid programs, planning for comprehensive mental health services and mental health manpower resources, utilization and training, and may establish such other committees as it may determine.

The board may, subject to the approval of the State Board of Institutional Trustees, establish any subsidiary unsalaried advisory or consultant committees or study groups as it may deem necessary and proper and shall appoint the members thereof.

"Community mental health program" shall mean a program of preventive, treatment and transitional services for mental health clients, provided in accordance with State or Federal regulations.

"Department" shall mean the Department of Human Services.

"Sponsoring agency" shall mean any county board of freeholders, municipal governing body, board of education or any nonprofit corporation organized for the purpose of providing health or welfare services to the community, which establishes, maintains or expands a community mental health program.

3. This act shall take effect immediately.

Approved January 21, 1980.

CHAPTER 332

AN ACT authorizing the appointment of airport security officers by counties which own and operate airports, amending N. J. S. 2C:39–6, and supplementing Title 40 of the Revised Statutes.

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

C. 40:8-8 Airport security officers; appointment.

1. The governing body of any county which has established an airport may, by ordinance or resolution, as appropriate, provide for the appointment of such persons as the governing body may designate to act as airport security officers for the facility.

C. 40:8-9 Applications.

2. All applications for the position of airport security officers shall, in the first instance, be made to the chief of police of the county in which the airport is located, except that where the county does not have an organized full-time police department, application shall be made to the Superintendent of State Police. The chief of police or the superintendent, as the case may be, shall investigate and determine the character, competency, integrity and fitness of the person or persons designated in the application. If the application is approved by the chief of police or the superintendent, the approved application shall be returned to the governing body which shall issue a commission to the person appointed, a copy of which shall be filed in the office of the superintendent and with the chief of police of the county and municipality in which such airport is located.

C. 40:8-10 Police training course; approval by commission.

3. Every person so appointed and commissioned shall, within 1 year of the date of his commission, successfully complete a police

training course at a school approved and authorized by the Police Training Commission; provided, however, that the Police Training Commission may, in its discretion, except from the requirements of this section any person who demonstrates to the commission's satisfaction that he has successfully completed a police training course conducted by any Federal, State or other public or private agency, the requirements of which are substantially equivalent to the requirements of that at a school approved by the commission.

C. 40:8-11 Powers.

4. Every person so appointed and commissioned shall, while on duty, within the limits of the property under the control of the airport, possess all the powers of policemen and constables in criminal cases and offenses against the law.

C. 40:8-12 Name plate and metallic shield.

5. Each airport security officer, when on duty, except when employed as a detective, shall wear in plain view a name plate and a metallic shield or device with the word "police" and the name or style of the airport for which he is appointed inscribed thereon.

C. 40:8-13 Power to enforce traffic laws.

6. In connection with traffic and parking violations, the airport security officer appointed pursuant to this act shall, while on duty and within the territorial limits of the airport, have the power to enforce the laws regulating traffic and the operation of motor vehicles. Such policemen shall have authority to issue and use traffic tickets and summonses of the type now used by the New Jersey State Police with such changes as are necessitated by reason of this act. Upon the issuance of any traffic or parking ticket or summons by an airport security officer, a copy of said ticket or summons shall be sent to the municipality in which the airport is located. Following the receipt of such a ticket or summons the municipality shall proceed as if said municipality had issued such traffic or parking violations ticket or summons.

C. 40:8-14 County airport security officers.

7. (New section) County airport security officers shall be considered to be law enforcement officers for the purposes of N. J. S. 2C:39–3.

8. (New section) N. J. S. 2C:39–6 is amended to read as follows:

Exemptions.

2C:39–6. Exemptions. a. Section 2C:39–5 does not apply to:

(1) Members of the Armed Forces of the United States or of

the National Guard while actually on duty, or while traveling between places of duty and carrying authorized weapons in the manner prescribed by the appropriate military authorities;

(2) Federal law enforcement officers, and any other Federal officers and employees required to carry firearms in the performance of their official duties;

(3) Members of the State Police, a motor vehicle inspector;

(4) A sheriff, undersheriff, sheriff's officer, county prosecutor, assistant prosecutor, prosecutor's detective or investigator, deputy attorney general or State Investigator employed by the Division of Criminal Justice of the Department of Law and Public Safety, investigator employed by the State Commission of Investigation, inspectors and investigators of the Division of Alcoholic Beverage Control in the Department of Law and Public Safety, State park ranger or State conservation officer;

(5) A prison or jail warden or his deputies, a correction officer or keeper of any penal institution in this State, or an employee of the Department of Corrections engaged in the interstate transportation of convicted offenders, while in the performance of his duties, and when required to possess such a weapon by his superior officer;

(6) A civilian employee of the United States Government under the supervision of the commanding officer of any post, camp, station, base or other military or naval installation located in this State who is required, in the performance of his official duties, to carry firearms, and who is authorized to carry such firearms by said commanding officer, while in the actual performance of his official duties; or

(7) A regularly employed member, including a detective, of the police department of any county or municipality, or of any State, interstate, municipal or county park police force or boulevard police force, at all times while in the State of New Jersey, or a special policeman or airport security officer appointed by the governing body of any county or municipality or by the commission, board or other body having control of a county park or airport or boulevard police force, while engaged in the actual performance of his official duties and when specifically authorized by the governing body to carry weapons.

b. Subsections a., b. and c. of section 2C:39–5 do not apply to:

(1) A law enforcement officer employed by a governmental agency outside of the State of New Jersey while actually engaged

in his official duties, provided, however, that he has first notified the superintendent or the chief law enforcement officer of the municipality or the prosecutor of the county in which he is engaged; or

(2) A licensed dealer in firearms and his registered employees during the course of their normal business while traveling to and from their place of business and other places for the purpose of demonstration, exhibition or delivery in connection with a sale, provided, however, that any such weapon is carried in the manner specified in subsection g. of this section.

c. Subsections b. and c. of section 2C:39–5 do not apply to:

(1) A railway policeman, while in the actual performance of his official duties and while going to or from his place of duty, a campus police officer appointed pursuant to P. L. 1970, c. 211 (C. 18A:6–4.2 et seq.) or any other police officer, while in the actual performance of his official duties;

(2) A State deputy conservation officer or a full-time employee of the Division of Parks and Forestry having the power of arrest and authorized to carry weapons, while in the actual performance of his official duties;

(3) A full-time member of the marine patrol force or a special marine patrolman authorized to carry such a weapon by the Commissioner of Environmental Protection, while in the actual performance of his official duties;

(4) A court attendant serving as such under appointment by the sheriff of the county or by the judge or magistrate of any court of this State, while in the actual performance of his official duties;

(5) A guard in the employ of any railway express company, banking or building and loan or savings and loan institution of this State, while in the actual performance of his official duties;

(6) A member of a legally recognized military organization while actually under orders or while going to or from the prescribed place of meeting and carrying the weapons prescribed for drill, exercise or parade;

(7) An officer of the Society for the Prevention of Cruelty to Animals, while in the actual performance of his duties; or

(8) An employee of a public utilities corporation actually engaged in the transportation of explosives.

d. Subsections c. and d. of section 2C:39–5 do not apply to antique firearms, provided that such antique firearms are unloaded or are being fired for the purposes of exhibition or demonstration at an authorized target range or in such other manner as has

been approved in writing by the chief law enforcement officer of the municipality in which the exhibition or demonstration is held.

e. Nothing in subsections b., c. and d. of section 2C:39–5 shall be construed to prevent a person keeping or carrying about his place of business, residence, premises or other land owned or possessed by him, any firearm, or from carrying the same, in the manner specified in subsection g. of this section, from any place of purchase to his residence or place of business between his dwellings and his place of business, between one place of business or residence and another when moving, or between his dwelling or place of business and place where such firearms are repaired, for the purpose of repair. For the purposes of this section, a place of business shall be deemed to be a fixed location.

f. Nothing in subsections b., c. and d. of section 2C:39–5 shall be construed to prevent:

(1) A member of any rifle or pistol club organized in accordance with the rules prescribed by the National Board for the Promotion of Rifle Practice, in going to or from a place of target practice, carrying such firearms as are necessary for said target practice, provided that the club has filed a copy of its charter with the superintendent and annually submits a list of its members to the superintendent, and provided further that the firearms are carried in the manner specified in subsection g. of this section;

(2) A person carrying a firearm or knife in the woods or fields or upon the waters of this State for the purpose of hunting, target practice or fishing, provided that the firearm or knife is legal and appropriate for hunting or fishing purposes in this State and he has in his possession a valid hunting license, or, with respect to fresh water fishing, a valid fishing license;

(3) A person transporting any firearm or knife while traveling:

(a) Directly to or from any place for the purpose of hunting or fishing, provided such person has in his possession a valid hunting or fishing license; or

(b) Directly to or from any target range, or other authorized place for the purpose of practice, match, target, trap or skeet shooting exhibitions, provided in all cases that during the course of such travel all firearms are carried in the manner specified in subsection g. of this section and the person has complied with all the provisions and requirements of Title 23 of the Revised Statutes and any amendments thereto and all rules and regulations promulgated thereunder; or

(c) In the case of a firearm, directly to or from any exhibition or display of firearms which is sponsored by any law enforcement agency, any rifle or pistol club, or any firearms collectors club, for the purpose of displaying of the firearms to the public or to the members of such organization or club, provided, however, that not less than 30 days prior to such exhibition or display, notice of such exhibition or display shall be given to the Superintendent of the State Police by the sponsoring organization or club, and the sponsor has complied with such reasonable safety regulations as the superintendent may promulgate. Any firearms transported pursuant to this section must be transported in the manner specified in subsection g. of this section.

g. All weapons being transported under subsections b. (2), e. or f. (1) or (3) of this section shall be carried unloaded and contained in a closed and fastened case, gunbox, securely tied package, or locked in the trunk of the automobile in which it is being transported, and the course of travel shall include only such deviations as are reasonably necessary under the circumstances.

C. 40:8-15 State, county or municipal officers; rights.

9. Nothing in this act shall be construed to limit or impair the rights of any State, county or municipal law enforcement officer in the performance of his duties.

10. If any provision of this act shall be adjudged by any court of competent jurisdiction to be ineffective, such determination shall not affect or impair the remaining provisions thereof but shall be confined in its operation to the provisions directly involved in a controversy in which said determination shall have been rendered.

11. This act shall take effect immediately.

Approved January 21, 1980.

CHAPTER 333

AN ACT appropriating funds from the Medical Education Facilities Fund for the purpose of construction of medical education facilities.

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

1. The unexpended balance of the appropriation made pursuant to P. L. 1978, c. 138 is hereby cancelled and shall revert to the Medical Education Facilities Fund.

2. There is hereby appropriated to the Department of Higher Education, from the Medical Education Facilities Fund created pursuant to the "New Jersey Medical Education Facilities Bond Act of 1977" (P. L. 1977, c. 235), the sum of $405,800.00 for the purpose of constructing supplemental medical education and treatment facilities for the new College Hospital at the Newark campus of the College of Medicine and Dentistry of New Jersey (CMDNJ).

3. The appropriation made pursuant to this act shall be subject to the provisions of P. L. 1977, c. 235.

4. This act shall take effect immediately.

Approved January 21, 1980.

CHAPTER 334

A SUPPLEMENT TO "An act making appropriations for the support of the State Government and the several public purposes for the fiscal year ending June 30, 1980 and regulating the disbursement thereof," P. L. 1979, c. .... (awaiting action by the Governor as Senate No. 3200).

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

1. The following sum is appropriated out of the General Fund for the purpose herein specified:

STATE AID

DEPARTMENT OF COMMUNITY AFFAIRS

INCOME SECURITY AND HUMAN RESOURCE DEVELOPMENT

52300. Human Resource Development—State Aid

Extraordinary:	
Youth employment program	$2,000,000
The amount provided hereinabove for youth employment shall be expended exclusively for jobs	

for youths from lower income families, pursuant to P. L. 1968, c. 125 as amended by P. L. 1977, c. 280, and for wage subsidies for private-sector jobs for low income youths, except that up to 4% may be used for adult counsellors of such youths, and in any event no less than 25% shall be expended for school-term employment.

2. This act shall take effect July 1, 1979.

Approved January 21, 1980.

CHAPTER 335

AN ACT to amend the "Sheltered Workshop Act of 1971," approved July 27, 1971 (P. L. 1971, c. 272) and P. L. 1975, c. 350.

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

1. Section 2 of P. L. 1971, c. 272 (C. 34:16–40) is amended to read as follows:

C. 34:16-40 Definitions.

2. As used in this act:

a. "Sheltered workshop" means an occupation oriented facility operated by a nonprofit agency, public or private, which except for its staff, employs only handicapped persons;

b. "Division" means the Division of Vocational Rehabilitation Services in the Department of Labor and Industry;

c. "Commission" means the New Jersey Commission for the Blind and Visually Impaired in the Department of Human Services;

d. "Extended employee" means a severely handicapped person who meets the following requirements: (1) shall have completed a prescribed workshop program; (2) shall have been found, due to the nature and severity of his disability to be incapable of competing in the open or customary labor market; and (3) shall have been certified as being an extended employee by the staff of the division or the commission or (4) shall have been certified by the division or the commission as an extended employee qualified to perform industrial homework under the supervision of a sheltered workshop;

e. "Extended employment program" means a program designed for those persons whose handicapped conditions fit them only for sheltered employment in a sheltered workshop or in performance of industrial homework under the supervision of a sheltered workshop, after completion of a certified program of vocational evaluation and training, or for those severely handicapped persons who were not eligible for vocational rehabilitation services under laws and regulations in effect at the date of enactment of this act and who could benefit from the provisions of this act.

2. Section 3 of P. L. 1971, c. 272 (C. 34:16–41) is amended to read as follows:

C. 34:16-41 Vocational rehabilitation and extended employment programs.

3. The division shall administer a program of vocational rehabilitation to an extended employee and shall plan, institute, support, and administer a program of extended employment in, or under the supervision of a sheltered workshop provided for in this act.

3. Section 4 of P. L. 1971, c. 272 (C. 34:16–42) is amended to read as follows:

C. 34:16-42 Authorization to contract with approved sheltered workshops.

4. The division is hereby authorized to contract with an approved sheltered workshop for the furnishing of extended employment programs to severely handicapped persons when it shall appear to the satisfaction of the division, or upon certification to the division by the commission, that a severely handicapped person could reasonably be expected to benefit from, or reasonably requires extended rehabilitation services. The division is authorized to contract for the payment of a sum for each severely handicapped person not exceeding the amount appropriated for the purposes of this act toward the cost of providing an extended employment program pursuant to this act.

4. Section 5 of P. L. 1971, c. 272 (C. 34:16–43) is amended to read as follows:

C. 34:16-43 Authority to determine eligibility for program; standards for sheltered workshops.

5. The division and the commission are hereby vested with the authority: a. to determine the eligibility of severely handicapped persons for the extended employment program in consultation with the sheltered workshops providing the program; b. to establish standards of staffing, physical plant and services required for the operation of facilities of sheltered workshops furnishing services

under this act by contract with the State; and c. to require an appropriate progress report on each individual participating in the extended employment program.

5. Section 3 of P. L. 1975, c. 350 (C. 34:16–47) is amended to read as follows:

C. 34:16-47 Manufacture or distribution of goods made by handicapped persons; identification of goods or articles; fees.

3. To facilitate ready and authoritative identification of goods or articles made by handicapped persons, any handicapped person and any public or private institution or agency, firm, association or corporation engaged in the manufacture or distribution of goods or articles made by handicapped persons shall apply to the division for registration and authorization to use an official imprint, stamp, symbol or label, designed or approved by the division to identify goods and articles as made by handicapped persons. Nothing in this act shall authorize the identification of goods or articles as made by handicapped persons when the direct labor performed by handicapped persons in connection therewith shall consist solely of the packaging or packing thereof, as distinguished from the preparation, processing or assembling of such goods or articles. The division shall investigate each application, under rules and regulations it shall adopt for the administration of this act, to assure that such person or organization is actually engaged in the manufacture or distribution of handicapped goods or articles. The division may register without investigation nonresident individuals and out-of-state agencies, firms, associations, or corporations upon proof that they are recognized and approved by the state of their residence or organized pursuant to a law of such state imposing requirements substantially similar to those prescribed pursuant to this act.

No fee shall be charged for registration of an individual handicapped person who manufactures and sells products of his own labor. A fee of $25.00 shall be charged and collected for registration of any other person, firm or corporation. All registrations shall be valid for 1 year from date of issue.

6. Section 5 of P. L. 1975, c. 350 (C. 34:16–49) is amended to read as follows:

C. 34:16-49 Labels or stamps.

5. Any handicapped worker, or any public or private institution or agency, corporation, firm, or association, registered with the division pursuant to this act, engaged in the manufacture or

distribution of articles of merchandise, made or manufactured by a handicapped person or persons, shall imprint or stamp upon such articles of merchandise or affix thereto labels containing the words, "made by a handicapped worker" or "made by the handicapped" or "handicapped made," to which shall be added the name of the manufacturer, the place of manufacture and such other information as the division may prescribe.

7. Section 6 of P. L. 1975, c. 350 (C. 34:16–50) is amended to read as follows:

C. 34:16-50 Violation of act; penalty.

6. Any person, firm, corporation, institution, or association who (a) shall use or employ an imprint, stamp, or symbol or label issued or approved by the division or an imitation thereof without having registered with the division, or (b) who shall directly or indirectly by any means indicate or tend to indicate or represent that the goods or articles were made by a handicapped person or persons when in fact such goods or articles were not so made, or (c) who shall directly or indirectly by any means indicate or tend to indicate or represent that the goods or articles were sold by or for the benefit of the handicapped when in fact such sale was not by or of substantial benefit to a handicapped person or persons is a disorderly person.

8. This act shall take effect immediately.

Approved January 21, 1980.

CHAPTER 336

Note: In approving the following act certain items, designated by *, were deleted or reduced by the Governor. See Statement appended following the text of the act.

AN ACT to amend and supplement "An act making appropriations for the support of the State Government and the several public purposes for the fiscal year ending June 30, 1980 and regulating the disbursement thereof," approved June 28, 1979 (P. L. 1979, c. 119).

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

1. The following item on pages 137 and 138 of P. L. 1979, c. 119 is amended to read as follows:

A portion of the amount hereinabove for payments to municipalities for cost of general assistance (State share), not to exceed $920,000, is hereby available for transfer to the Department of Labor and Industry, Division of Employment Services for support costs related to the workfare program (C. 44:8–108 et seq.). Any funds transferred to the Department of Labor and Industry shall be used solely to fund employability teams and other costs to implement this general assistance work programs. The amount transferred shall not exceed the amount which is saved through the placement of general assistance recipients in jobs, as a result of intensified employment services.

2. The following sums are appropriated out of the General Fund, or such other source of funds specifically indicated or as may be applicable, for the respective public officers and for the several purposes herein specified:

DIRECT STATE SERVICES

LEGISLATIVE BRANCH

LEGISLATIVE AFFAIRS

72120-002. General Assembly $400,000

Extraordinary:
Expenses of the General Assembly ($400,000)

DIRECT STATE SERVICES

DEPARTMENT OF ENVIRONMENTAL PROTECTION

46100. Recreation Opportunities

46120. Recreational Boating $750,000

Extraordinary:
Construction, maintenance and dredging of inland waterways; bulkheading and dredging at State marinas and dredging State-controlled lakes ..... ($750,000)

DEPARTMENT OF HUMAN SERVICES

53100. Medical Assistance and Health Services

53120. General Medical Services $3,000,000

Extraordinary:

Payments for medical assistance recipients (State share) ..... ($3,000,000)

The commissioner shall submit to the Director of the Division of Budget and Accounting and the Subcommittee on Transfers of the Joint Appropriations Committee a report, not later than February 1, 1980, detailing the expenditure experience for the Payment for medical assistance recipients (State share) account for the first two quarters of FY 1980. The amount hereinabove appropriated shall not be expended until the director and the subcommittee approves said report. Nothing herein shall be construed to limit the expenditure of any funds appropriated in the act to which this act is a supplement.

DEPARTMENT OF LABOR AND INDUSTRY

52200. Manpower Development and Employment Assistance

52240-380. Vocational Rehabilitation Services ... $1,150,000

Extraordinary:

Sheltered workshop support (State share) ..... ($1,150,000)

59200. Economic Development

59210-380. *

Extraordinary:

*

DEPARTMENT OF TRANSPORTATION

63200. Public Transportation Facilities

63210. Railroad and Bus Operations $4,500,000

Extraordinary:

Rail passenger service subsidies Motor Bus operators' subsidy and for the reduced student fare program ..... ($4,500,000)

INTER-DEPARTMENTAL SERVICES

942. State Contingency Fund

78230. State Contingency Fund $5,670,000

Extraordinary:

For allotment, as required, to meet contingencies arising from increases in the price of fuel and utilities beyond that anticipated, as the Director of the Division of Budget and Accounting shall determine ..... ($5,670,000)

943. Salary and Other Benefits

78240. Salary and Other Benefits $11,000,000

Extraordinary:

To the Director of the Division of Budget and Accounting for allotment to the various agencies for the costs of salary and other benefits, including normal merit increments, resulting from negotiated contractual agreements with various employee organizations and the costs of salary and other benefits, including normal merit increments, for those employees not covered by a negotiated contractual agreement with any employee organization ..... ($11,000,000)

Total, Direct State Services $26,600,000

CAPITAL CONSTRUCTION

DEPARTMENT OF TREASURY

Grand Total Appropriation $26,600,000

3. This act shall take effect upon the enactment of Senate Bill No. 3305 (now awaiting action by the Governor) and shall be retroactive to July 1, 1979.

Approved January 21, 1980.

STATEMENT TO SENATE BILL No. 3467

To the Senate:

Pursuant to Article V, Section I, Paragraph 15 of the Constitution, I am appending to Senate Bill No. 3467, at the time of signing it, this statement of the items to which I object and which shall not, therefore, take effect:

On page 2, Section 59200—Economic Development

"59210-380. Expansion and Growth of Commerce and Industry	$130,000
Extraordinary:	
Jobs transportation	$130,000"

This quoted language is deleted in its entirety.

This appropriation bill even with the above deletion will bring State expenditures for the 1980 fiscal year to within approximately $200,000 of the limit mandated by the State Expenditure Limitation Act. It has come to my attention the partial funding for this jobs transportation program can be continued without this appropriation and I am, therefore, exercising my power to veto this line item in order to have an adequate amount in the Treasury to meet emergent needs.

Respectfully,

[SEAL] /s/ BRENDAN BYRNE,
Governor.

Attest:
/s/ HAROLD L. HODES,
Chief of Staff, Secretary.

CHAPTER 337

AN ACT concerning shelters for victims of domestic violence.

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

C. 30:14-1 Legislature's findings; purpose of act.

1. The Legislature finds and declares that there is a present and growing need to develop services to protect victims of domestic violence. It is the purpose of this act to encourage the development

of shelters for these victims and their children where they may obtain necessary services, including shelter, counseling and other social services.

C. 30:14-2 Short title.

2. This act shall be known and may be cited as the "Shelters for Victims of Domestic Violence Act."

C. 30:14-3 Operation of shelters.

3. The Department of Human Services shall provide services to those public or private agencies, which meet the standards set forth in this act, to operate shelters for victims of domestic violence. Priority for the allocation of services shall be to viable, existing programs which have successfully performed the delivery of shelter and other services to victims of domestic violence prior to the effective date of this act.

C. 30:14-4 Advisory Council on shelters for victims of domestic violence; membership; appointment.

4. There is created an Advisory Council on Shelters for Victims of Domestic Violence which shall consist of 10 members: the Director of the Division on Women, the Director of the Division of Youth and Family Services, the Director of the Division of Public Welfare, the Commissioner of the Department of Education, the Executive Director of the State Law Enforcement Planning Agency, or their designees, and one representative of Legal Services of New Jersey, one former domestic violence shelter resident, and three representatives of shelters for domestic violence programs to be appointed by the Governor, without regard to political affiliation.

C. 30:14-5 Standards; establishment.

5. The Commissioner of Human Services, in consultation with the advisory council, shall establish standards to be met by those shelters applying for services to assure the availability of specialized personnel, resources and equipment necessary to enable such shelters to carry out the purposes of this act. Upon establishment of a program of services, the commissioner in consultation with the advisory council shall periodically appraise its performance to determine whether the purposes of this act are being met.

C. 30:14-6 Powers and duties of commissioner.

6. The Commissioner of Human Services, in consultation with the advisory council, shall:

a. Provide technical assistance to help public and private agencies to qualify as operators of shelters and to obtain State and Federal funds for the establishment and maintenance of shelters.

b. Suggest the types of innovative strategies in services which will ameliorate and reduce the problems of domestic violence.

c. Foster cooperation and communication among the providers of services to victims of domestic violence to promote agreement among providers concerning the treatment needs of those victims.

d. Provide guidelines for the training and use of volunteers in the delivery of services.

C. 30:14-7 Facilities.

7. A shelter shall provide a residential area which provides safe refuge for victims of domestic violence. A shelter shall also provide a day program or drop-in center, located at the shelter site or in a separate facility, which can assist victims of domestic violence who have not yet made the decision to leave their homes, or who have found other shelter but who nevertheless have a need for the services provided at the shelter.

C. 30:14-8 Services provided to victims.

8. A shelter shall arrange for the provision of the following services to victims of domestic violence:

a. Emergency medical care.

b. Emergency legal assistance.

c. Marriage and family counseling and emergency psychological support and counseling, as requested.

d. Information regarding education, job counseling and training programs, housing, welfare and other available social services accomplished, wherever possible, by referrals to appropriate authorities or agencies.

C. 30:14-9 Services provided by other agencies.

9. The shelter staff shall advocate the delivery of services from such agencies as county welfare departments and law enforcement and legal services agencies to those served by the shelters.

C. 30:14-10 Staff.

10. To the extent feasible, one or more of the shelter personnel shall be bilingual. An effort shall be made to recruit former victims of domestic assault as staff members.

C. 30:14-11 Funds or donations.

11. The governing body of any county or municipality may appropriate funds or in-kind donations for the support of any private, nonprofit shelter for victims of domestic violence meeting the standards established pursuant to section 5 of this act.

C. 30:14-12 Federal funds.

12. The commissioner shall seek and make use of any funds which are available from Federal or other sources in order to augment any State funds appropriated for the purposes of this program.

C. 30:14-13 Confidentiality.

13. Information which may reveal the identity or location of a person seeking shelter services shall not be disclosed, except as otherwise specifically required by law or with the consent of the person seeking shelter services.

C. 30:14-14 Relase of minors.

14. No shelter providing care for a minor who was in the actual custody of a parent at the time the parent applied for shelter services shall release the minor to any person, including the child's other parent, without the consent of the parent who sought shelter, except as may be otherwise required by court order.

15. This act shall take effect immediately.

Approved January 22, 1980.

CHAPTER 338

AN ACT to amend the title of "An act concerning community residences for the developmentally disabled, and supplementing the 'Municipal Land Use Law,' approved January 12, 1976 (P. L. 1975, c. 291)," approved December 7, 1978 (P. L. 1978, c. 159, C. 40:55D–66.1 et seq.), so that the same shall read "An act concerning community residences for the developmentally disabled and community shelters for victims of domestic violence, and supplementing the 'Municipal Land Use Law,' approved January 14, 1976 (P. L. 1975, c. 291)," and to amend the body of said act.

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

Title amended.

1. The title of P. L. 1978, c. 159 (C. 40:55D–66.1 et seq.) is amended to read as follows: An act concerning community resi-

dences for the developmentally disabled and community shelters for victims of domestic violence, and supplementing the "Municipal Land Use Law," approved January 14, 1976 (P. L. 1975, c. 291).

2. Section 1 of P. L. 1978, c. 159 (C. 40:55D–66.1) is amended to read as follows:

C. 40:55D-66.1 Community residences for developmentally disabled and community shelters for victims of domestic violence; permission in residential districts.

1. Community residences for the developmentally disabled and community shelters for victims of domestic violence shall be a permitted use in all residential districts of a municipality, and the requirements therefor shall be the same as for single family dwelling units located within such districts; provided, however, that, in the case of a community residence for the developmentally disabled or community shelter for victims of domestic violence housing more than six persons, excluding resident staff, a zoning ordinance may require for the use or conversion to use of a dwelling unit to such a community residence or shelter, a conditional use permit in accordance with section 54 of the act to which this act is a supplement (C. 40:55D–67). Any requirements imposed for the issuance of a conditional use permit shall be reasonably related to the health, safety and welfare of the residents of the district; provided, however, that a municipality may deny such a permit to any proposed community residence for the developmentally disabled or community shelter for victims of domestic violence which would be located within 1,500 feet of an existing such residence or shelter; provided further, however, that a municipality may deny the issuance of any additional such permits if the number of persons, other than resident staff, resident at existing such community residences or community shelters within the municipality exceeds 50 persons, or 0.5% of the population of the municipality, whichever is greater.

3. Section 2 of P. L. 1978, c. 159 (C. 40:55D–66.2) is amended to read as follows:

C. 40:55D-66.2 Definitions.

2. As used in this act: a. "community residence for the developmentally disabled" means any community residential facility licensed pursuant to P. L. 1977, c. 448 (C. 30:11B–1 et seq.) providing food, shelter and personal guidance, under such supervision as required, to not more than 15 developmentally disabled or

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mentally ill persons, who require assistance, temporarily or permanently, in order to live in the community, and shall include, but not be limited to: group homes, half-way houses, intermediate care facilities, supervised apartment living arrangements, and hostels. Such a residence shall not be considered a health care facility within the meaning of the "Health Care Facilities Planning Act" (P. L. 1971, c. 136; C. 26:2H–1 et seq.). In the case of such a community residence housing mentally ill persons, such residence shall have been approved for a purchase of service contract or an affiliation agreement pursuant to such procedures as shall be established by regulation of the Division of Mental Health and Hospitals of the Department of Human Services. As used in this act, "developmentally disabled person" means a person who is developmentally disabled as defined in section 2 of P. L. 1977, c. 448 (C. 30:11B–2), and "mentally ill person" means a person who is afflicted with a mental illness as defined in R. S. 30:4–23, but shall not include a person who has been committed after having been found not guilty of a criminal offense by reason of insanity or having been found unfit to be tried on a criminal charge.

b. "Community shelter for victims of domestic violence" means any shelter approved for a purchase of service contract and certified pursuant to standards and procedures established by regulation of the Department of Human Services pursuant to P. L. ...., c. ... (C. .....) (now pending before the Legislature as Senate No. 807), providing food, shelter, medical care, legal assistance, personal guidance, and other services to not more than 15 persons who have been victims of domestic violence, including any children of such victims, who temporarily require shelter and assistance in order to protect their physical or psychological welfare.

4. This act shall take effect upon the effective date of Senate No. 807 (now pending before the Legislature).

Approved January 22, 1980.

CHAPTER 339

AN ACT to amend "An act to regulate and control the teaching and practice of nursing and to prescribe penalties for the violations thereof (Revision of 1947)," approved June 11, 1947 (P. L. 1947, c. 262).

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

1. Section 2 of P. L. 1947, c. 262 (C. 45:11–24) is amended to read as follows:

C. 45:11-24 Board; appointment of members; terms; oath of office.

2. The board; appointment of members; terms; oath of office.

a. The board; appointment; terms. In addition to the members appointed to represent the interests of the public pursuant to P. L. 1971, c. 60 as amended by P. L. 1977, c. 285 (C. 45:1–2.2) the New Jersey Board of Nursing shall consist of 10 members, seven of whom shall be registered professional nurses, two of whom shall be licensed practical nurses, and one of whom shall be an additional public member, all to be appointed by the Governor. Appointments to the board shall be for terms of 5 years or for the unexpired portion of a term in the case of a vacancy for any cause within a term, and until a successor shall be appointed and qualified. In making appointments the Governor shall give due consideration to, but shall not be bound by, recommendations submitted by the various nurses' professional associations of this State. Upon notice and hearing, the Governor may remove from office any member of the board for neglect of duty, incompetency, unprofessional or dishonorable conduct.

b. Qualifications for appointment. Each registered professional nurse member of the board shall be a citizen of the United States and a resident of this State; shall be a graduate of an accredited school of nursing within the United States; shall be a registered nurse in this State; shall have had at least 5 years' experience in professional nursing following graduation from an accredited school of nursing; and shall at the time of appointment be actively engaged in nursing or work relating thereto. The licensed practical nurse members of the board shall be citizens of the United States and residents of this State; shall hold a valid license to practice practical nursing in this State; shall have had at least 3 years'

experience in practical nursing; and shall at the time of appointment be actively engaged in practical nursing or work related thereto.

c. Oath or affirmation of office. Within 30 days after receipt of the commission, each appointee shall take, subscribe and file in the office of the Secretary of State the oath or affirmation prescribed by law.

d. Duties and powers. The board shall have the following duties and powers: (1) It shall hold annual meetings and such other meetings as it may deem necessary at such times and places as the board shall prescribe and a majority of the board including one officer shall constitute a quorum. (2) It shall elect from its members and prescribe the duties of a president and secretary-treasurer, each of whom shall serve for 1 year and until a successor is elected. (3) It shall appoint and prescribe the duties of an executive secretary to the board who need not be a member thereof but who shall be a citizen of the United States, a graduate of a college or university with a major in nursing education, a registered nurse of this State with at least 5 years' experience in teaching or administration or both in an accredited school of professional nursing, or have equivalent qualifications as determined by the board. The executive secretary shall hold office during the will and pleasure of the board. (4) It shall employ and prescribe the duties of such persons as in its judgment shall be necessary for the proper performance and execution of the duties and powers of the board. (5) It shall determine and pay reasonable compensation and necessary expenses of the executive secretary and all employees of the board. (6) It shall pay to each member of the board the compensation hereinafter provided. (7) It shall have a common seal, keep an official record of all its meetings, and through its secretary-treasurer report annually to the Governor the work of the board. (8) It shall examine applicants for a license or renewals thereof, issue, renew, revoke and suspend licenses, as hereinafter provided. (9) It shall in its discretion investigate and prosecute all violations of provisions of this act. (10) It shall keep an official record which shall show the name, age, nativity and permanent place of residence of each applicant and licensee and such further information concerning each applicant and licensee as the board shall deem advisable. The record shall show also whether the applicant was examined, licensed or rejected under this and any prior act. Copies of any of the entries of the record or of any certificate issued by the board may be authenticated by any member of the board under its seal and when so authen-

ticated shall be evidence in all courts of this State of the same weight and force as the original thereof. For authenticating a copy of any entry or entries contained in its record the board shall be paid a fee of $3.00, but such authentication, if made at the request of any public agency of this or any other jurisdiction, may be without fee. (11) In its discretion it may publish at such times as it shall determine a list of nurses licensed under this act, a list of schools of nursing accredited or approved under this act, and such other information as it shall deem advisable. (12) It shall prescribe standards and curricula for schools of nursing and evaluate and approve courses for affiliation. (13) It shall hear and determine applications for accreditation of schools of professional nursing, conduct investigations before and after accreditation of such schools and institutions with which they are affiliated, and issue, suspend or revoke certificates of accreditation as hereinafter provided. (14) It shall approve schools of practical nursing which shall conform to the standards, curricula, and requirements prescribed by the board, and suspend or revoke approval for violations thereof; provided, that this power shall not extend to schools operated by any board of education in this State. (15) It may consult with the Medical Society of New Jersey and the New Jersey Hospital Association with respect to any matter relating to the administration of this act and shall consult with those associations with respect to standards and curricula and any change thereof for schools of nursing. (16) It shall issue subpenas for the attendance of witnesses and production of documents at any hearing before the board authorized by this act and any member of the board shall administer an oath or affirmation to persons appearing to give testimony at such hearings. (17) It may conduct any investigations, studies of nursing and nursing education and related matters, and prepare and issue such publications as in the judgment of the board will advance the profession of nursing and its service to the public. (18) It shall perform all other functions which are provided in this act to be performed by it or which in the judgment of the board are necessary or proper for the administration of this act. (19) It shall from time to time prescribe rules and regulations not inconsistent with this act.

e. Compensation. Each member of the board shall receive $15.00 per day for each day in which such member is actually engaged in the discharge of duties and traveling and other expenses necessarily incurred in the discharge of duties.

2. This act shall take effect immediately.

Approved January 23, 1980.

CHAPTER 340

AN ACT concerning boards of chosen freeholders in certain counties; repealing R. S. 40:20–4, 40:20–24, 40:20–36 to 40:20–70 inclusive, and P. L. 1964, c. 28, and supplementing chapter 20 of Title 40 of the Revised Statutes.

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

C. 40:20-35.10 Counties not adopting optional charter law; vacancies in board; how filled.

1. In any county not having adopted the provisions of the "Optional County Charter Law," P. L. 1972, c. 154 (C. 40:41A–1 et seq.), whenever a vacancy occurs in the membership of the board of chosen freeholders for any reason other than the expiration of the term, it shall be filled for the unexpired term at the next general election occurring not less than 60 days from the date of the vacancy. If the vacancy occurs at any time after 60 days prior to the general election occurring in the next to the last year in the term of office, the vacancy may be filled by appointment for the remainder of the unexpired term in the same manner as hereinafter provided for temporary appointments. Nominations and elections for the filling of a vacancy for the unexpired term shall be made in accordance with the pertinent provisions of Title 19 of the Revised Statutes.

C. 40:20-35.11 Temporary appointments.

2. The board of chosen freeholders may, by majority vote of its remaining members, fill a vacancy temporarily by appointment until the election and qualification of a successor. If the board of chosen freeholders shall fail to fill the vacancy within 30 days of its occurrence, the office shall remain vacant until the election and qualification of a person to fill the vacancy for the unexpired term or to fill a full new term, as the case may be.

C. 40:20-35.12 Vacancy in majority of members.

3. Whenever the offices of all or a majority of the members of the board of chosen freeholders shall become vacant for any reason, the existence of the vacancies shall be immediately certified to the Governor by any remaining member of the board of chosen freeholders or by the county clerk. The Governor upon receipt of the certification shall forthwith fill the vacancies temporarily by ap-

pointment until successors are elected and certified for the unexpired terms at the next general election occurring not less than 60 days subsequent to the certification of the existence of the vacancies. Any appointment made pursuant to this section to fill a vacancy occurring in the next to the last year of the term and certified any time after 60 days prior to the holding of the general election, shall be made for the remainder of the term.

C. 40:20-35.13 Appointments for temporary or unexpired terms; qualifications.

4. Any person appointed by the board of chosen freeholders or the Governor to fill a vacancy either for the unexpired term or temporarily, shall have all the qualifications required by statute to qualify for election to the office. If the previous incumbent had been elected to office as the nominee of a political party as defined in Title 19 of the Revised Statutes, the person so appointed shall be of the same political party as the preceding incumbent.

Repealer.

5. The following sections, acts and parts of acts, together with all amendments and supplements thereto, are hereby repealed:

R. S. 40:20–4, 40:20–24, 40:20–36 to 40:20–70 inclusive;

P. L. 1964, c. 28 (C. 40:20–24.1).

6. This act shall take effect immediately.

Approved January 23, 1980.

CHAPTER 341

AN ACT to repeal "An act creating a commission to examine, enforce and recommend measures to improve the economic, cultural, health and living conditions of the urban colored population of the State and making an appropriation therefor," approved June 10, 1941 (P. L. 1941, c. 192).

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

Repealer.

1. P. L. 1941, c. 192 (C. 52:9F–1 et seq.) is repealed.

2. This act shall take effect immediately.

Approved January 23, 1980.

CHAPTER 342

AN ACT concerning agriculture and repealing R. S. 4:17–6 to 4:17–8 inclusive.

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

Repealer.

1. R. S. 4:17–6 to 4:17–8 inclusive are repealed.

2. This act shall take effect immediately.

Approved January 23, 1980.

CHAPTER 343

AN ACT concerning the board of public utilities and repealing R. S. 48:2–48.

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

Repealer.

1. R. S. 48:2–48 is repealed.

2. This act shall take effect immediately.

Approved January 23, 1980.

CHAPTER 344

AN ACT concerning contraband and other property subject to forfeiture, and amending sections 2C:64–1, 2C:64–2, 2C:64–3, 2C:64–4, 2C:64–5, 2C:64–6, 2C:64–7 and 2C:64–8 of the New Jersey Statutes and P. L. 1970, c. 226.

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

1. N. J. S. 2C:64–1 is amended to read as follows:

Property subject to forfeiture.

2C:64–1. Property Subject to Forfeiture. a. The defendant's interest in the following shall be subject to forfeiture and no property right shall exist in them:

(1) Controlled dangerous substances, firearms which are unlawfully possessed, carried, acquired or used, illegally possessed gambling devices and untaxed cigarettes. These shall be designated prima facie contraband.

(2) All property which has been, or is intended to be, utilized in furtherance of an unlawful activity, including, but not limited to, conveyances intended to facilitate the perpetration of illegal acts, or buildings or premises maintained for the purpose of committing offenses against the State.

(3) Property which has become or is intended to become an integral part of illegal activity, including, but not limited to, money which is earmarked for use as financing for an illegal gambling enterprise.

(4) Proceeds of illegal activities, including, but not limited to, property or money obtained as a result of the sale of prima facie contraband as defined by subsection a. (1), proceeds of illegal gambling, prostitution, bribery and extortion. Any person who did not willingly participate or aid in the commission of an offense may recover such money or property if he can demonstrate that the money or property belongs to him and that he was neither a participant in nor did he assist in or have knowledge of the commission of the offense.

b. Any article subject to forfeiture under this chapter may be seized by the State or any law enforcement officer upon process issued by any court of competent jurisdiction over the property, except that seizure without such process may be made when not inconsistent with the Constitution of this State or the United States, and when

(1) The article is prima facie contraband; or,

(2) The property subject to seizure poses an immediate threat to the public health, safety or welfare.

2. N. J. S. 2C:64–2 is amended to read as follows:

Forfeiture procedures; prima facie contraband.

2C:64–2. Forfeiture Procedures; Prima Facie Contraband. Prima facie contraband shall be retained by the State until disposition of the criminal proceeding arising out of the seizure. If the criminal proceeding results in a conviction for illegal possession, use or sale

of the prima facie contraband, the item shall be forfeited pursuant to 2C:64-4c. If the prosecution for possession, use or sale of prima facie contraband terminates without a conviction, the State may institute forfeiture procedings pursuant to 2C:64-3.

3. N. J. S. 2C:64-3 is amended to read as follows:

Forfeiture procedures.

2C:64-3. Forfeiture Procedures. a. Whenever any property other than prima facie contraband is subject to forfeiture under this chapter, such forfeiture may be enforced by a civil action, instituted within 30 days of the seizure and commenced by the seizing authority in the name of the State of New Jersey and against the property sought to be forfeited.

b. The complaint shall be verified on oath or affirmation. It shall describe with reasonable particularity the property that is the subject matter of the action and shall contain allegations setting forth the reason or reasons the article sought to be or which has been seized is contraband. In addition, upon the filing of an indictment a notice of intention to forfeit the property shall be filed and it shall set forth the property being forfeited and the names of all persons who may have an interest in the property.

c. Notice of the action shall be given to any person known to have a property interest in the article. In addition, the notice requirements of the Rules of Court for an in rem action shall be followed.

d. The claimant of the property that is the subject of an action under this chapter shall file and serve his claim in the form of an answer in accordance with the rules of court. The answer shall be verified on oath or affirmation, and shall state the interest in the property by virtue of which the claimant demands its restitution and the right to defend the action. If the claim is made in behalf of the person entitled to possession by an agent, bailee or attorney, it shall state that he is duly authorized to make the claim.

e. If no answer is filed and served within the applicable time, the property seized shall be disposed of pursuant to N. J. S. 2C:64-6.

f. If an answer is filed, the Superior or county district court shall set the matter down for a summary hearing as soon as practicable. Upon application of the State or claimant, if he be a defendant in a criminal proceeding arising out of the seizure, the Superior or county district court may stay proceedings in the forfeiture action until the criminal proceedings have been concluded by an entry of final judgment.

g. Any person with a property interest in the seized property, other than a defendant who is being prosecuted in connection with the seizure of property may secure its release pending the forfeiture action unless the article is dangerous to the public health, safety and welfare or the State can demonstrate that the property will probably be lost or destroyed if released or employed in subsequent criminal activity. Any person with such a property interest other than a defendant who is being prosecuted, prior to the release of said property shall post a bond with the court in the amount of the market value of the seized item.

h. The prosecuting agency with approval of the entity funding such agency may apply to the Superior or county district court for an order permitting use of seized property, pending the disposition of the forfeiture action. Approval shall be liberally granted but shall be conditioned upon the filing of a bond in an amount equal to the market value of the item seized or a written guarantee of payment for property which may be subject to return, replacement or compensation as to reasonable value in the event that the forfeiture is refused or only partial extinguishment of property rights is ordered by the court.

i. If the property is of such nature that substantial difficulty may result in preserving its value during the pendency of the forfeiture action, the Superior or county district court may appoint a trustee to protect the interests of all parties involved in the action.

j. Evidence of a conviction of a criminal offense in which seized property was either used or provided an integral part of the State's proofs in the prosecution shall be considered in the forfeiture proceeding as creating a rebuttable presumption that the property was utilized in furtherance of an unlawful activity.

4. N. J. S. 2C:64–4 is amended to read as follows:

Seized property; evidentiary use.

2C:64–4. Seized Property; Evidentiary Use. a. Nothing in this chapter shall impair the right of the State to retain evidence pending a criminal prosecution.

b. The fact that a prosecution for possession, use or sale of seized property, whether or not prima facie contraband, terminates without a conviction does not preclude forfeiture proceedings against the property.

c. If an individual is convicted of the illegal possession, use or sale of prima facie contraband, the article which is the subject matter of the conviction shall be forfeited upon the entry of judgment, subject to the provisions of 2C:64–5 of this chapter.

5. N. J. S. 2C:64–5 is amended to read as follows:

Seized property; rights of owners and others holding interests.

2C:64–5. Seized Property; Rights of Owners and Others Holding Interests. No property subject to seizure under this chapter shall be forfeited unless it shall appear that the owner of the property or his agent was a consenting party or privy to its unlawful possession, use or sale, nor shall any forfeiture under this chapter affect the rights of any person holding an interest in property subject to seizure unless it shall appear that such person had knowledge of or consented to any act or omission upon which the right of forfeiture is based. Such rights are only to the extent of interest in the seized property and at the option of the entity funding the prosecuting agency involved may be extinguished by appropriate payment.

6. N. J. S. 2C:64–6 is amended to read as follows:

Disposal of forfeited property.

2C:64–6. Disposal of Forfeited Property. Property which has been forfeited shall be destroyed if it can serve no lawful purpose or it presents a danger to the public health, safety or welfare. All other forfeited property or any proceeds resulting from the forfeiture and all money seized pursuant to this chapter shall become the property of the entity funding the prosecuting agency involved.

7. N. J. S. 2C:64–7 is amended to read as follows:

Vesting of title in forfeited property.

2C:64–7. Vesting of Title in Forfeited Property. Title to property forfeited under this chapter shall have vested in the entity funding the prosecuting agency involved at the time the item was utilized illegally or, in the case of proceeds, when received.

8. N. J. S. 2C:64–8 is amended to read as follows:

Seized property; statute of limitations on claims.

2C:64–8. Seized Property; Statute of Limitations on Claims. Any person who could not with due diligence have discovered that property which he owns was seized as contraband may file a claim for its return or the value thereof at the time of seizure within 3 years of the seizure if he can demonstrate that he did not consent to, and had no knowledge of its unlawful use. If the property has been sold, the claimant receives a claim against proceeds.

9. Section 35 of P. L. 1970, c. 226 (C. 24:21–35) is amended to read as follows:

C. 24:21-35 Nuisances.

35. Nuisances. The maintenance of any building, conveyance or premises whatever which is restored to by persons for the unlawful manufacture, distribution, dispensing, administration or use of controlled dangerous substances shall constitute the keeping of a common nuisance.

10. This act shall take effect immediately.

Approved January 23, 1980.

CHAPTER 345

AN ACT to amend the title of "An act authorizing counties, cities, towns, townships, boroughs, and villages to aid housing projects of housing authorities of the United States of America by furnishing funds, parks, playgrounds and other improvements and facilities, by exercising certain other powers and by making agreements relating to such aid, and adding a new chapter to Title 55 of the Revised Statutes to be known as chapter 55:14B," approved March 8, 1938 (P. L. 1938, c. 20), so that the same shall read "An act authorizing counties, cities, towns, townships, boroughs, and villages to aid housing projects of housing authorities of the United States of America and redevelopment projects of redevelopment agencies or municipalities exercising directly the powers conferred by the Redevelopment Agencies Law by furnishing funds, parks, playgrounds and other improvements and facilities, by exercising certain other powers and by making agreements relating to such aid, and adding a new chapter to Title 55 of the Revised Statutes to be known as chapter 55:14B," to amend the body of said act and to amend and supplement P. L. 1950, c. 298.

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

Title amended.

1. The title of P. L. 1938, c. 20 is amended to read as follows: An act authorizing counties, cities, towns, townships, boroughs, and

villages to aid housing projects of housing authorities of the United States of America and redevelopment projects of redevelopment agencies or municipalities exercising directly the powers conferred by the Redevelopment Agencies Law by furnishing funds, parks, playgrounds and other improvements and facilities, by exercising certain other powers and by making agreements relating to such aid, and adding a new chapter to Title 55 of the Revised Statutes to be known as chapter 55:14B.

2. R. S. 55:14B–1, added to the Revised Statutes by P. L. 1938, c. 20, is amended to read as follows:

Short title.

55:14B–1. This chapter may be referred to as the "Housing and Redevelopment Cooperation Law."

3. Section 5 of P. L. 1950, c. 298 (C. 55:14B–4.1) is amended to read as follows:

C. 55:14B-4.1 Bonds and notes of municipalities to aid projects.

5. Bonds and notes of municipalities to aid projects. (a) Any city, town, borough, village or township is hereby authorized and empowered to incur indebtedness, borrow, appropriate and expend money and issue its negotiable bonds for the purpose of aiding any housing authority with respect to any housing project which is located within said municipality and as to which the Federal Government shall have contracted to furnish financial assistance.

(b) Any city, town, borough, village or township is hereby authorized and empowered to incur indebtedness, borrow, appropriate and expend money and issue its negotiable bonds for the purpose of aiding any housing authority, redevelopment agency or a municipality exercising directly the powers conferred by the redevelopment agencies law with respect to any redevelopment project which is located within said municipality.

(c) Any bonds of any city, town, borough, village or township issued under this act shall be authorized by ordinance adopted by the governing body of said municipality in the manner or mode of procedure prescribed by the local bond law, constituting chapter 2 of Title 40A of the New Jersey Statutes, and said bonds shall be issued in manner or mode of procedure prescribed by said law, except that (1) said ordinance may be adopted notwithstanding the provisions of section 40A:2–6 of said law and, subject to the provisions of paragraph (e) of this section, said bonds may be authorized and issued notwithstanding any debt or other limit prescribed by said law, (2) said ordinance may be adopted not-

withstanding the provisions of section 40A:2–11 of said law and no down payment shall be required, (3) said bonds shall mature in annual installments, commencing not more than 2 and ending not more than 40 years from the date of said bonds, and (4) said ordinance need set forth only a brief and general description of the location and designation of the housing or redevelopment project with respect to which said bonds are authorized, the amount of the appropriation made thereby, the maximum amount of bonds to be issued pursuant thereto, and the rate or maximum rate of interest (not exceeding 6% per annum) the bonds shall bear. Such bonds may be made subject to redemption prior to maturity with or without premium at such times, and on such terms and conditions as may be provided by resolution of the governing body adopted prior to their issuance, and all matters relating to such bonds not hereinabove required to be stated in such ordinance may be performed or determined by resolution or resolutions of the governing body adopted prior to their issuance.

(d) Any bonds, issued or authorized, including bonds heretofore issued or authorized, pursuant to paragraph (b) of this section by any city, town, borough, village or township, for the purpose of providing cash to meet cash grant-in-aid requirements of any housing authority or redevelopment agency or a municipality exercising directly the powers conferred by the redevelopment agencies law with respect to any redevelopment project which is located within said municipality and as to which the Federal Government shall have contracted to furnish financial assistance shall be deductible from the gross debt of such municipality on any debt statement filed in accordance with the local bond law. Any bonds issued or authorized pursuant to paragraph (b) of this section by any city, town, borough, village or township for the purpose of providing cash to enable any housing authority, redevelopment agency or municipality exercising directly the powers conferred by the "Redevelopment Agencies Law," P. L. 1949, c. 306 (C. 40:55C–1 et seq.), to extend credit or make loans to redevelopers pursuant to section 12(k) of P. L. 1949, c. 306 (C. 40:55C–12(k)) with respect to any redevelopment project that is located within the municipality shall be deductible from the gross debt of the municipality for a period from the date of adoption of the ordinance until 1 year after the completion of construction or rehabilitation of the project or until the end of the fifth fiscal year commencing subsequent to the date of adoption of the ordinance, whichever period is shorter, if the Local Finance Board upon

request and filing with it of a certified copy of the ordinance as finally adopted, shall have made a determination by resolution on the basis of a project report that such project will generate revenues annually for the municipality from rental payments, loan repayments, real property taxes, including payments in lieu of taxes, income from the investment of proceeds of obligations authorized by the ordinance, or other sources, direct or indirect, including like revenues generated from related projects, that the Local Finance Boards finds justifiable in its discretion, in an amount equal to or exceeding the annual debt service requirement for such obligations, and in any subsequent fiscal year if the municipality shall not have been required to make payment in such fiscal year on account of principal of or interest on any obligations issued for said purpose in excess of an amount equal to amounts generated by the project from rental payments, loan repayments, real property taxes, including payments in lieu of such taxes, income from the investment of proceeds of obligations authorized by the ordinance, or such other sources as may have been approved by the Local Finance Board. Upon making such determination the board shall endorse its approval on the certified copy of the ordinance. If, within 60 days of such request and filing, the board shall not be satisfied as to the matters described above, it shall cause its disapproval to be endorsed on the certified copy and shall deliver to the municipality a statement of its reasons for the endorsement of disapproval.

(e) If it appears from the supplemental debt statement filed pursuant to section 40A:2–10 of said local bond law with respect to an ordinance relating to a housing project or a redevelopment project the bonds for which are not deductible from the gross debt pursuant to paragraph (d) of this section, adopted pursuant to this act that the percentage of the net debt as stated therein exceeds the limit prescribed by section 40A:2–6 of said law, such ordinance shall not take effect unless and until there shall be indorsed upon a certified copy thereof, as adopted, the approval of the Local Government Board of the Division of Local Government in the Department of the Treasury. A certified copy of any such ordinance shall upon adoption be filed with said board together with such statements and information with respect thereto or regarding the financial condition of the municipality as said board may prescribe. Said board shall cause its approval to be indorsed upon such certified copy if it shall be satisfied and shall record upon its minutes its estimates that (a) the amounts to be expended by said

municipality for such project are not unreasonable or exorbitant, (b) issuance of said bonds will not materially impair the credit of said municipality or substantially reduce its ability during the ensuing 10 years to pay punctually the principal and interest of its debts and supply essential public improvements and services and (c) taking into consideration trends in population and in values and uses of property and in needs for essential public improvements, the percentage of net debt of said municipality, computed as provided in said local bond law, will at some date within 10 years be either less than the debt limit prescribed by the local bond law or less than the percentage appearing from said supplemental debt statement. If said board shall not within 60 days after filing of said certified copy with it be satisfied as to the matters described above, it shall cause its disapproval to be indorsed on such certified copy and shall deliver to said municipality a statement of its reasons for such indorsement of disapproval.

(f) Any city, town, borough, village or township may issue its negotiable notes, at public or private sale, in anticipation of the issuance of bonds authorized by any such ordinance after such ordinance has taken effect and may, from time to time, renew any such notes in accordance with the provisions of the Local Bond Law (N. J. S. 40A:2–1 et seq.).

(g) All bonds and notes issued hereunder shall be direct and general obligations of the city, town, borough, village or township issuing them and, unless payment is otherwise made or provided for, a tax sufficient in an amount to pay the principal and interest on such bonds and notes shall be levied and collected by said municipality in the year in which the same shall become due and payable. Such bonds and notes may contain a recital that they are issued pursuant to this act in the manner or mode of procedure prescribed by said local bond law and such recitals shall be conclusive evidence of their validity and of the regularity of their issuance.

(h) The powers conferred by this section shall be in addition to the powers conferred by any other laws and bonds may be issued hereunder for the purposes herein provided notwithstanding that other laws may provide for the issuance of bonds for like purposes.

The provisions of chapter 4 of Title 40A of the New Jersey Statutes shall not apply to any public body in the exercise of the powers conferred upon it by this section toward the fulfillment of the purposes of this act or of the act to which this act is supplemental.

C. 55:14B-4.2 Deduction from gross tax; applicability to certain projects.

4. (New section) The authorization for a deduction from gross debt contained in section 5 of P. L. 1950, c. 298 (C. 55:14B–4.1) shall be applicable to projects for which the Local Finance Board shall have made the determinations set forth therein during proceedings taken pursuant to section 5(e) of P. L. 1950, c. 298 (C. 55:14B–4.1(e)) prior to the effective date of this act.

5. This act shall take effect immediately.

Approved January 23, 1980.

CHAPTER 346

AN ACT to amend the "Spill Compensation and Control Act," approved January 6, 1977 (P. L. 1976, c. 141).

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

1. Section 3 of P. L. 1976, c. 141 (C. 58:10–23.11b) is amended to read as follows:

C. 58:10-23.11b Definitions.

3. Unless the context clearly indicates otherwise, the following terms shall have the following meanings:

a. "Administrator" means the chief executive of the New Jersey Spill Compensation Fund;

b. "Barrel" means 42 United States gallons or 159.09 liters or an appropriate equivalent measure set by the director for hazardous substances which are other than fluid or which are not commonly measured by the barrel;

c. "Board" means a board of arbitration convened by the administrator to settle disputed disbursements from the fund;

d. "Cleanup and removal costs" means all costs associated with a discharge incurred by the State or its political subdivisions or their agents or any person with written approval from the department in the (1) removal or attempted removal of hazardous substances or, (2) taking of reasonable measures to prevent or mitigate damages to the public health, safety, or welfare, including but not limited to, public and private property, shorelines, beaches, surface waters, water columns and bottom sediments, soils and other affected property, including wildlife and other natural resources;

e. "Commissioner" means the Commissioner of Environmental Protection;

f. "Department" means the Department of Environmental Protection;

g. "Director" means the Director of the Division of Taxation in the Department of the Treasury;

h. "Discharge" means any intentional or unintentional action or omission resulting in the releasing, spilling, leaking, pumping, pouring, emitting, emptying or dumping of hazardous substance into the waters of the State or onto lands from which it might flow or drain into said waters, or into waters outside the jurisdiction of the State when damage may result to the lands, waters or natural resources within the jurisdiction of the State;

i. "Fair market value" means the invoice price of the hazardous substances transferred including transportation charges; but where no price is so fixed, "fair market value" shall mean the market price as of the close of the nearest day to the transfer paid for similar hazardous substances as shall be determined by the taxpayer pursuant to rules of the director.

j. "Fund" means the New Jersey Spill Compensation Fund;

k. "Hazardous substances" means such elements and compounds, including petroleum products, which are defined as such by the department, after public hearing, and which shall be consistent to the maximum extent possible with, and which shall include, the list of hazardous substances adopted by the Federal Environmental Protection Agency pursuant to Section 311 of the Federal Water Pollution Control Act Amendments of 1972 as amended by the Clean Water Act of 1977 (33 U.S.C. 1251 et seq.) and the list of toxic pollutants designated by Congress or the EPA pursuant to Section 307 of that act; provided, however that sewage and sewage sludge shall not be considered as hazardous substances for the purposes of this act;

l. "Major facility" includes but is not limited to any refinery, storage or transfer terminal, pipeline, deep water port, drilling platform or any appurtenance related to any of the preceding that is used or is capable of being used to refine, produce, store, handle, transfer, process or transport hazardous substances. A vessel shall be considered a major facility only when hazardous substances are transferred between vessels.

A facility shall not be considered a major facility for the purpose of this act unless it has total combined above-ground or buried storage capacity of—

(1) 50,000 gallons or more for hazardous substances which are other than petroleum or petroleum products, or

(2) 400,000 gallons or more for hazardous substances of all kinds.

For the purposes of this definition, "storage capacity" shall mean only that capacity which is dedicated to, used for or intended to be used for storage of hazardous substances. Where appropriate to the nature of the facility, storage capacity may be determined by the intended or actual use of open land or unenclosed space as well as by the capacities of tanks or other enclosed storage spaces.

m. "Natural resources" means all land, fish, shellfish, wildlife, biota, air, waters and other such resources owned, managed, held in trust or otherwise controlled by the State;

n. "Owner" or "operator" means with respect to a vessel, any person owning, operating or chartering by demise such vessel; with respect to any major facility, any person owning such facility, or operating it by lease, contract or other form of agreement; with respect to abandoned or derelict major facilities, the person who owned or operated such facility immediately prior to such abandonment, or the owner at the time of discharge;

o. "Person" means public or private corporations, companies, associations, societies, firms, partnerships, joint stock companies, individuals, the United States, the State of New Jersey and any of its political subdivisions or agents;

p. "Petroleum" or "petroleum products" means oil or petroleum of any kind and in any form including, but not limited to, oil, petroleum, gasoline, kerosene, fuel, oil sludge, oil refuse, oil mixed with other wastes and crude oils; however, any compound designated by specific chemical name to the list of hazardous substances adopted by the department pursuant to subsection 3 (k) shall not be considered petroleum or a petroleum product for the purposes of this act.

q. "Taxpayer" means the owner or operator of a major facility subject to the tax provisions of this act;

r. "Tax period" means every calendar month on the basis of which the taxpayer is required to report under this act;

s. "Transfer" means onloading or offloading between major facilities and vessels or vessels and major facilities, and from vessel to vessel or major facility to major facility, except for fueling or refueling operations and except that with regard to the movement of hazardous substances other than petroleum, it shall also include any onloading of or offloading from a major facility;

t. "Vessel" means every description of water craft or other contrivance that is practically capable of being used as a means of commercial transportation of hazardous substances upon the water, whether or not self-propelled;

u. "Waters" means the ocean and its estuaries to the seaward limit of the State's jurisdiction, all springs, streams and bodies of surface or groundwater, whether natural or artificial, within the boundaries of this State.

2. Section 5 of P. L. 1976, c. 141 (C. 58:10–23.11d) is amended to read as follows:

C. 58:10-23.11d Submission of information by owners of major facility.

5. Each owner or operator of a major facility shall submit to the department the following information:

a. The number of barrels or another measurement of the storage capacity of the facility;

b. Average daily throughput of the facility;

c. A primary and contingency cleanup and removal plan which includes, but is not limited to, an inventory of;

(1) The storage and transfer capacity of the facility;

(2) The containment and removal equipment, including, but not limited to, vehicles, vessels, pumps, skimmers, booms, chemicals, and communication devices, to which the facility has access through direct ownership or by contract or membership in a discharge cleanup organization recognized by the department, as well as the time lapse following a discharge which precedes such access;

(3) The trained personnel which are required and available to operate such containment and removal equipment and the time lapse following a discharge which proceeds such availability;

(4) All equipment and trained personnel used or employed in any capacity at the facility to prevent discharges of hazardous substances;

(5) The terms of agreement and operation plan of any discharge cleanup organization to which the owner or operator of the facility belongs;

(6) The type and amount of hazardous substances transferred, refined, processed or stored at the facility;

d. The steps taken to insure prevention of a discharge;

e. The source, nature of, and conditions of financial responsibility;

f. The department shall promulgate rules and regulations, as provided in section 21 of this act, establishing standards for the

availability of preventative, cleanup and removal procedures, personnel and equipment at any major facility with a total combined above-ground or buried storage capacity of 400,000 gallons or more, as well as requiring the formulation of cleanup and removal plans for each such major facility, where such plans are not required by existing Federal statute, rule or regulation. Compliance with such standards and plans shall not be deemed a defense in addition to the defenses enumerated in subsection d. of section 8 of this act.

3. Section 6 of P. L. 1976, c. 141 (C. 58:10–23.11e) is amended to read as follows:

C. 58:10-23.11e Liability for discharge; notification to department.

6. Any person who may be subject to liability for a discharge which occurred prior to or after the effective date of the act of which this act is amendatory shall immediately notify the department. Failure to so notify shall make persons liable to the penalty provisions of section 22 of this act.

4. Section 7 of P. L. 1976, c. 141 (C. 58:10–23.11f.) is amended to read as follows:

C. 58:10-23.11f Discharge of hazardous substance; removal; liability of discharger; funds; payment.

7. a. Whenever any hazardous substance is discharged, the department may in its discretion act to remove or arrange for the removal of such discharge or may direct the discharger to remove, or arrange for the removal of, such discharge. Any discharger who fails to comply with such a directive shall be liable to the department in an amount equal to three times the cost of such removal.

Removal of hazardous substances and actions to minimize damage from discharges shall, to the greatest extent possible, be in accordance with the National Contingency Plan for removal of oil and hazardous substances established pursuant to section 311 (c) (2) of the Federal Water Pollution Control Act Amendments of 1972 (P. L. 92-500, 33 U. S. C. 1251 et seq.).

Whenever the department acts to remove a discharge or contracts to secure prospective removal services, it is authorized to draw upon the money available in the fund. Such moneys shall be used to pay promptly for all cleanup costs incurred by the department in removing or in minimizing damage caused by such discharge.

Nothing in this section is intended to preclude removal and cleanup operations by any person threatened by such discharges,

provided such persons coordinate and obtain approval for such actions with ongoing State or Federal operations. No action taken by any person to contain or remove a discharge shall be construed as an admission of liability for said discharge. No person who renders assistance in continuing or removing a discharge shall be liable for any civil damages to third parties resulting solely from acts or omissions of such person in rendering such assistance except for acts or omissions of gross negligence or willful misconduct. In the course of cleanup operations, no person shall discharge any detergent into the waters of this State without prior authorization of the commissioner.

b. Notwithstanding any other provisions of P. L. 1976, c. 141 (C. 58:10–23.11 et seq.), the department, after notifying the administrator and subject to the approval of the administrator with regard to the availability of funds therefor, may remove or arrange for the removal of any hazardous substance which:

(1) Has not been discharged from a grounded or disabled vessel if the department determines that such removal is necessary to prevent an imminent discharge of such hazardous substance;

(2) Has not been discharged if the department determines that such substance is not satisfactorily stored or contained and said substance possesses any one or more of the following characteristics:

(a) explosiveness;

(b) high flammability;

(c) radioactivity;

(d) chemical properties which in combination with any discharged hazardous substance at the same storage facility would create a substantial risk of imminent damage to public health or safety or an imminent and severe damage to the environment;

(e) is stored in a container from which its discharge is imminent as a result of contact with a hazardous substance which has already been discharged and such additional discharge would create a substantial risk of imminent damage to public health or safety or imminent and severe damage to the environment; or

(f) high toxicity and is stored or being transported in a container or motor vehicle, truck, railcar or other mechanized conveyance from which its discharge is imminent as a result of the significant deterioration or the precarious location of the container, motor vehicle, truck, railcar or other mechanized

conveyance, and such discharge would create a substantial risk of imminent damage to public health or safety or imminent and severe damage to the environment; or

(3) Has been discharged prior to the effective date of the act to which this act is amendatory, if such discharge poses a substantial risk of imminent damage to the public health or safety or imminent and severe damage to the environment.

c. If and to the extent that he determines that funds are available, the administrator shall approve and make payments for any cleanup and removal costs incurred by the department for the removal of a hazardous substance other than petroleum as authorized by subsection b. of this section; provided that in determining the availability of funds, the administrator shall not include as available funds revenues realized or to be realized from the tax on the transfer of petroleum to the extent that such revenues result from a tax levied at a rate in excess of $0.01 per barrel, pursuant to subsection 9b. of the act to which this act is amendatory, unless the administrator determines that the sum of claims paid by the fund on behalf of petroleum discharges or removals plus pending reasonable claims against the fund on behalf of petroleum discharges or removals is greater than 30% of the sum of all claims paid by the fund plus all pending, reasonable claims against the fund.

d. The administrator may only approve and make payments for any cleanup and removal costs incurred by the department for the removal of a hazardous substance discharged prior to the effective date of the act to which this act is amendatory, pursuant to subsection b. of this section, if, and to the extent that, he determines that adequate funds from another source are not or will not be available; and further provided, with regard to the cleanup and removal costs incurred for discharges which occurred prior to the effective date of the act to which this act is amendatory, the administrator may not during any 1 year period pay more than $3,000,000.00 in total or more than $1,500,000.00 for any discharge or related set or series of discharges.

e. Any expenditures made by the administrator pursuant to this act shall constitute a first priority claim and lien paramount to all other claims and liens upon the revenues and all real and personal property of the discharger, whether or not the discharger is insolvent.

5. Section 8 of P. L. 1976, c. 141 (C. 58:10–23.11g) is amended to read as follows:

C. 58:10-23.11g Liabilities of fund.

8. a. The fund shall be strictly liable, without regard to fault, for all cleanup and removal costs and for all direct and indirect damages no matter by whom sustained, including but not limited to:

(1) The cost of restoring, repairing, or replacing any real or personal property damaged or destroyed by a discharge, any income lost from the time such property is damaged to the time such property is restored, repaired or replaced, and any reduction in value of such property caused by such discharge by comparison with its value prior thereto;

(2) The cost of restoration and replacement, where possible, of any natural resource damaged or destroyed by a discharge;

(3) Loss of income or impairment of earning capacity due to damage to real or personal property, including natural resources destroyed or damaged by a discharge; provided that such loss or impairment exceeds 10% of the amount which claimant derives, based upon income or business records, exclusive of other sources of income, from activities related to the particular real or personal property or natural resources damaged or destroyed by such discharge during the week, month or year for which the claim is filed;

(4) Loss of tax revenue by the State or local governments for a period of 1 year due to damage to real or personal property proximately resulting from a discharge;

(5) Interest on loans obtained or other obligations incurred by a claimant for the purpose of ameliorating the adverse effects of a discharge pending the payment of a claim in full as provided by this act.

b. The damages which may be recovered by the fund, without regard to fault, subject to the defenses enumerated in subsection d. of this section against the owner or operator of a major facility or vessel, shall not exceed $50,000,000.00 for each major facility or $150.00 per gross ton for each vessel, except that such maximum limitation shall not apply and the owner or operator shall be liable, jointly and severally, for the full amount of such damages if it can be shown that such discharge was the result of (1) gross negligence or willful misconduct, within the knowledge and privity of the owner, operator or person in charge, or (2) a gross or willful violation of applicable safety, construction or operating standards or regulations. Damages which may be recovered from, or by, any other person shall be limited to those authorized by common or statutory law.

c. Any person who has discharged a hazardous substance or is in any way responsible for any hazardous substance which the department has removed or is removing pursuant to subsection b. of section 7 of this act shall be strictly liable, jointly and severally, without regard to fault, for all cleanup and removal costs.

d. An act or omission caused solely by war, sabotage, or God, or a combination thereof, shall be the only defenses which may be raised by any owner or operator of a major facility or vessel responsible for a discharge in any action arising under the provisions of this act.

6. Section 9 of P. L. 1976, c. 141 (C. 58:10–23.11h) is amended to read as follows:

C. 58:10-23.11h Taxation of owners or operators of major facilities; amount; return; filing; failure to file; penalty; powers of director.

9. a. There is hereby levied upon each owner or operator of one or more major facilities a tax to insure compensation for cleanup costs and damages associated with any discharge of hazardous substances to be paid by the transferee; provided, however, that in the case of a major facility which operates as a public storage terminal for hazardous substances owned by others, the owner of the hazardous substance transferred to such major facility or his authorized agent shall be considered to be the transferee or transferor, as the case may be for the purposes of this section and shall be deemed to be a taxpayer for purposes of this act. Where such person has failed to file a return or pay the tax imposed by this act within 60 days after the due date thereof, the director shall forthwith take appropriate steps to collect same from the owner of the hazardous substance. In the event the director is not successful in collecting said tax then on notice to the owner or operator of the public storage terminal of said fact said owner or operator shall not release any hazardous substance owned by the taxpayer. The director may forthwith proceed to satisfy any tax liability of the taxpayer by seizing, selling or otherwise disposing of said hazardous substance to satisfy the taxpayer's tax liability and to take any further steps permitted by law for its collection. For the purposes of this act public storage terminal shall mean a public or privately owned major facility operated for public use which is used for the storage or transfer of hazardous substances. The tax shall be measured by the number of barrels or the fair market value, as the case may be, of hazardous substances transferred to the major facility, provided, however, that the same barrel, including any products derived therefrom, subject to multiple transfers from or be-

tween major facilities shall be taxed only once at the point of the first transfer. When a hazardous substance other than petroleum which has not been previously taxed is transferred from a major in-State facility to a facility which is not a major facility, the transferor shall be liable for tax payment for said transfer.

b. The tax shall be $0.01 per barrel transferred and in the case of the transfer of hazardous substances other than petroleum, the tax shall be the greater of $0.01 per barrel or 0.4% of the fair market value of the product, until the balance in the fund equals or exceeds $50,000,000.00; provided, however, that with respect to transfers of hazardous substances other than petroleum which are in mixtures containing any precious metal or metals, the tax shall be the greater of $0.01 per barrel or 0.4% of the fair market value of the predominant hazardous substance of the mixture. For the purposes of this section, precious metals shall mean gold, silver, platinum, palladium, iridium, rhodium, and ruthenium. In each fiscal year following any year in which the balance of the fund equals or exceeds $50,000,000.00, no tax shall be levied unless (1) the current balance in the fund is less than $40,000,000.00 or (2) pending claims against the fund exceed 50% of the existing balance of the fund. The provisions of the foregoing notwithstanding, should claims paid from or pending against the fund not exceed $5,000,000.00 within 3 years after the tax is first levied, the tax shall be $0.01 per barrel transferred or 0.4% of the fair market value of the product, as the case may be, until the balance in the fund equals or exceeds $36,000,000.00, and thereafter shall not be levied unless: (1) the current balance in the fund is less than $30,000,000.00 or (2) pending claims against the fund exceed 50% of the existing balance of the fund. In the event of either such occurrence and upon certification thereof by the State Treasurer, the director shall within 10 days of the date of such certification relevy the excise tax, which shall take effect on the first day of the month following such relevy. With respect to the tax imposed upon the transfer of hazardous substances which are other than petroleum or petroleum products, if the revenues from such tax exceed $7,000,000.00 during any calendar year, such excess shall be refunded or credited to the taxpayers who paid such tax during the calendar year. The refund or credit shall be based upon the amount of taxes paid by each taxpayer on transfers of hazardous substances which are other than petroleum or petroleum products for the calendar year in proportion to all taxes paid by all taxpayers on such transfers during said year; provided, however, that if at

the end of the calendar year the increased tax rate as authorized by this subsection or subsection i. is in effect, no refund or credit shall be allowed for such calendar year; and further, provided that no refund or credit shall be allowed for a calendar year if by reason of such refund or credit a condition would occur which would authorize the imposition of the tax at the higher rate authorized in this subsection or subsection i. However, a partial refund or credit shall be allowed to the extent that such a condition would not occur. In the event of a major discharge or series of discharges of petroleum or petroleum products resulting in claims against the fund exceeding the existing balance of the fund, the tax shall be levied at the rate of $0.04 per barrel transferred until the balance in the fund equals 150% of pending claims against the fund; provided, however, that the rate may be set at less than $0.04 per barrel transferred if the administrator determines that the revenue produced by such lower rate shall be sufficient to pay outstanding claims against the fund within 1 year of such levy. In the event of a major discharge or series of discharges of hazardous substances other than petroleum or petroleum products resulting in claims against the fund exceeding the existing balance of the fund, the tax shall be levied at the rate of the greater of $0.04 per barrel transferred, or 0.8% of the fair market value of such hazardous substance, until the balance in the fund equals 150% of pending claims against the fund; provided, however, that the rate may be set at less than $0.04 per barrel transferred or 0.8% of the fair market value of such hazardous substance if the administrator determines that the revenue produced by such lower rate shall be sufficient to pay outstanding claims against the fund within 1 year of such levy. Interest received on moneys in the fund shall be credited to the fund. Should the fund exceed $36,000,000.00 or $50,000,000.00, as herein provided, as a result of such interest, the administrator and the commissioner shall report to the Legislature and the Governor concerning the options for the use of such interest.

c. (1) Every taxpayer and owner or operator of a public storage terminal for hazardous substances shall on or before the twentieth day of the month following the close of each tax period render a return under oath to the director on such forms as may be prescribed by the director indicating the number of barrels of hazardous substances transferred and where appropriate, the fair market value of the hazardous substances transferred to or from the major facility, and at the same time the taxpayer shall pay the full amount of the tax due.

(2) Every taxpayer or owner or operator of a major facility or vessel which transfers a hazardous substance, as defined in this act, and who is subject to the tax under subsection a. shall within 20 days after the first such transfer in any fiscal year register with the director on such form as shall be prescribed by him.

d. If a return required by this act is not filed, or if a return when filed is incorrect or insufficient in the opinion of the director, the amount of tax due shall be determined by the director from such information as may be available. Notice of such determination shall be given to the taxpayer liable for the payment of the tax. Such determination shall finally and irrevocably fix the tax unless the person against whom it is assessed, within 30 days after receiving notice of such determination, shall apply to the director for a hearing, or unless the director on his own motion shall redetermine the same. After such hearing the director shall give notice of his determination to the person to whom the tax is assessed.

e. Any taxpayer who shall fail to file his return when due or to pay any tax when the same becomes due, as herein provided, shall be subject to such penalties and interest as provided in the "State Tax Uniform Procedure Law," Subtitle 9 of Title 54 of the Revised Statutes. If the Division of Taxation determines that the failure to comply with any provision of this section was excusable under the circumstances, it may remit such part or all of the penalty as shall be appropriate under such circumstances.

f. (1) Any person failing to file a return, failing to pay the tax, or filing or causing to be filed, or making or causing to be made, or giving or causing to be given any return, certificate, affidavit, representation, information, testimony or statement required or authorized by this act, or rules or regulations adopted hereunder which is willfully false, or failing to keep any records required by this act or rules and regulations adopted hereunder, shall, in addition to any other penalties herein or elsewhere prescribed, be guilty of a misdemeanor.

(2) The certificate of the director to the effect that a tax has not been paid, that a return has not been filed, that information has not been supplied or that inaccurate information has been supplied pursuant to the provisions of this act or rules or regulations adopted hereunder shall be presumptive evidence thereof.

g. In addition to the other powers granted to the director in this section, he is hereby authorized and empowered:

(1) To delegate to any officer or employee of his division such of his powers and duties as he may deem necessary to carry out

efficiently the provisions of this section, and the person or persons to whom such power has been delegated shall possess and may exercise all of said powers and perform all of the duties delegated by the director;

(2) To prescribe and distribute all necessary forms for the implementation of this section.

h. The tax imposed by this act shall be governed in all respects by the provisions of the "State Tax Uniform Procedure Law," Subtitle 9 of Title 54 of the Revised Statutes, except only to the extent that a specific provision of this act may be in conflict therewith.

i. Notwithstanding any other provisions of this section, the Treasurer may order the director to levy the tax on all hazardous substances other than petroleum at a specified rate greater than $0.01 per barrel or 0.04% of the fair market value of the product, whichever is greater, but in no event to exceed the greater of $0.04 per barrel or 0.6% of the fair market value of the product, if any as long as the administrator determines the following:

(1) That pending, reasonable claims against the fund for hazardous substances other than petroleum exceed 70% of the existing balance of the fund, and

(2) That the sum of the claims paid by the fund on behalf of discharges or removals of hazardous substances other than petroleum plus pending, reasonable claims against the fund on behalf of discharges or hazardous substances other than petroleum is equal to or greater than 70% of all claims paid by the fund plus all pending, reasonable claims against the fund.

The provisions of this subsection shall not preclude the imposition of the tax at the higher rate authorized under subsection b. of this section.

7. Section 22 of P. L. 1976, c. 141 (C. 58:10–23.11u) is amended to read as follows:

C. 58:10-23.11u False claims; violation of act; penalty enforcement.

22. a. Any person who knowingly gives or causes to be given any false information as a part of, or in response to, any claim made pursuant to this act for cleanup costs, removal costs, direct damages or indirect damages resulting from a discharge, or who otherwise violates any of the provisions of this act or any rule promulgated thereunder shall be liable to a penalty of not more than $25,000.00 for each offense, to be collected in a summary proceeding under the "Penalty Enforcement Law," (N. J. S. 2A:58–1 et seq.) or in a

court of competent jurisdiction wherein injunctive relief has been requested. The Superior Court shall have jurisdiction to enforce said Penalty Enforcement Law. If the violation is of a continuing nature each day during which it continues shall constitute an additional, separate and distinct offense.

b. If any person violates any of the provisions of this act, the department may institute civil action in the Superior Court for injunctive relief to prohibit and prevent the continuation of the violation or violations and said court may proceed in a summary manner.

8. This act shall take effect immediately, and shall be applicable to transfers of hazardous substances other than petroleum or petroleum products on and after April 1, 1980.

Approved January 23, 1980.

CHAPTER 347

A SUPPLEMENT to "An act concerning consumer fraud, its prevention, and providing penalties therefor," approved June 9, 1960 (P. L. 1960, c. 39, C. 56:8–1 et seq.).

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

C. 56:8-2.9 Misrepresentation of identity of food products; prohibition.

1. It shall be an unlawful practice for any person to misrepresent on any menu or other posted information, including advertisements, the identity of any food or food products to any of the patrons or customers of eating establishments including but not limited to restaurants, hotels, cafes, lunch counters or other places where food is regularly prepared and sold for consumption on or off the premises. This section shall not apply to any section or sections of a retail food or grocery store which do not provide facilities for on the premises consumption of food or food products.

C. 56:8-2.10 Cases of misrepresentation.

2. The identity of said food or food products shall be deemed misrepresented if:

a. Its description is false or misleading in any particular;

b. Its description omits information which by its omission renders the description false or misleading in any particular;

c. It is served, sold, or distributed under the name of another food or food product;

d. It purports to be or is represented as a food or food product for which a definition of identity and standard of quality has been established by custom and usage unless it conforms to such definition and standard.

C. 56:8-2.11 Violation of act; liability.

3. Any person violating the provisions of the within act shall be liable for a refund of all moneys acquired by means of any practice declared herein to be unlawful.

C. 56:8-2.12 Refund of moneys.

4. The refund of moneys herein provided for may be recovered in a private action or by such persons authorized to initiate actions pursuant to P. L. 1975, c. 376 (C. 40:23–6.47 et seq.).

C. 56:8-2.13 Rights, remedies and prohibitions additional and cumulative.

5. The rights, remedies and prohibitions accorded by the provisions of this act are hereby declared to be in addition to and cumulative of any other right, remedy or prohibition accorded by the common law or statutes of this State, and nothing contained herein shall be construed to deny, abrogate or impair any such common law or statutory right, remedy or prohibition.

6. This act shall take effect 90 days after enactment.

Approved January 24, 1980.

CHAPTER 348

AN ACT appropriating funds from the Medical Education Facilities Fund for the purpose of construction of medical education facilities.

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

1. There is hereby appropriated to the Department of Higher Education, from the Medical Education Facilities Fund created pursuant to the "New Jersey Medical Education Facilities Bond Act of 1977" (P. L. 1977, c. 235), the sum of $12,297,000.00 for the purpose of constructing an educational facility adjacent to Middlesex General Hospital in New Brunswick to house the clinical

teaching components of the College of Medicine and Dentistry of New Jersey—Rutgers Medical School.

2. The appropriation made pursuant to this act shall be subject to the provisions of P. L. 1977, c. 235.

3. This act shall take effect immediately.

Approved January 24, 1980.

CHAPTER 349

A SUPPLEMENT to the "Additional State School Building Aid Act," approved July 13, 1978 (P. L. 1978, c. 74).

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

C. 18A:58-33.41 Entitlement; approval of plan for expenditure.

1. The provisions of "The Additional State School Building Aid Act," (P. L. 1978, c. 74; C. 18A:58–33.22 et seq.) notwithstanding, any school district awarded an entitlement of $25,000.00 or less may receive such an entitlement in its entirety within 1 year following said award.

Districts which choose to receive their entitlement in this manner shall submit to the Commissioner of Education for approval a plan for the expenditure of the entitlement as part of the established final application process.

2. This act shall take effect immediately.

Approved January 24, 1980.

CHAPTER 350

AN ACT to amend the "Local Public Contracts Law," approved June 9, 1971 (P. L. 1971, c. 198).

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

1. Section 3 of P. L. 1971, c. 198 (C. 40A:11–3) is amended to read as follows:

C. 40A:11-3 Purchases, contracts or agreements not required to be advertised.

3. Purchases, contracts or agreements not required to be advertised. Any purchase, contract or agreement for the performance of any work or the furnishing or hiring of materials or supplies, the cost or price of which, together with any other sums expended or to be expended for the performance of any work or services in connection with the same immediate program, undertaking, activity or project or the furnishing of similar materials or supplies during the same fiscal year paid with or out of public funds, does not exceed the total sum of $4,500.00 in the fiscal year, may be made, negotiated or awarded by a contracting agent when so authorized by resolution of the governing body of the contracting unit without public advertising for bids. Such authorization may be granted for each purchase, contract or agreement or by a general delegation of the power to make, negotiate or award such purchases, contracts or agreements pursuant to this section.

Any purchase, contract or agreement made pursuant to this section may be awarded for a period of 12 consecutive months, notwithstanding that such 12-month period does not coincide with the fiscal year. The Division of Local Government Services shall adopt and promulgate rules and regulations concerning the methods of accounting for all contracts that do not coincide with the fiscal year.

2. Section 4 of P. L. 1971, c. 198 (C. 40A:11–4) is amended to read as follows:

C. 40A:11-4 Contracts or agreements required to be advertised.

4. Contracts and agreements required to be advertised. Every contract or agreement, for the performance of any work or the furnishing or hiring of any materials or supplies, the cost or the contract price whereof is to be paid with or out of public funds, not included within the terms of section 3 of this act, shall be made or awarded only by the governing body of the contracting unit after public advertising for bids and bidding therefor, except as is provided otherwise in this act or specifically by any other law. No work, materials or supplies shall be undertaken, acquired or furnished for a sum exceeding in the aggregate $4,500.00, except by contract or agreement.

3. Section 6 of P. L. 1971, c. 198 (C. 40A:11–6) is amended to read as follows:

C. 40A:11-6 Emergency purchases and contracts.

6. Emergency purchases and contracts. Any purchase, contract or agreement may be made, negotiated or awarded for a contracting unit without public advertising for bids and bidding therefor notwithstanding that the cost or contract price will exceed $4,500.00, when an emergency affecting the public health, safety or welfare requires the immediate delivery of the articles or the performance of the service, provided that the awarding or making of such purchases, contracts or agreements are made in the following manner:

a. A written requisition for the performance of such work or labor, or the furnishing of materials, supplies or services is filed with the contracting agent or his deputy in charge describing the nature of the emergency, the time of its occurrence and the need for invoking this section, certified by the officer or director in charge of the department wherein the emergency occurred, or such other officer or employee as may be authorized to act in place of said officer or director, and the contracting agent or his deputy in charge, being satisfied that the emergency exists, is hereby authorized to award a contract for said work or labor, materials, supplies or services.

b. Upon the furnishing of such work or labor, materials, supplies or services, in accordance with the terms of the contract or supplies or services, shall be entitled to be paid therefor and the agreement, the contractor furnishing such work or labor, materials, contracting unit shall be obligated for said payment. The governing body of the contracting unit shall take such action as shall be required to provide for the payment of the contract price.

c. The governing body of the contracting unit may prescribe additional rules and procedures to implement the requirements of this section.

4. Section 7 of P. L. 1971, c. 198 (C. 40A:11–7) is amended to read as follows:

C. 40A:11-7 Contracts not to be divided.

7. Contracts not to be divided. No purchase, contract or agreement, which is single in character or which necessarily or by reason of the quantities required to effectuate the purpose of the purchase, contract or agreement, includes the furnishing of additional services or buying or hiring of materials or supplies or the doing of additional work, shall be subdivided, so as to bring it or any of the parts thereof under the maximum price or cost limitation of $4,500.00 thus dispensing with the requirement of public advertising and

bidding therefor, and in purchasing or contracting for, or agreeing for the furnishing of, any services, the doing of any work or the supplying of any materials or the supplying or hiring of any materials or supplies, included in or incident to the performance or completion of any project, program, activity or undertaking which is single in character or inclusive of the furnishing of additional services or buying or hiring of materials or supplies or the doing of additional work, or which requires the furnishing of more than one article of equipment or buying or hiring of materials or supplies, all of the services, materials or property requisite for the completion of such project shall be included in one purchase, contract or agreement.

5. Section 16 of P. L. 1971, c. 198 (C. 40A:11–16) is amended to read as follows:

C. 40A:11-16 Separate plans for various types of work; bids; contracts.

16. Separate plans for various types of work; bids; contracts. In the preparation of plans and specifications for the erection, alteration or repair of any public building by any contracting unit, when the entire cost of the work will exceed $4,500.00 in amount, the architect, engineer or other person preparing the plans and specifications, may prepare separate plans and specifications for

(1) The plumbing and gas fitting and all kindred work;

(2) Steam power plants, steam and hot water heating and ventilating apparatus and all kindred work;

(3) Electrical work;

(4) Structural steel and ornamental iron work; and

(5) All other work required for the completion of the project.

The contracting unit or its contracting agent shall advertise for and receive, in the manner provided by law, either (a) separate bids for each of said branches of work, or (b) bids for all the work and materials required to complete the building to be included in a single overall contract, or (c) both. There will be set forth in the bid the name or names of, and evidence of performance security from, all subcontractors to whom the bidder will subcontract the furnishing of plumbing and gas fitting, and all kindred work, and of the steam and hot water heating and ventilating apparatus, steam power plants and kindred work, and electrical work, structural steel and ornamental iron work, each of which subcontractors shall be qualified in accordance with this act.

Contracts shall be awarded to the lowest responsible bidder. In the event that a contract is advertised in accordance with (c) above

said contract shall be awarded in the following manner: If the sum total of the amounts bid by the lowest responsible bidder for each branch is less than the amount bid by the lowest responsible bidder for all the work and materials, the contracting unit shall award separate contracts for each of such branches to the lowest responsible bidder therefor, but if the sum total of the amount bid by the lowest responsible bidder for each branch is not less than the amount bid by the lowest responsible bidder for all the work and materials, the contracting unit shall award a single overall contract to the lowest responsible bidder for all of such work and materials. In every case in which a contract is awarded under (b) above, all payments required to be made under such contract for work and materials supplied by a subcontractor shall, upon the certification of the contractor of the amount due to the subcontractor, be paid directly to the subcontractor.

6. This act shall take effect immediately.

Approved January 24, 1980.

CHAPTER 351

AN ACT concerning pension funds of employees of counties of the first class, and amending R. S. 43:10–10.

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

1. R. S. 43:10–10 is amended to read as follows:

Pension commission.

43:10–10. There shall be in each county of the first class a pension commission of five members, consisting of the executive officer of the county (or the director of the board of freeholders if the county has not adopted the provisions of the "Optional County Charter Law" (P. L. 1972, c. 154; C. 40:41A–1 et seq.)), the chief financial officer of the county and two county employees, who are members of the pension fund, who have been nominated and elected at a meeting held by the county employees after 5 days' written notice of the time and place thereof has been given by the executive officer of the county to all member employees of the county. The member employees may cast written ballots by proxy. The two county

member employees shall hold office until their successors are elected at a meeting of the employees held on the third Wednesday of the following December. Thereafter two county member employees shall be elected as members of the pension committee, in the same manner, on the third Wednesday of December every second year, for a term of 2 years commencing January 1 following their election. The fifth member of the commission shall be a citizen of the county who is not a public officeholder in the county or any municipality therein, and shall be selected by the other four members of the commission. He shall hold office for the term of 1 year. In case of vacancy for any cause, the commission may fill it until the next election.

The commission shall hold its annual meeting between January 1 and 15 in each year and elect its president, a secretary whose compensation the commission may fix and pay out of the fund, and such other officers as it deems advisable. Notwithstanding any provision of this paragraph to the contrary, upon the adoption of a resolution by the pension commission, any person, who shall be or has been elected to the position of secretary to the pension commission for five consecutive terms may be granted tenure as secretary. Upon the adoption of such resolution, the secretary shall hold this position during good behavior and efficiency and shall not be removed therefrom except for good cause and then only in accordance with the provisions of Title 11 (Civil Service) of the Revised Statutes.

The pension commission shall be known as the "county employees pension commisson of the county of .....".

2. This act shall take effect immediately.

Approved January 24, 1980.

CHAPTER 352

AN ACT concerning special services school districts and amending section 7 of P. L. 1971, c. 271 (C. 18A:46–35).

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

1. Section 7 of P. L. 1971, c. 271 (C. 18A:46–35) is amended to read as follows:

C. 18A:46-35 Board of education; membership; terms; vacancies.

7. For each county special services school district established in accordance with this act there shall be a board of education consisting of the county superintendent of schools, ex officio, and six persons to be appointed by the director of the board of chosen freeholders with the advice and consent of the remaining members of such board. In any county having a county mental health board, the chairman thereof, or his designee, shall also serve as an ex-officio member of the board of education but shall not be entitled to vote on any matter before the board. The appointive members shall serve for terms of 3 years commencing as of July 1 of the calendar year in which they are appointed and to continue until their successors are appointed and qualify, except that of those first appointed two shall be appointed for terms of 1 year, two for 2 years, and two for 3 years.

Vacancies in the board caused by the death, resignation or removal of a member shall be reported forthwith by the secretary of the board to the director of the board of chosen freeholders, who, by the next regular meeting of the board of chosen freeholders and in the manner herein prescribed for making appointments for a full term, shall appoint a person to fill the vacancy for the unexpired term.

2. This act shall take effect immediately.

Approved January 29, 1980.

CHAPTER 353

AN ACT to amend the "Public School Education Act of 1975," approved September 29, 1975 (P. L. 1975, c. 212).

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

1. Section 3 of P. L. 1975, c. 212 (C. 18A:7A–3) is amended to read:

C. 18A:7A-3 Definitions.

3. For the purposes of this act, unless the context clearly requires a different meaning:

"Administrative order" means a written directive ordering specific corrective action by a district which has shown insufficient

educational progress within a reasonable period of time in meeting goals and standards.

"Approved special class pupil" means a pupil enrolled in any class for atypical pupils pursuant to chapter 46 of Title 18A of the New Jersey Statutes.

"Approved special education services pupil" means a pupil receiving specific services pursuant to chapter 46 of Title 18A of the New Jersey Statutes but excluding pupils attending county special services school districts.

"Bilingual education pupil" means a pupil enrolled in a program of bilingual education approved by the State board.

"Budgeted capital outlay" means those capital outlay expenditures that are included in the annual school budget.

"Categorical programs" means those programs and services recognized in this act as requiring per pupil expenditures over and above those applicable to regular programs, as provided in section 20 of this act.

"Current expense" means all expenses of the school district, as enumerated in N. J. S. 18A:22–8, other than those required for interest and debt redemption charges and any budgeted capital project.

"Debt service" means and includes payments of principal and interest upon school bonds and other obligations issued to finance the acquisition of school sites and the acquisition, construction or reconstruction of school buildings, including furnishings, equipment and the costs of issuance of such obligations and shall include payments of principal and interest upon bonds heretofore issued to fund or refund such obligations, and upon municipal bonds and other obligations which the commissioner approves as having been issued for such purposes. Debt service pursuant to the provisions of P. L. 1971, c. 10 (C. 18A:58–33.6 et seq.) and P. L. 1968, c. 177 (C. 18A:33.2 et seq.) is excluded.

"District equalized valuation per pupil" means the quotient resulting from dividing the total equalized valuations in the school district by the resident enrollment of the district; provided that in the determination of the equalized valuation per pupil of a county vocational school the total equalized valuations in the county shall be divided by the total resident enrollment in all school districts of the county to obtain the county vocational school equalized valuation per pupil.

"Equalized valuations" means the equalized valuation of the taxing district or taxing districts as certified by the Director of the Division of Taxation on October 1 of the pre-budget year.

With respect to regional districts and their constituent districts, however, the equalized valuations as described above shall be allocated among the regional and constituent districts in proportion to the number of pupils in each of them.

"Evening school pupils" means the equated full-time resident enrollment of pupils enrolled in an accredited evening high school, an evening vocational high school, and in other evening schools except schools offering programs for self-improvement and social enrichment.

"Goals" means a written statement of educational aspirations for learner achievement and the educational process stated in general terms.

"Guaranteed valuation per pupil" means the product rounded, to the nearest dollar, of 1.344 times the State average valuation per pupil for the year in which the calculation of aid is made.

"Joint Committee on the Public Schools" means the Committee created pursuant to P. L. 1975, c. 16 (C. 52:9R–1 et seq.).

"Local vocational pupils" means the full-time equivalent of pupils enrolled in approved categorical vocational programs in school districts designated as local area vocational school districts.

"Minimum aid guaranteed valuation per pupil" means the product, rounded to the nearest whole dollar, of 11.5 times the State average equalized valuation per pupil for the year in which the calculation of aid is made.

"Needs assessment" means a written analysis of the current status of an educational system in terms of achieving its goals.

"Net current expense budget" means the balance after deducting (1) State support for categorical programs pursuant to section 20 of this act, (2) the difference between the transportation amount in the current expense budget and 10% of the estimated approved transportation amount, and (3) all other revenue in the current expense budget except the amount to be raised by local taxation, equalization State support, and State support for approved transportation.

"Net current expenses per pupil" means the quotient resulting from dividing the net current expense budget by the resident enrollment.

"Net debt service and budgeted capital outlay" means the balance after deducting all revenues from the school debt service and budgeted capital outlay budgets of the school district and the school debt service amount included in the municipal budget, except the amount to be raised by local taxation and State support.

"Objective" means a written statement of the intended outcome of a specific educational process.

"Pre-budget year" means the school year preceding the year in which the school budget will be implemented.

"Resident enrollment" means the number of pupils who are resident of the district and are enrolled in day or approved evening schools on the last school day of September of the pre-budget year and are attending the public schools of the district or a school district or State college demonstration school to which the district of residence pays tuition; provided that a district shall count pupils regularly attending both the schools of the district and of a county vocational school in the same county on an equated full-time basis.

"Standards" means the process and stated levels of proficiency used in determining the extent to which goals and objectives are being met.

"State average net current expense budget per pupil" means the quotient resulting from dividing the total net current expense budget of all districts in the State by the total resident enrollment in the State.

"State average valuation per pupil" means the quotient resulting from dividing the total equalized valuations in the State as certified by the Director of the Division of Taxation on October 1 by the total resident enrollment in the State. In the event that the equalized table certified by the Director of the Division of Taxation shall be revised by the Division of Tax Appeals on or before January 30 of the next succeeding year, such revised valuation shall be used in any recomputation of aid for an individual district filing such appeal but will have no effect upon the State average valuation per pupil.

"State compensatory education pupil" means a pupil who is enrolled in preventive and remedial programs offered during the normal school day, or in programs offered beyond the normal school day or during summer vacation, which are integrated and coordinated with programs operated during the regular school day and year. Said programs shall be approved by the State board,

supplemental to the regular programs and designed to assist pupils who have academic, social, economic or environmental needs that prevent them from succeeding in regular school programs.

"State support limit" means the sixty-fifth percentile net current expense budget per pupil for the prebudget year when all district figures are ranked from low to high. The State support limit shall be calculated and applied separately for (a) limited purpose regional districts offering grades 9 through 12, (b) limited purpose regional districts offering grades 7 through 12, provided, however, that the figure used for such districts shall be not less than 90% of the sixty-fifth percentile for limited purpose regional districts offering grades 9 through 12, (c) constituent districts of limited purpose regional districts offering grades 9 through 12, (d) constituent districts of limited purpose regional districts offering grades 7 through 12, provided, however, that the figure used for such districts shall be not less than 90% of the sixty-fifth percentile for constituent districts of limited purpose regional districts offering grades 9 through 12, and (e) all other districts.

2. This act shall take effect immediately.

Approved January 29, 1980.

CHAPTER 354

AN ACT concerning the practice of veterinary medicine with respect to unretrieved animals and supplementing chapter 16 of Title 45 of the Revised Statutes.

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

C. 45:16-13 Short title.

1. This act shall be known and may be cited as the "New Jersey Unretrieved Animal Act."

C. 45:16-14 Definitions.

2. As used in this act:

"Unretrieved animal" means an animal placed for confined treatment or boarding by its owner or an agent thereof in the care and custody of a veterinarian or boarding kennel, which animal is not retrieved by the owner or agent thereof from the veterinarian

within 72 hours of being notified in any manner that the confined treatment is completed or from the boarding kennel within 72 hours of the last day the animal was to be boarded.

"Humane disposal" means euthanasia by or under the direct supervision of a veterinarian or placement in a suitable home or animal shelter which shall not include any home or shelter which engages in animal experimentation or, by sale or otherwise, makes animals available for the purpose of animal experimentation.

C. 45:16-15 Disposal of unretrieved animals; notice to owner.

3. A veterinarian or boarding kennel may elect the humane disposal of an unretrieved animal no sooner than 4 days after the owner or agent thereof has signed or refused to sign for the receipt of a certified letter from the veterinarian or boarding kennel owner indicating intent to humanely dispose of the animal, which letter shall be sent to the owner's or agent's last known address. In the event the owner cannot be notified by certified mail, return receipt requested, the veterinarian or boarding kennel owner may elect humane disposal any time after 4 days following return of the certified mail receipt. The veterinarian or boarding kennel manager shall keep an accurate record of the date and method of disposal and the name, address and telephone number of the person or shelter receiving the animal.

C. 45:16-16 Liability of owner.

4. The humane disposal of an unretrieved animal shall not relieve the owner or agent thereof of any financial obligation incurred for treatment, boarding or care by the veterinarian or boarding kennel.

C. 45:16-17 Liability of veterinarian or kennel.

5. Notification and humane disposal as provided in section 3 of this act shall relieve the veterinarian or boarding kennel of any further liability regarding the unretrieved animal.

C. 45:16-18 Posting resume of act's provisions.

6. The veterinarian or boarding kennel shall post in a conspicuous location in the hospital or kennel a resume of the provisions of this act.

7. This act shall take effect immediately.

Approved January 29, 1980.

CHAPTER 355

AN ACT to amend "An act concerning county prosecutors and assistant prosecutors of certain counties and supplementing chapter 158 of Title 2A of the New Jersey Statutes," approved February 9, 1970 (P. L. 1970, c. 6).

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

1. Section 4 of P. L. 1970, c. 6 (C. 2A:158–15.2) is amended to read as follows:

C. 2A:158-15.2 Assistant prosecutors; salaries for full-time duties.

4. Notwithstanding the provisions of N. J. S. 2A:158–16 assistant prosecutors required to devote their entire time to the duties of their office shall receive annual salaries, to be fixed by the board of chosen freeholders on recommendation of the county prosecutor, as follows:

a. The first assistant prosecutor or the assistant prosecutor serving as the county prosecutor's principal assistant, not less than 30% nor more than 90% of the amount of the annual salary of the county prosecutor; and

b. Other assistant prosecutors, not less than 30% nor more than 90% of the amount of the annual salary of the county prosecutor.

The annual salary of assistant prosecutors, who, pursuant to this act, devote their entire time to the duties of such office, shall be based upon the annual salary of county prosecutors required to devote their entire time to the duties of such office, whether or not the respective county prosecutor is required to devote his entire time to the duties of such office.

2. This act shall take effect immediately.

Approved January 29, 1980.

CHAPTER 356

AN ACT to amend "An act concerning education, authorizing the establishment of educational services commissions, prescribing their functions, powers and duties, and supplementing Title 18A of the New Jersey Statutes," approved August 6, 1968 (P. L. 1968, c. 243).

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

1. Section 1 of P. L. 1968, c. 243 (C. 18A:6–51) is amended to read as follows:

C. 18A:6-51 Definitions.

1. Definitions:

(a) "Educational Services Commission" means an agency established or to be established in one or more counties for the purpose of carrying on programs of educational research and development and providing to public school districts such educational and administrative services as may be authorized pursuant to rules of the State Board of Education.

(b) "Commission" means county educational services commission.

(c) "State board" means the State Board of Education.

(d) "Commissioner" means the Commissioner of Education.

(e) "Operation expenses" means those funds devoted to or required for the regular or ordinary operating expenses of the commission, including administrative, maintenance and salary expenses, and purchase or rental of real and personal property, but excluding contracted services expense.

(f) "Contracted services expense" means funds devoted to or required for services provided pursuant to contracts with school districts whether member districts of the commission or not, or contracts with nonpublic schools.

(g) "Member district" means a public school district located in the county or counties in which a commission is established which is authorized by this act to be a constituent part of the commission, to participate in the election of members of the governing body of the commission, and to contract with the commission for one or more of its services.

(h) "School administrator" means the superintendent or administrative principal.

2. Section 5 of P. L. 1968, c. 243 (C. 18A:6–55) is amended to read as follows:

C. 18A:6-55 Board of directors; membership.

5. The board of directors shall consist of one representative from each member board of education, which may be a school administrator, or a local board of education member and the county superintendent or county superintendents, as the case may be, of the county or counties in which the member school districts are located. Each member of the board of directors shall have one vote.

3. Section 6 of P. L. 1968, c. 243 (C. 18A:6–56) is amended to read as follows:

C. 18A:6-56 Election of board members; vacancies; terms.

6. Members of the board of directors representing school districts shall be elected by their respective boards of education from among the membership of such boards of education or their school administrator. Should the representative cease to be a member or employee of the board of education which elected him, his place on the board of directors shall become vacant, and the board of education which elected him shall elect another of its members, or school administrator to fill the vacancy for the remainder of the term for which the vacating member had been elected.

The members of the first board of directors shall serve until the regular annual organization meeting next ensuing and for 1 year or 2 years thereafter as their first terms shall be established according to an assignment of original terms in which the names of the school districts shall be arranged in order alphabetically and then numbered consecutively, beginning with the number 1, and those districts having odd numbers in such alphabetical list shall be assigned an original term of 2 years, and those districts having even numbers in such list having an original term of 1 year. After the original term, the term of office of a school district member of the board of directors shall be for 2 years.

4. This act shall take effect immediately.

Approved January 29, 1980.

CHAPTER 357

AN ACT authorizing the appointment of additional judges of the municipal courts of certain municipalities and supplementing chapter 8 of Title 2A of the New Jersey Statutes.

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

C. 2A:8-6.4 Appointment of additional judges.

1. The governing body of every municipality having a population of not less than 40,000 nor more than 45,000 inhabitants in a county of the first class having a population in excess of 900,000 inhabitants may provide for the appointment, as the need may appear, of one additional judge of the municipal court of such municipality; provided, however, that this provision shall not limit the appointment of additional judges in municipalities included within the provisions of any other law.

2. This act shall take effect immediately.

Approved January 29, 1980.

CHAPTER 358

AN ACT to amend the title of "An act authorizing the State of New Jersey to participate in a Federal program of flood control, making an appropriation for the same purpose," approved September 8, 1948 (P. L. 1948, c. 351; C. 58:16A-1 et seq.) so that the same shall read "An act authorizing the Department of Environmental Protection to acquire, construct and operate flood control facilities," and to amend, supplement and repeal portions of the body of said act and repealing parts of the statutory law.

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

1. The title of P. L. 1948, c. 351 is amended to read as follows:

Title amended.

AN ACT authorizing the Department of Environmental Protection to acquire, construct and operate flood control facilities.

2. Section 1 of P. L. 1948, c. 351 (C. 58:16A–1) is amended to read as follows:

C. 58:16A-1 Short title; declaration of policy.

a. This act shall be known and may be cited as the "State Flood Control Facilities Act."

b. It is hereby declared that the State deems it advisable to participate in a program of flood control in the State of New Jersey in the manner hereinafter described.

C. 58:16A-4.1 Commissioner's authority.

3. (New section) The Commissioner of Environmental Protection is authorized to plan, acquire, construct and operate flood control facilities upon concluding that the public safety, health and welfare can best be assured by the acquisition or construction of such a facility and that the flood control facility will contribute to the overall management of the surface water of the river basin or subbasin to be affected by such a facility. The commissioner may construct any such facility either separately or in conjunction with the Federal Government or with any municipality, county or any agency or instrumentality of any of the above.

4. Section 5 of P. L. 1948, c. 351 (C. 58:16A–5) is amended to read as follows:

C. 58:16A-5 Commissioner's authority.

5. The Commissioner of Environmental Protection is hereby authorized and directed for and in behalf of the State to carry out the State's participation in a Federal program of flood control, if and when such program shall be authorized by law, to sign all necessary agreements, and to do and perform all necessary acts in connection therewith to consummate the intent and purpose running with the approval by the Federal Government of flood control projects in the State of New Jersey and the allotment of moneys for such projects, if, as and when made by the Federal Government. He is authorized and empowered, notwithstanding any other law of this State, to carry out the provisions of this act and to perform and do such other and further acts not hereby specifically provided in this act as may be necessary to carry out the projects herein authorized and so as to conform with the act and the rules, regulations and requirements of the Federal Govern-

ment made to govern the expenditures. Work, except work which shall be done under and pursuant to section 7 of this act, may be carried out by contract or by department forces or by a combination of these two methods. However, if the commissioner deems it to be in the interest of the public, he may agree with a local government affected by such work, to have its contractor or its forces and equipment perform such work, upon such terms as the commissioner may deem advantageous to the State. The commissioner shall exercise his powers and duties with respect to the said flood control projects in a manner that will comply with any Act of Congress applicable thereto and any rules and regulations made and promulgated by virtue thereof.

5. Section 6 of P. L. 1948, c. 351 (C. 58:16A–6) is amended to read as follows:

C. 58:16A-6 Duties of commissioner.

6. The commissioner shall carry out the relocation and reconstruction of streets, sidewalks, public grounds, parks, cemeteries, water supply systems, sewer systems and lighting systems of municipal corporations, county roads, and town and township highways made necessary by the construction of State flood control projects. The total cost of such relocation and reconstruction for a flood control project shall be paid by the State.

6. Section 7 of P. L. 1948, c. 351 (C. 58:16A–7) is amended to read as follows:

C. 58:16A-7 Participation in program.

7. The governing body of any municipality or county or any agency or instrumentality thereof may participate with the State of New Jersey in a program of flood control and, in such case, the cost to be borne by the local government shall be determined in written agreement executed between the commissioner and the local government. The money so required shall be paid by the State to such local government or by such local government to the State and, in the latter case, shall be raised by tax or pursuant to the local finance law, or in accordance with any local charter or law, as the case may be. All such funds receivable by the State shall be deposited with the State Treasurer and shall be payable on the audit and warrant of the Treasurer on vouchers approved by the commissioner.

7. Section 8 of P. L. 1948, c. 351 (C. 58:16A–8) is amended to read as follows:

C. 58:16A-8 Removal, relocation and reconstruction of facilities.

8. Whenever the commissioner shall determine that the construction of a flood control project requires the removal, relocation and reconstruction of any plants, works, holders, pumping stations, pipes, mains, tunnels, bridges, tracks, generating or switching stations, substations, transformers, conduits, cables, wires, towers, poles, or other structures, equipment, apparatus, or appurtenances (herein called "facilities") of any public utility, as defined in R. S. 48:2–13, the public utility owning or operating such facilities shall remove, relocate and reconstruct the same, upon the order of the commissioner, and the total cost and expense of the removal, relocation and reconstruction of such facilities, including the cost of installing such facilities in a new location or new locations, and the cost of any lands or any rights or interests in lands, or any other rights, required to accomplish such removal, relocation and reconstruction, shall be considered as a part of the cost of the work. In case of any such removal, relocation and reconstruction of facilities, as aforesaid, the public utility owning or operating the same, its successors or assigns, may maintain and operate such facilities, with the necessary appurtenances, in the new location or new locations for as long a period and upon the same terms and conditions as it had the right to maintain and operate such facilities in their former location. No order of the commissioner for the removal, relocation and reconstruction of any such facilities shall be effective unless such order shall have been approved by the Board of Public Utilities.

8. Section 9 of P. L. 1948, c. 351 (C. 58:16A–9) is amended to read as follows:

C. 58:16A-9 Acquisition of property or interest; applicability of eminent domain act; entry.

9. (1) The commissioner, for the people of the State of New Jersey, shall acquire any property or interest therein necessary for purposes connected with the flood control project by gift, devise or purchase, or by condemnation in the manner provided by the "Eminent Domain Act of 1971," (P. L. 1971, c. 361; C. 20:3–1 et seq.).

(2) Awards and judgments after condemnation proceedings shall be paid out of State treasury from moneys appropriated for purposes connected with flood control projects.

(3) The expense of such acquisitions including the cost of making surveys, and preparing descriptions and maps of property to be acquired, serving notices of appropriation, making appraisals and

agreements and of searches ordered and examinations and readings of title, and expenses incurred by the commissioner or Attorney General in proceedings for removal of owners and occupants, shall be deemed part of the cost of such flood control projects.

(4) Notwithstanding the provisions of any general, special or local law, the commissioner, his officers or agents, and the officers, agents or contractor of the United States when engaged on flood control projects, may enter upon property for the purpose of making surveys, test pits, test borings, or other investigations. Claim for any damage caused by such work may be adjusted by agreement by the commissioner without taking such property, and payment shall be made in like manner as provided in this act for property taken for flood control purposes.

9. Section 10 of P. L. 1948, c. 351 (C. 58:16A–10) is amended to read as follows:

C. 58:16A-10 Lease, sale or exchange of property; determination; conveyance of property to United States.

10. The commissioner (a) may determine whether any property taken for any of the purposes connected with flood control projects pursuant to this act may be leased, sold or exchanged on terms beneficial to the State, and in all cases of such determination he may lease, sell or exchange such property; in order to carry any such lease, sale or exchange into effect the commissioner is hereby authorized to execute and deliver, in the name of the people of the State, a quit-claim or lease of such property.

(b) May also convey to the United States for flood control purposes all right, title and interest of the State in and to any property heretofore or hereafter so taken for any of such purposes for which reimbursement by the United States is made in accordance with section 2 of the Federal Flood Control Act of 1938 being public, numbered 761, Seventy-Fifth Congress, and including improvements made thereon for such purposes. Such conveyance shall be by deed or instrument of quit-claim, executed by the commissioner in the name of the people of the State, delivered to the Federal authority having jurisdiction. This paragraph shall not prevent reservations, if any, in such a conveyance, agreed to by such commissioner and Federal authority, to protect leases or easement, if any, theretofore lawfully made or created by such commissioner. Whenever the United States, acting by and through said Federal authority having jurisdiction, shall cause to be filed in the office of the Secretary of State of this State, a duplicate original of the deed or instrument of conveyance to the

United States of any such property for the purposes therein specified, such jurisdiction as may be required for flood control purposes is thereupon ceded to the United States over the property described in said deed or instrument of conveyance, during the time that the United States shall be or remain the owner thereof and shall use such property for flood control purposes.

(c) Is hereby authorized to agree with the United States as to the value of the property taken and for legal damages caused by any such taking thereof, as and for reimbursement by the United States and the commissioner is authorized to convey such property to the United States, in the manner herein provided, specifying in such conveyance that the consideration stated therein is the agreed value of such property and legal damages, and is in full reimbursement thereof by the United States.

10. Section 12 of P. L. 1948, c. 351 (C. 58:16A–12) is amended to read as follows:

C. 58:16A-12 Release of easement rights.

12. If the commissioner shall determine subsequent to the taking of a temporary easement right in property that the purposes for which such easement right was acquired have been accomplished and that the use and occupancy of said property for flood control purposes are no longer necessary, and that, therefore, the term of such easement should be further limited, or if the taking of such easement was for an indefinite period, that such period should be fixed and determined, or that the period of such easement has by its terms expired, he shall make his certificate that the use and occupancy of such property for flood control purposes are no longer necessary, that the property in which such easement right was acquired is surrendered back to the affected owner of said property and that such easement rights are thereupon terminated, released and extinguished. The said commissioner shall cause a copy of such certificate to be filed in the office of the Clerk of the Superior Court. Upon the filing of such certificate in the office of the Clerk of the Superior Court all rights acquired by the State in such property shall cease and determine. The said commissioner shall cause a copy of such certificate together with notice of the filing thereof in the office of the Clerk of the Superior Court to be mailed to the owner of the property affected, as certified by the Attorney General, if the place of residence of such owner is known or can be ascertained by a reasonable effort. A further copy of such certificate and notice of filing shall be filed in the office of the recording officer of each county wherein the property affected is situated.

On the filing of such certificate and notice with such officer it shall be the duty of such officer to record same in the books used for recording deeds in the office of such officer.

11. Section 14 of P. L. 1948, c. 351 (C. 58:16A–14) is amended to read as follows:

C. 58:16A-14 Maintenance of completed works.

14. After the completion of any Federal flood control project or a portion thereof and after such project or portion thereof has been formally turned over to the State by the Federal Government, such completed works shall be maintained by the commissioner under the controlling principle that flood control is the primary purpose.

12. Section 15 of P. L. 1948, c. 351 (C. 58:16A–15) is amended to read as follows:

C. 58:16A-15 Payment.

15. The moneys hereby appropriated shall be payable on the audit and warrant of the treasurer on vouchers approved by the commissioner.

Repealer.

13. The following sections, acts and parts of acts are repealed:

R. S. 58:16–1

R. S. 58:16–3 and 58:16–4

P. L. 1948, c. 351, §§ 3, 4, 13 (C. 58:16A–3, 4, 13)

P. L. 1971, c. 110 (C. 58:16B–1 et seq.)

P. L. 1949, c. 105 (C. 58:18–18 et seq.)

P. L. 1955, c. 219 (C. 58:19–1 et seq.)

14. This act shall take effect immediately.

Approved January 31, 1980.

CHAPTER 359

AN ACT to amend the title of "An act concerning the delineation and marking of flood hazard areas; and prescribing the functions, powers, and duties of the Division of Water Resources and of the Department of Environmental Protection in connection therewith, and authorizing the adoption of land use regulations for the flood hazard areas" approved April 3, 1962 (P. L. 1962, c. 19), as said title was amended by P. L. 1972, c. 185, so that the same shall read "An act concerning the delineation and marking of flood hazard areas; prescribing the functions, powers and duties of the Department of Environmental Protection in connection therewith; authorizing the adoption of land use regulations for flood hazard areas; providing for the control of stream encroachments and for the integration of municipal, county, State and Federal programs in the flood hazard area", to amend and supplement the body of said act, repealing section 5 thereof, to amend P. L. 1972, c. 185 and P. L. 1975, c. 232 and to repeal R. S. 58:1–26 and 58:1–27.

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

Title amended.

1. The title of P. L. 1962, c. 19 is amended to read as follows:

An act concerning the delineation and marking of flood hazard area; prescribing the functions, powers, and duties of the Department of Environmental Protection in connection therewith; authorizing the adoption of land use regulations for flood hazard areas; providing for the control of stream encroachments and for the integration of municipal, county, State and Federal programs in the flood hazard area.

2. Section 1 of P. L. 1962, c. 19 (C. 58:16A–50) is amended to read as follows:

C. 58:16A-50 Short title; declaration of policy.

1. a. This act shall be known and may be cited as the "Flood Hazard Area Control Act."

b. It is in the interest of the safety, health, and general welfare of the people of the State that legislative action be taken to

empower the Department of Environmental Protection to delineate and mark flood hazard areas, to authorize the Department of Environmental Protection to adopt land use regulations for the flood hazard area, to control stream encroachments, to coordinate effectively the development, dissemination, and use of information on floods and flood damages that may be available, to authorize the delegation of certain administrative and enforcement functions to county governing bodies and to integrate the flood control activities of the municipal, county, State and Federal Governments.

3. Section 2 of P. L. 1962, c. 19 (C. 58:16A–51) is amended to read as follows:

C. 58:16A-51 Definitions.

2. As used in this act, unless the context indicates another or different meaning or intent:

(a) "Channel" means a watercourse with definite bed and banks which confine and conduct continuously or intermittently flowing water;

(b) "Floodway" means the channel of a natural stream and portions of the flood hazard area adjoining the channel, which are reasonably required to carry and discharge the flood water or flood flow of any natural stream;

(c) "Flood hazard area" means the floodway and the flood fringe area as determined by the department under section 3 hereof;

(d) "Relative risk" means the varying degrees of hazard to life and property in a flood hazard area which are occasioned by differences in depth and velocity of flood waters covering and flowing over it;

(e) "Flood fringe area" means that portion of the flood hazard area not delineated as the floodway;

(f) "Department" means the Department of Environmental Protection.

(g) "Person" means and shall include corporations, companies, associations, societies, firms, partnerships and joint stock companies as well as individuals, and shall also include all political subdivisions of this State or any agencies or instrumentalities thereof.

4. Section 3 of P. L. 1962, c. 19 (C. 58:16A–52) is amended to read as follows:

C. 58:16A-52 Delineation of flood hazard areas; rules and regulations.

3. a. The department shall study the nature and extent of the areas affected by flooding in the State. After public hearing upon notice, and pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.), the department shall adopt rules and regulations which delineate as flood hazard areas such areas as, in the judgment of the department, the improper development and use of which would constitute a threat to the safety, health, and general welfare from flooding. Such delineations shall identify the various subportions of the flood hazard area for reasonable and proper use according to relative risk, including the delineation of floodways necessary to preserve the flood carrying capacity of natural streams. The department may, after public hearing upon notice and pursuant to the aforecited "Administrative Procedure Act," revoke, amend, alter or modify such regulations if in its judgment the public interest so warrants.

b. The department shall wherever practicable, make floodway delineations identical to the floodway delineations approved by the Federal Government for the National Flood Insurance Program.

c. The department shall establish a procedure for reducing any delineated flood hazard area when a change has been made which increases the flood carrying capacity of the concerned stream at that location.

5. Section 4 of P. L. 1972, c. 185 (C. 58:16A–55) is amended to read as follows:

C. 58:16A-55 Rules and regulations; waiver.

4. (a) The department is authorized to adopt, amend and repeal rules and regulations and to issue orders concerning the development and use of land in any delineated floodway which shall be designed to preserve its flood carrying capacity and to minimize the threat to the public safety, health and general welfare. Such rules and regulations or orders may require the approval of the department for specified changes in the use of land within any such floodway.

(b) Provision shall be made by the department for the waiver, according to definite criteria, of strict compliance with the rules and regulations, where necessary to alleviate hardship.

C. 58:16A-55.2 Structure or alteration within area subject to inundation by 100 year design flood of nondelineated stream; rules and regulations.

6. (New section) a. No structure or alteration within the area which would be inundated by the 100 year design flood of any nondelineated stream shall be made, rebuilt or renewed by any person without the approval of the department and without complying with such conditions as the department may prescribe for preserving such area and providing for the flow of water therein to safeguard the public against danger from the waters impounded or affected by such structure or alteration. No such approval by the department shall impair or affect any property rights otherwise existing which might be invaded by the construction or maintenance of any such structure or alteration.

b. The department is authorized, pursuant to the "Administrative Procedure Act" P. L. 1968, c. 410 (C. 52:14B–1 et seq.), to adopt, amend or repeal rules and regulations and to issue orders concerning the making, rebuilding or renewing of any structure or alteration and the development or use of land in the area which would be inundated by the 100 year design flood of any nondelineated stream, which rules and regulations shall be designed to preserve the flood carrying capacity of the stream to minimize the threat to the public safety, health and general welfare. Such rules and regulations shall include a provision which exempts, according to definite criteria, certain minor structures or alterations of a specific size or type from the provisions of subsection a. of this section.

7. Section 12 of P. L. 1972, c. 185 (C. 58:16A–63) is amended to read as follows:

C. 58:16A-63 Violation of act; penalty.

12. (a) Any person who knowingly violates a provision of this act or a rule, regulation or order adopted pursuant to this act shall be subject to a penalty of not more than $2,500.00 for each offense and any person who otherwise violates a provision of this act shall be subject to a penalty of not more than $1,500.00 for each offense both, to be collected by the department in a summary proceeding under the Penalty Enforcement Law (N. J. S. 2A:58–1 et seq.), and in any court of competent jurisdiction wherein injunctive relief has been requested. The Superior Court and county district court shall have jurisdiction to enforce said Penalty Enforcement Law. If the violation is of a continuing nature each day which it continues shall constitute an additional, separate and distinct offense.

The department is hereby authorized and empowered to compromise and settle any claim for a penalty under this section in such amount in the discretion of the department as may appear appropriate and equitable under all of the circumstances. All moneys recovered in any such action, together with the costs recovered therein, shall be paid to the Environmental Services Fund.

(b) If any person violates any of the provisions of this act or any rule or regulation promulgated pursuant to the provisions of this act, the department may institute an action in a court of competent jurisdiction for injunctive relief to prohibit and prevent such violation or violations and the said court may proceed in the action in a summary manner.

8. Section 1 of P. L. 1975, c. 232 (C. 13:1D–29) is amended to read as follows:

C. 13:1D-29 Definitions.

1. For the purposes of this act, unless the context clearly requires a different meaning, the following terms shall have the following meanings:

a. "Commissioner" means the State Commissioner of Environmental Protection.

b. "Construction permit" means and shall include:

(1) Approval of plans for the development of any waterfront upon any tidal waterway pursuant to R. S. 12:5–3.

(2) A permit for a regulated activity pursuant to "The Wetlands Act of 1970," P. L. 1970, c. 272 (C. 13:9A–1 et seq.).

(3) A permit issued pursuant to the "Coastal Area Facility Review Act," P. L. 1973, c. 185 (C. 13:19–1 et seq.).

(4) Approval of a structure or alteration within the area which would be inundated by the 100 year design flood of any nondelineated stream or of a change in land use within any delineated floodway or any State administered and delineated flood fringe area, all pursuant to the "Flood Hazard Area Control Act," P. L. 1962, c. 19 (C. 58:16A–50 et seq.) as amended and supplemented.

(5) Approval of plans and specifications for the construction changes, improvements, extensions or alterations to any sewer system pursuant to R. S. 58:11–10.

"Construction permit" shall not, however, include any approval of or permit for an electric generating facility or for a petroleum processing or storage facility, including a liquefied natural gas facility, with a storage capacity of over 50,000 barrels.

c. "Department" means the Department of Environmental Protection.

C. 58:16A-55.3 Approval of application for development under Municipal Land Use Law.

9. (New section) No application for development as defined in the "Municipal Land Use Law," P. L. 1975, c. 291 (C. 40:55D–1 et seq.), for a structure within the area which would be inundated by the 100 year design flood of any nondelineated stream or for a change in land use within a delineated floodway or any State-administered and delineated flood fringe area when such change would require departmental approval, may be granted by any municipality to any person without application to and approval by the department as required pursuant to this act.

C. 58:16A-55.4 Stormwater control and drainage plans; preparation.

10. (New section) Any county governing body may prepare a stormwater control and drainage plan for the county. Such plans shall be prepared after consultation and discussion with the Department of Environmental Protection and with adjacent counties and shall consider and evaluate the impact of any developments within the county or upstream from the county on the streams within the county and downstream from the county. Such plans may be financed in part from the "Emergency Flood Control Bond Act" (P. L. 1978, c. 78). County stormwater control and drainage plans prepared as herein provided shall be utilized by the department in deciding to approve or disapprove any application submitted pursuant to this act.

C. 58:16A-55.5 County water resources association; creation.

11. (New section) Any county governing body may by ordinance or resolution as appropriate, create a county water resources association which may include the chief administrative officer of any county planning agency, county engineers office, county utilities authority, county health department, county mosquito commission, county soil conservation district, or county parks agency and any other public or private members. The county water resources association shall advise the county governing body, shall coordinate the flood control and water management programs for the county and shall have such powers as the county governing body may delegate to it concerning water management in the ordinance or resolution of creation.

C. 58:16A-55.6 Delegation of powers.

12. (New section) The Department of Environmental Protection may delegate its power to approve or disapprove any application

made to it pursuant to this act and its power to enforce any aspect of this act to a county governing body which agrees to accept such designation and in the department's judgment is capable of utilizing the rules, regulations and standards adopted by the department for the administration of this program. The department shall review this delegation at least biannually and may revoke such delegation for failure to properly administer such delegated powers. The county governing body may charge the same fees promulgated by the commissioner pursuant to P. L. 1975, c. 232 (C. 13:1D–33), when such powers are delegated to it.

13. Section 4 of P. L. 1962, c. 19 (C. 58:16A–53) is amended to read as follows:

C. 58:16A-53 Markers.

4. The department may conspicuously mark in the field (1) any flood hazard area delineated by the department, and (2) any other area the department may deem necessary to effectuate the purposes of this act. The department may erect markers on any property belonging to the State, or any agency or instrumentality thereof. Such markers may be erected on any county, municipal, or private property provided that such county, municipality, or owner shall have consented thereto. No person may remove, deface or otherwise disturb any marker erected under the provisions of this act.

14. Section 7 of P. L. 1972, c. 185 (C. 58:16A–58) is amended to read as follows:

C. 58:16A-58 Rules and regulations.

7. If any affected municipality or other responsible entity fails to adopt or fails to enforce rules and regulations concerning the development and use of land in the flood fringe area which at least conform to the standards promulgated by the department within the specified period, thereafter the department may adopt such rules and regulations which shall be applicable to the particular flood fringe area. Such rules and regulations may require application to and approval by the department for such development or use within any such flood fringe area.

Repealer.

15. The following sections and parts of acts are repealed:

R. S. 58:1–26;

R. S. 58:1–27.

Section 5 of P. L. 1962, c. 19 (C. 58:16A–54).

16. This act shall take effect immediately.

Approved January 31, 1980.

CHAPTER 360

AN ACT concerning the licensing of drivers in certain cases and amending R. S. 39:3–13.

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

1. R. S. 39:3–13 is amended to read as follows:

Examination permit; special learner's permit; fees.

39:3–13. The director may, in his discretion, issue to a person over 17 years of age an examination permit, under the hand and seal of the director, allowing such person, for the purpose of fitting himself to become a licensed driver, to operate a designated class of motor vehicles for a specified period of not more than 90 days, while in the company and under the supervision of a driver licensed to operate such designated class of motor vehicles. The permit shall be sufficient license for the person to operate such designated class of motor vehicles in this State during the period specified, while in the company of and under the control of a driver licensed by this State to operate such designated class of motor vehicles. Such person, as well as the licensed driver, shall be held accountable for all violations of this subtitle committed by such person while in the presence of the licensed driver.

No examination for a driver's license shall be given unless the applicant has first secured a special learner's permit or examination permit and no road test shall be scheduled for an applicant who has secured an examination permit until at least 20 days shall have elapsed following the validation of the examination permit for practice driving, except that in the case of an omnibus or school bus endorsement no road test shall be scheduled until at least 10 days shall have elapsed.

Every applicant for an examination permit to qualify for an omnibus endorsement or an articulated vehicle endorsement must be a holder of a valid basic driver's license.

The required fees for special learners permits and examination permits shall be as follows:

Basic driver's license	$5.00
Motorcycle license or endorsement	5.00
Omnibus or school bus endorsement	25.00
Articulated vehicle endorsement	15.00

The specified period for which a permit is issued may be extended for not more than an additional 60 days, without payment of added fee upon application made by the holder thereof where the holder has applied to take the examination for a driver's license prior to the expiration of the original period for which the permit was issued and the director was unable to schedule an examination during said period.

2. This act shall take effect immediately.

Approved February 1, 1980.

CHAPTER 361

AN ACT concerning education and supplementing Title 18A of the New Jersey Statutes.

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

C. 18A:62-4 Residency requirement.

1. Persons who have been resident within this State for a period of 12 months prior to enrollment in a public institution of higher education are presumed to be domiciled in this State for tuition purposes. Persons who have been resident within this State for less than 12 months prior to enrollment are presumed to be non-domicilaries for tuition purposes. Persons presumed to be non-domiciled or persons who are presumed to be domiciled, but whose domiciliary status is challenged by the institution, may demonstrate domicile according to rules and regulations established for that purpose by the Board of Higher Education. Residence established solely for the purpose of attending a particular educational institution is not domicile for the purposes of this act.

2. This act shall take effect September 1 following enactment.

Approved February 1, 1980.

CHAPTER 362

AN ACT authorizing the sale of surplus real property owned by the Department of Defense.

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

1. The Department of Defense is authorized to sell and convey all of the State's interest in 2.22 acres of surplus real property in the city of Ocean City, Cape May county. The property is designated as Block 1806, Lots 169-173, Lots 229-233, and Block 1807, Lots 49-53, Lots 109-113, on the city of Ocean City tax map.

2. The sale shall be upon terms and conditions as approved by the State House Commission.

3. This act shall take effect immediately.

Approved February 1, 1980.

CHAPTER 363

AN ACT concerning the offense of criminal homicide.

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

C. 2C:11-2.1 Elapse of time between assault and death; prosecution for criminal homicide.

1. The length of time which has elapsed between the initial assault and the death of the victim shall not be a bar to prosecution of the actor for criminal homicide.

2. This act shall take effect immediately.

Approved February 1, 1980.

CHAPTER 364

AN ACT concerning sales of real estate under statutes or judicial proceedings, and amending N. J. S. 2A:61–1.

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

1. N. J. S. 2A:61–1 is amended to read as follows:

Public advertisement; notice; fees.

2A:61–1. When any sheriff, coroner, master, executor, administrator, guardian, commissioner, auditor or other officer or person is authorized or required by any public statute or the direction of any court of competent jurisdiction in this State to make sales of real estate, he shall, unless otherwise specially directed or authorized by law, before making the sale, give notice of the time and place of the sale by public advertisement, signed by himself, and set up in the office of the sheriff of the county or counties where the real estate is located and at the premises to be sold, at least 3 weeks before the time appointed for the sale. The notice need not be set up at any other place. The notice of sale shall include either a diagram of the premises or a concise statement indicating the municipality, the tax lot and block and where appropriate, the street and street number, and the dimensions of the premises, as well as the number of feet to the nearest cross street. The notice of sale shall state that the diagram or concise description does not constitute a full legal description of the premises, and shall state where the full legal description can be found.

Such officer or person shall also cause the notice to be published 4 times, at least once a week, during 4 consecutive weeks, in two newspapers, to be by him designated,

(a) both printed and published in the county where the real estate to be sold is located, one of which shall be either a newspaper published at the county seat of the county or a newspaper published in the municipality in the county having the largest population according to the latest census, or

(b) one printed and published in the county and one circulating in the county, if only one daily newspaper is printed and published in the county, or

(c) one published at the county seat and one circulating in the county, if no daily newspaper is published in the county, or

(d) both circulating in the county, if no newspapers are printed and published in the county.

The first publication shall be at least 21 days prior and the last publication not more than 8 days prior to the time appointed for the sale of the real estate.

Whenever, in the opinion of any such officer or person, the ends of justice shall require it, or the sale being conducted by him will be benefited thereby, the notice of sale may be published in three newspapers instead of two as required by the second paragraph of this section, if there be that number printed and published in the county where the real estate to be sold is located.

The officer or person so advertising in the newspapers shall be entitled therefor, in addition to his other fees, to the sum of $1.50, except where it is otherwise specifically provided.

2. This act shall take effect 30 days following enactment.

Approved February 1, 1980.

CHAPTER 365

AN ACT to amend and supplement the "New Jersey Medical Assistance and Health Services Act," approved January 15, 1969 (P. L. 1968, c. 413).

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

1. Section 2 of P. L. 1968, c. 413 (C. 30:4D–2) is amended to read as follows:

C. 30:4D-2 Declaration of purpose.

2. Declaration of purpose. It is the intent of the Legislature to make statutory provision which will enable the State of New Jersey to provide medical assistance, insofar as practicable, on behalf of persons whose resources are determined to be inadequate to enable them to secure quality medical care at their own expense, and to enable the State, within the limits of funds available for any fiscal year for such purposes, to obtain all benefits for medical assistance provided by the Federal Social Security Act as it now reads or as it may hereafter be amended, or by any other Federal act now in

effect or which may hereafter be enacted. It is further the intent of the Legislature that benefits provided hereunder shall be last resource benefits notwithstanding any provisions contained in contracts, wills, agreements or other instruments.

2. Section 3 of P. L. 1968, c. 413 (C. 30:4D–3) is amended to read as follows:

C. 30:4D-3 Definitions.

3. Definitions. As used in this act, and unless the context otherwise requires:

a. "Applicant" means any person who has made application for purposes of becoming a "qualified applicant".

b. "Commissioner" means the Commissioner of the Department of Human Services.

c. "Department" means the Department of Human Services, which is herein designated as the single State agency to administer the provisions of this act.

d. "Director" means the Director of the Division of Medical Assistance and Health Services.

e. "Division" means the Division of Medical Assistance and Health Services.

f. "Medicaid" means the New Jersey Medical Assistance and Health Services Program.

g. "Medical assistance" means payments on behalf of recipients to providers for medical care and services authorized under this act.

h. "Provider" means any person, public or private institution, agency or business concern approved by the division lawfully providing medical care, services, goods and supplies authorized under this act, holding, where applicable, a current valid license to provide such services or to dispense such goods or supplies.

i. "Qualified applicant" means a person who is a resident of this State and is determined to need medical care and services as provided under this act, and who:

(1) Is a recipient of aid to families with dependent children; or

(2) Is a recipient of supplemental security income for the aged, blind and disabled under Title XVI of the Social Security Act; or

(3) Is an "ineligible spouse" of a recipient of supplemental security income for the aged, blind and disabled under Title XVI of the Social Security Act, as defined by the Federal Social Security Administration; or

(4) Would be eligible to receive public assistance under a categorical assistance program except for failure to meet an eligibility condition or requirement imposed under such State program which is prohibited under Title XIX of the Federal Social Security Act such as a durational residence requirement, relative responsibility, consent to imposition of a lien; or

(5) Is a child between 18 and 21 years of age who would be eligible for aid to families with dependent children living in the family group except for lack of school attendance or pursuit of formalized vocational or technical training; or

(6) Is an individual under 21 years of age who qualifies for categorical assistance on the basis of financial eligibility, but does not qualify as a dependent child under the State's program of aid to families with dependent children (AFDC), or groups of such individuals, including but not limited to, children in foster placement under supervision of the Division of Youth and Family Services whose maintenance is being paid in whole or in part from public funds, children placed in a foster home or institution by a private adoption agency in New Jersey or children in intermediate care facilities, including institutions for the mentally retarded, or in psychiatric hospitals; or

(7) Meets the standard of need applicable to his circumstances under a categorical assistance program or supplemental security income program, but is not receiving such assistance and applies for medical assistance only.

A person shall not be considered a qualified applicant if, within 1 year of becoming or making application to become a qualified applicant, he has made a voluntary assignment or transfer of real or personal property, or any interest or estate in property, for less than adequate consideration. Such voluntary assignment or transfer of property shall be deemed to have been made for the purpose of becoming a qualified applicant in the absence of evidence to the contrary supplied by the applicant. This requirement shall not be applicable to Supplemental Security Income applicants or aged, blind or disabled applicants for Medicaid only unless authorized by Federal law.

j. "Recipient" means any qualified applicant receiving benefits under this act.

k. "Resident" means a person who is living in the State voluntarily with the intention of making his home there and not for a temporary purpose. Temporary absences from the State,

with subsequent returns to the State or intent to return when the purposes of the absences have been accomplished, do not interrupt continuity of residence.

l. "State Medicaid Commission" means the Governor, the Commissioner of Human Services, the President of the Senate and the Speaker of the General Assembly, hereby constituted a commission to approve and direct the means and method for the payment of claims pursuant to this act.

m. "Third party" means any person, institution, corporation, insurance company, public, private or governmental entity who is or may be liable in contract, tort, or otherwise by law or equity to pay all or part of the medical cost of injury, disease or disability of an applicant for or recipient of medical assistance payable under this act.

3. Section 4 of P. L. 1968, c. 413 (C. 30:4D–4) is amended to read as follows:

C. 30:4D-4 Division of medical assistance and health services; creation; duties.

4. There is hereby created in the Department of Human Services a Division of Medical Assistance and Health Services. The division shall perform those administrative and operational functions vested in the department pursuant to the provisions of this act and any other functions that the commissioner may, from time to time, elect to assign to such division. The division shall consult with and coordinate programs related to medical assistance and health care services being furnished by other State agencies to avoid duplication of effort.

4. Section 6 of P. L. 1968, c. 413 (C. 30:4D–6) is amended to read as follows:

C. 30:4D-6 Authorized assistance and services; classifications.

6. a. Subject to the requirements of Title XIX of the Federal Social Security Act, the limitations imposed by this act and by the rules and regulations promulgated pursuant thereto, the department shall provide medical assistance to qualified applicants including authorized services within each of the following classifications:

(1) Inpatient hospital services;

(2) Outpatient hospital services;

(3) Other laboratory and X-ray services;

(4) (a) Skilled nursing or intermediate care facility services;

(b) Such early and periodic screening and diagnosis of individuals who are eligible under the program and are under age 21 to ascertain their physical or mental defects and such health care, treatment, and other measures to correct or ameliorate defects and chronic conditions discovered thereby, as may be provided in regulations of the Secretary of the Federal Department of Health, Education and Welfare and approved by the commissioner;

(5) Physicians' services furnished in the office, the patient's home, a hospital, a skilled nursing or intermediate care facility or elsewhere.

b. Subject to the limitations imposed by Federal law, by this act, and by the rules and regulations promulgated pursuant thereto, the medical assistance program may be expanded to include authorized services within each of the following classifications:

(1) Medical care not included in subsection a. (5) above, or any other type of remedial care recognized under State law, furnished by licensed practitioners within the scope of their practice as defined by State law;

(2) Home health care services;

(3) Clinic services;

(4) Dental services;

(5) Physical therapy and related services;

(6) Prescribed drugs, dentures, and prosthetic devices; and eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist, whichever the individual may select;

(7) Optometric services;

(8) Podiatric services;

(9) Chiropratic services;

(10) Psychological services;

(11) Inpatient psychiatric hospital services for individuals under 21 years of age, or under age 22 if they are receiving such services immediately before attaining age 21;

(12) Other diagnostic, screening, preventive, and rehabilitative services, and other remedial care;

(13) Inpatient hospital services, skilled nursing facility services and intermediate care facility services for individuals 65 years of age or over in an institution for mental diseases;

(14) Intermediate care facility services;

(15) Transportation services;

(16) Any other medical care and any other type of remedial care recognized under State law, specified by the Secretary of the

Federal Department of Health, Education and Welfare, and approved by the commissioner.

c. Payments for the foregoing services, goods and supplies furnished pursuant to this act shall be made to the extent authorized by this act, the rules and regulations promulgated pursuant thereto and, where applicable, subject to the agreement of insurance provided for under this act. Said payments shall constitute payment in full to the provider on behalf of the recipient. Every provider making a claim for payment pursuant to this act shall certify in writing on the claim submitted that no additional amount will be charged to the recipient, his family, his representative or others on his behalf for the services, goods and supplies furnished pursuant to this act.

No provider whose claim for payment pursuant to this act has been denied because the services, goods or supplies were determined to be medically unnecessary shall seek reimbursement from the recipient, his family, his representative or others on his behalf for such services, goods and supplies provided pursuant to this act; provided, however, a provider may seek reimbursement from a recipient for services, goods or supplies not authorized by this act, if the recipient elected to receive the services, goods or supplies with the knowledge that they were not authorized.

d. Any individual eligible for medical assistance (including drugs) may obtain such assistance from any person qualified to perform the service or services required (including an organization which provides such services, or arranges for their availability on a prepayment basis), who undertakes to provide him such services.

e. Anything in this act to the contrary notwithstanding, no payments for medical assistance shall be made under this act with respect to care or services for any individual who:

(1) Is an inmate of a public institution (except as a patient in a medical institution); provided, however, that an individual who is otherwise eligible may continue to receive services for the month in which he becomes an inmate, should the commissioner determine to expand the scope of Medicaid eligibility to include such an individual subject to the limitations imposed by Federal law and regulations, or

(2) Has not attained 65 years of age and who is a patient in an institution for mental diseases, or

(3) Is over 21 years of age and who is receiving inpatient psychiatric hospital services in a psychiatric facility; provided,

however, that an individual who was receiving such services immediately prior to attaining age 21 may continue to receive such services until he reaches age 22. Nothing in this subsection shall prohibit the commissioner from extending medical assistance to all eligible persons receiving inpatient psychiatric services provided that there is Federal financial participation available.

f. Any provision in a contract of insurance, will, trust agreement or other instrument which reduces or excludes coverage or payment for goods and services to an individual because of that individual's eligibility for or receipt of Medicaid benefits shall be null and void, and no payments shall be made under this act as a result of any such provision.

5. Section 7 of P. L. 1968, c. 413 (C. 30:4D–7) is amended to read as follows:

C. 30:4D-7 Duties of commissioner.

7. Duties of commissioner. The commissioner is authorized and empowered to issue, or to cause to be issued through the Division of Medical Assistance and Health Services all necessary rules and regulations and administrative orders, and to do or cause to be done all other acts and things necessary to secure for the State of New Jersey the maximum Federal participation that is available with respect to a program of medical assistance, consistent with fiscal responsibility and within the limits of funds available for any fiscal year, and to the extent authorized by the medical assistance program plan; to adopt fee schedules with regard to medical assistance benefits and otherwise to accomplish the purposes of this act, including specifically the following:

a. Subject to the limits imposed by this act, to submit a plan for medical assistance, as required by Title XIX of the Federal Social Security Act, to the Federal Department of Health, Education and Welfare for approval pursuant to the provisions of such laws; to act for the State in making negotiations relative to the submission and approval of such plan, to make such arrangements, not inconsistent with the law, as may be required by or pursuant to Federal law to obtain and retain such approval and to secure for the State the benefits of the provisions of such law;

b. Subject to the limits imposed by this act, to determine the amount and scope of services to be covered, that the amounts to be paid are reasonable, and the duration of medical assistance to be furnished; provided, however, that the department shall provide medical assistance on behalf of all recipients of categorical assist-

ance and such other related groups as are mandatory under Federal laws and rules and regulations, as they now are or as they may be hereafter amended, in order to obtain Federal matching funds for such purposes and, in addition, provide medical assistance for the foster children specified in section 3. i. (7) of this act. The medical assistance provided for these groups shall not be less in scope, duration, or amount than is currently furnished such groups, and in addition, shall include at least the minimum services required under Federal laws and rules and regulations to obtain Federal matching funds for such purposes.

The commissioner is authorized and empowered, at such times as he may determine feasible, within the limits of appropriated funds for any fiscal year, to extend the scope, duration, and amount of medical assistance on behalf of these groups of categorical assistance recipients, related groups as are mandatory, and foster children authorized pursuant to section 3. i. (7) of this act, so as to include, in whole or in part, the optional medical services authorized under Federal laws and rules and regulations, and the commissioner shall have the authority to establish and maintain the priorities given such optional medical services; provided, however, that medical assistance shall be provided to at least such groups and in such scope, duration, and amount as are required to obtain Federal matching funds;

The commissioner is further authorized and empowered, at such times as he may determine feasible, within the limits of appropriated funds for any fiscal year, to issue, or cause to be issued through the Division of Medical Assistance and Health Services all necessary rules, regulations and administrative orders, and to do or cause to be done all other acts and things necessary to implement and administer demonstration projects pursuant to Title XI, Section 1115 of the Federal Social Security Act, including, but not limited to waiving compliance with specific provisions of this act, to the extent and for the period of time the commissioner deems necessary, as well as contracting with any legal entity, including but not limited to corporations organized pursuant to Title 14A, New Jersey Statutes (N. J. S. 14A:1-1 et seq.) and Title 15, Revised Statutes (R. S. 15:1-1 et seq.) as well as boards, groups, agencies, persons and other public or private entities.

c. To administer the provisions of this act;

d. To make reports to the Federal Department of Health, Education and Welfare as from time to time may be required by such

Federal department and to the New Jersey Legislature as hereinafter provided;

e. To assure that any applicant, qualified applicant or recipient shall be afforded the opportunity for a hearing should his claim for medical assistance be denied, reduced, terminated or not acted upon within a reasonable time;

f. To assure that providers shall be afforded the opportunity for an administrative hearing within a reasonable time on any valid complaint arising out of the claims payment process;

g. To provide safeguards to restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with administration of this act;

h. To take all necessary action to recover any and all payments incorrectly made to or illegally received by a provider from such provider or his estate or from any other person, firm, corporation, partnership or entity responsible for or receiving the benefit or possession of the incorrect or illegal payments or their estates, successors or assigns, and to assess and collect such penalties as are provided for herein;

i. To take all necessary action to recover the cost of benefits incorrectly provided to or illegally obtained by a recipient, including those made after a voluntary divestiture of real or personal property or any interest or estate in property for less than adequate consideration made for the purpose of qualifying for assistance from such recipient, legally responsible relative, representative payee, or any other party or parties whose action or inaction resulted in the incorrect or illegal payments, or from their respective estates, as the case may be and to assess and collect such penalties as are provided for herein, except that no lien may be imposed against property of the recipient prior to his death except in accordance with section 17 of P. L. 1968, c. 413 (C. 30:4D–17); provided, however, that no recovery action shall be initiated 5 years after an incorrect payment has been made to a recipient when such incorrect payment was due solely to an error on the part of the State or any agency, agent or subdivision thereof;

j. To take all necessary action to recover the cost of benefits correctly provided to a recipient from the estate of said recipient in accordance with sections 6 through 12 of this amendatory and supplementary act;

k. To take all reasonable measures to ascertain the legal or equitable liability of third parties to pay for care and services (available under the plan) arising out of injury, disease, or dis-

ability; where it is known that a third party has a liability, to treat such liability as a resource of the individual on whose behalf the care and services are made available for purposes of determining eligibility; and in any case where such a liability is found to exist after medical assistance has been made available on behalf of the individual, to seek reimbursement for such assistance to the extent of such liability;

l. To compromise, waive or settle and execute a release of any claim arising under this act including interest or other penalties, or designate another to compromise, waive or settle and execute a release of any claim arising under this act. The commissioner or his designee whose title shall be specified by regulation may compromise, settle or waive any such claim in whole or in part, either in the interest of the Medicaid program or for any other reason which the commissioner by regulation shall establish;

m. To pay or credit to a provider any net amount found by final audit as defined by regulation to be owing to the provider. Such payment, if it is not made within 45 days of the final audit, shall include interest on the amount due at the maximum legal rate in effect on the date the payment became due, except that such interest shall not be paid on any obligation for the period preceding September 15, 1976. This subsection shall not apply until Federal financial participation is available for such interest payments;

n. To issue, or designate another to issue, subpenas to compel the attendance of witnesses and the production of books, records, accounts, papers and documents of any party, whether or not that party is a provider, which directly or indirectly relate to goods or services provided under this act, for the purpose of assisting in any investigation, examination, or inspection, or in any suspension, debarment, disqualification, recovery, or other proceeding arising under this act;

o. To solicit, receive and review bids pursuant to the provisions of P. L. 1954, c. 48 (C. 52:34–6 et seq.) and all amendments and supplements thereto, by authorized insurance companies and nonprofit hospital service corporations or medical service corporations, incorporated in New Jersey, and authorized to do business pursuant to P. L. 1938, c. 366 (C. 17:48–1 et seq.) or P. L. 1940, c. 74 (C. 17:48A–1 et seq.), and to make recommendations in connection therewith to the State Medicaid Commission;

p. To contract, or otherwise provide as in this act provided, for the payment of claims in the manner approved by the State Medicaid Commission;

q. Where necessary, to advance funds to the underwriter or fiscal agent to enable such underwriter or fiscal agent, in accordance with terms of its contract, to make payments to providers;

r. To enter into contracts with Federal, State, or local governmental agencies, or other appropriate parties, when necessary to carry out the provisions of this act;

s. To assure that the nature and quality of the medical assistance provided for under this act shall be uniform and equitable to all recipients.

C. 30:4D-7.1 Enforcement of rights against third party.

6. (New section) a. The commissioner may request the Attorney General to enforce any rights against any third party, institute legal proceedings against any third party, or intervene in any pending proceeding against a third party initiated by a recipient, his guardian, executor, administrator or other appropriate representative, either in the commissioner's own name, as subrogee of the rights of the recipient, or to enforce the commissioner's rights as assignee of the recipient established in this section. If such a legal proceeding is instituted by the Attorney General, written notice shall be given to the recipient or his guardian, executor, administrator or other appropriate representative, who shall then have the right to intervene in the proceeding. Any recovery by the recipient in excess of the outstanding claim of the division shall be treated as a resource of said individual for purposes of determining eligibility for assistance.

No action taken on behalf of the commissioner pursuant to this subsection or any judgment rendered in such action shall be a bar to any action upon the claim or cause of action by a recipient, his guardian, executor, administrator or other appropriate representative against a third party, or shall operate to deny the recipient the recovery of that portion of his medical costs or other damages not covered under this act.

b. When a recipient, his guardian, executor, administrator or other appropriate representative brings an action for damages against a third party, written notice shall be given to the Director of the Division of Medical Assistance and Health Services. In addition, every recipient or his legal representative shall promptly notify the division of any recovery from a third party and shall immediately reimburse the division in full from the proceeds of any settlement, judgment, or other recovery in any action or claim initiated against any such third party subject to a pro rata de-

duction for counsel fees, costs, or other expenses incurred by the recipient or the recipient's attorney; provided, however, that the director may make application to a court of competent jurisdiction for an award of counsel fees and costs incurred in the pursuit of a claim under this subsection.

Any settlement, judgment, dismissal, exchange of releases, or action affecting the disposition of a recipient's independent action against a third party shall not serve to bar a claim or cause of action brought by the Attorney General on behalf of the commissioner against that third party under this section.

c. In addition to all other recovery methods set forth above, every recipient, as a condition of eligibility for medical assistance under this act, is hereby deemed to have assigned to the commissioner any rights to support for the purpose of medical care as determined by a court or administrative order and any rights to payment for medical care from any third party.

C. 30:4D-7.2 Lien against estate of recipient.

7. (New section) a. A lien may be filed against the estate of a deceased recipient if his spouse is also deceased and he has no surviving child who is under age 21 or is blind or permanently and totally disabled, for the benefits correctly paid on behalf of the recipient after he attained the age of 65, and this lien shall be deemed a preferred claim against the recipient's estate having a priority equivalent to that under subsection a.(4) of Section 50 of P. L. 1977, c. 412 (C. 3A:2A–47a.(4)).

b. A lien may be filed against the property, real or personal, or any interest or estate in property, whether vested or contingent, of any third party.

Subject to section 6. b. of this amendatory and supplementary act, any third party recovery obtained by the division under this subsection shall not be reduced by any counsel fees, costs, or other expenses, or portions thereof, incurred by the recipient, the third party, or their respective attorneys.

c. A certificate of debt may be filed against such parties and in such a manner as is specified in subsection (h) of Section 17 of P. L. 1968, c. 413 (C. 30:4D–17(h)).

C. 30:4D-7.3 Liens and certificates of debt; form.

8. (New section) All liens and certificates of debt under section 7 of this amendatory and supplementary act shall be in a form to be prescribed by the commissioner, and shall be signed by the commissioner or director, or by such person designated by the commissioner or director.

C. 30:4D-7.4 Filing of liens or certificates of debt.

9. (New section) All liens or certificates of debt under section 7 of this amendatory and supplementary act shall be filed with the clerk or register of deeds and mortgages of the county wherein the affected property is located, or with the clerk of the superior court, and shall immediately attach to and become binding upon all the property whether real or personal of the party against whom said lien or certificate of debt is filed. If it is believed that said party chargeable under said lien or certificate of debt has an interest or estate whether vested or contingent in property within the State, but the exact location of said property is not known, then said liens or certificates of debt may be filed with the clerk of the Superior Court and shall become binding upon all said property of said party chargeable under said lien or certificate of debt wherever situated within the State.

C. 30:4D-7.5 Property held in trust; attachment of lien.

10. (New section) If it is found that any party chargeable under any lien or certificate of debt filed pursuant to this act is possessed of any goods, rights, credits, chattels, moneys or effects which are held by any person, firm, or corporation for the present or subsequent use of said individual, then the lien or certificate of debt provided for herein, or a notice of the existence of said lien or certificate of debt, may be forwarded by registered or certified mail to said person, firm or corporation and shall become binding upon any property rights so held. Such person, firm or corporation shall thereafter be precluded from disposing of said property rights until said lien or certificate of debt is satisfied or until the department consents thereto, or until the procedure set forth in section 13 of this amendatory and supplementary act is followed.

Any person, firm or corporation disposing of any such property or moneys after receipt of notice of said lien or certificate of debt shall be liable to the department for the value of such property or moneys of which disposition has been made, or the amount set forth in the department's lien or certificate of debt, whichever is less.

C. 30:4D-7.6 Recording liens and certificates of debt.

11. (New section) The clerk of the county or register of deeds and mortgages, or clerk of the superior court, as the case may be, shall provide suitable books in which he shall enter the liens and certificates of debt filed hereunder properly indexed in the name of the party against whom the lien or certificate of debt has been filed. All liens and certificates of debt and other papers incidental

thereto required hereunder shall be received and recorded by the clerk of the county, register of deeds and mortgages, or clerk of the superior court, as the case may be, without payment of fees by the department or the division.

C. 30:4D-7.7 Authorization to compromise, settle or waive lien or certificate of debt; discharge of lien or certificate.

12. (New section) The commissioner or director or such person designated by the commissioner or director is hereby authorized to compromise, settle or waive in whole or in part any lien or certificate of debt filed under the provisions of this act in accordance with rules and regulations promulgated by the commissioner pursuant to subsection 7(1) of this amendatory and supplementary act.

To discharge any lien or certificate of debt filed hereunder, the commissioner or director, or his duly constituted agent shall file with the clerk of the county, register of deeds and mortgages, or clerk of the superior court, as the case may be, a duly acknowledged certificate or warrant setting forth the fact that the department desires to discharge the lien or certificate of debt of record.

C. 30:4D-7.8 Action in court to examine validity of lien; deposit and bond; filing.

13. (New section) Any person affected in any manner, whether directly or indirectly, by any lien filed under this act, or any certificate of debt filed prior to a final agency adjudication in accordance with subsection (h) of section 17 of P. L. 1968, c. 413 (C. 30:4D–17(h)), and desiring to examine the validity thereof or the facts and circumstances surrounding the entry thereof, may do so in an action brought in the Superior Court. The action shall be brought against the department, and the court may proceed in the action in a summary manner or otherwise and enter such judgment as it may deem appropriate.

Any person desiring to secure immediate discharge of any lien or of any certificate of debt filed prior to a final agency adjudication under subsection (h) of section 17 of P. L. 1968, c. 413 (C. 30:4D–17(h)) may deposit with the court an amount of money sufficient to cover the sureties to be approved by said court. Upon proper notice of the deposit and posting of bond, a satisfaction of said lien or certificate of debt shall be filed forthwith with the county clerk, register of deeds and mortgages or the clerk of the superior court, as the case may be.

14. Section 12 of P. L. 1968, c. 413 (C. 30:4D–12) is amended to read as follows:

C. 30:4D-12 Methods and procedures relating to payment and services; maintenance of records.

12. Subject to the limitations provided in sections 7, 8 and 9 of this act, the department shall (a) develop and employ such methods and procedures relating to the utilization of and the payment for medical care and services available under the plan as may be necessary to safeguard against unnecessary utilization of such care and services;

(b) Assure that payments (including payments for any drugs provided under the plan) are not in excess of reasonable charges (reasonable costs in the instance of inpatient hospital services) consistent with efficiency, economy and quality of care;

(c) Prescribe standards that providers must meet;

(d) Require that any provider who renders health care services authorized under this act shall keep and maintain such individual records as are necessary to fully disclose the name of the recipient to whom the service was rendered, the date of the service rendered, the nature and extent of each such service rendered, and any additional information, as the department may require by regulation. Records herein required to be kept and maintained shall be retained by the provider for a period of at least 5 years from the date the service was rendered;

(e) Require that providers who render health care services authorized under this act shall not be entitled to reimbursement for the services rendered unless said services are documented pursuant to subsection (d) of this section. Any evidence other than the documentation required pursuant to subsection (d) of this section shall be inadmissible in any proceeding conducted pursuant to this act for the purpose of proving that said services were rendered; unless the evidence is found to be clear and convincing by the finder of fact; and

(f) Examine and make copies of any books and records of a provider if they relate in any way to services rendered to any recipient under this act, and visit and inspect the premises or facilities of any provider it may deem necessary to carry out the provisions of this act and regulations adopted pursuant thereto.

15. Section 14 of P. L. 1968, c. 413 (C. 30:4D–14) is amended to read as follows:

C. 30:4D-14 Comprehensive medical plan; preparation; contents.

14. Subject to the limitations provided in this act and the Federal Social Security Act, the department shall prepare a comprehensive medical plan whereby the benefits of this program will be extended

in accordance with the mandatory schedule for providing benefits required by the Federal legislation. This plan shall include alternative means of expanding the medical care benefits and coverage provided in this act. Such plan shall be reevaluated from time to time but no less than annually and shall be based upon a documented review of medical needs of low-income families in New Jersey, a detailed analysis of priorities of service, coverage, program costs and an evaluation of progress.

16. Section 17 of P. L. 1968, c. 413 (C. 30:4D–17) is amended to read as follows:

C. 30:4D-17 Penalty.

17. Penalty. (a) Any person who willfully obtains benefits under this act to which he is not entitled or in a greater amount than that to which he is entitled and any provider who willfully receives medical asistance payments to which he is not entitled or in a greater amount than that to which he is entitled is guilty of a high misdemeanor and, upon conviction thereof, shall be liable to a penalty of not more than $10,000.00 or to imprisonment for not more than 3 years or both.

(b) Any provider, or any person, firm, partnership, corporation or entity, who:

(1) Knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any cost study, claim form, or any document necessary to apply for or receive any benefit or payment under this act; or

(2) At any time knowingly and willfully makes or causes to be made any false statement, written or oral, of a material fact for use in determining rights to such benefit or payment under this act; or

(3) Conceals or fails to disclose the occurrence of an event which

(i) affects his initial or continued right to any such benefit or payment, or

(ii) affects the initial or continued right to any such benefit or payment of any provider or any person, firm, partnership, corporation or other entity in whose behalf he has applied for or is receiving such benefit or payment

with an intent to fraudulently secure benefits or payments not authorized under this act or in greater amount than that which is authorized under this act; or

(4) Knowingly and willfully converts benefits or payments or any part thereof received for the use and benefit of any provider or any

person, firm, partnership, corporation or other entity to a use other than the use and benefit of such provider or such person, firm, partnership, corporation or entity;
is guilty of a high misdemeanor and, upon conviction thereof, shall be liable to a penalty of not more than $10,000.00 for the first and each subsequent offense or to imprisonment for not more than 3 years or both.

(c) Any provider, or any person, firm, partnership, corporation or entity who solicits, offers, or receives any kickback, rebate or bribe in connection with:

(1) The furnishing of items or services for which payment is or may be made in whole or in part under this act; or

(2) The furnishing of items or services whose cost is or may be reported in whole or in part in order to obtain benefits or payments under this act; or

(3) The receipt of any benefit or payment under this act, is guilty of a high misdemeanor and, upon conviction thereof, shall be liable to a penalty of not more than $10,000.00 or to imprisonment for not more than 3 years or both.

This subsection shall not apply to (A) a discount or other reduction in price under this act if the reduction in price is properly disclosed and appropriately reflected in the costs claimed or charges made under this act; and (B) any amount paid by an employer to an employee who has a bona fide employment relationship with such employer for employment in the provision of covered items or services.

(d) Whoever knowingly and willfully makes or causes to be made or induces or seeks to induce the making of any false statement or representation of a material fact with respect to the conditions or operations of any institution or facility in order that such institution or facility may qualify either upon initial certification or recertification as a hospital, skilled nursing facility, intermediate care facility, or health agency, thereby entitling them to receive payments under this act, shall be guilty of a high misdemeanor and shall be liable to a penalty of not more than $3,000.00 or imprisonment for not more than 1 year or both.

(e) Any person, firm, corporation, partnership, or other legal entity who violates the provisions of any of the foregoing subsections of this section shall, in addition to any other penalties provided by law, be liable to civil penalties of (1) payment of interest on the amount of the excess benefits or payments at the maximum legal rate in effect on the date the payment was

made to said person, firm, corporation, partnership or other legal entity for the period from the date upon which payment was made to the date upon which repayment is made to the State, (2) payment of an amount not to exceed three-fold the amount of such excess benefits or payments, and (3) payment in the sum of $2,000.00 for each excessive claim for assistance, benefits or payments.

(f) Any person, firm, corporation, partnership or other legal entity, other than an individual recipient of medical services reimbursable by the Division of Medical Assistance and Health Services, who, without intent to violate this act, obtains medical assistance or other benefits or payments under this act in excess of the amount to which he is entitled, shall be liable to a civil penalty of payment of interest on the amount of the excess benefits or payments at the maximum legal rate in effect on the date the benefit or payment was made to said person, firm, corporation, partnership, or other legal entity for the period from September 15, 1976 or the date upon which payment was made, whichever is later, to the date upon which repayment is made to the State, provided, however, that no such person, firm, corporation, partnership or other legal entity shall be liable to such civil penalty when excess medical assistance or other benefits or payments under this act are obtained by such person, firm, corporation, partnership or other legal entity as a result of error made by the Division of Medical Assistance and Health Services, as determined by said division; provided, further, that if preliminary notification of an overpayment is not given to a provider by the division within 180 days after completion of the field audit as defined by regulation, no interest shall accrue during the period beginning 180 days after completion of the field audit and ending on the date preliminary notification is given to the provider.

(g) All interest and civil penalties provided for in this act and all medical assistance and other benefits to which a person, firm, corporation, partnership, or other legal entity was not entitled shall be recovered in an administrative procedure held pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1, et seq.), except that recovery actions against minors or incompetents shall be initiated in a court of competent jurisdiction.

(h) Upon the failure of any person, firm, corporation, partnership or other legal entity to comply within 10 days after service of any order of the director or his designee directing payment of

any amount found to be due pursuant to subsection (g) of this section, or at any time prior to any final agency adjudication not involving a recipient or former recipient of benefits under this act, the director may issue a certificate to the clerk of the superior court that such person, firm, corporation, partnership or other legal entity is indebted to the State for the payment of such amount. A copy of such certificate shall be served upon the person, firm, corporation, partnership or other legal entity against whom the order was entered. Thereupon the clerk shall immediately enter upon his record of docketed judgments the name of the person, firm, corporation, partnership or other legal entity so indebted, and of the State, a designation of the statute under which such amount is found to be due, the amount due, and the date of the certification. Such entry shall have the same force and effect as the entry of a docketed judgment in the Superior Court. Such entry, however, shall be without prejudice to the right of appeal to the Appellate Division of the Superior Court from the final order of the director or his designee.

(i) In order to satisfy any recovery claim asserted against a provider under this section, whether or not that claim has been the subject of final agency adjudication, the division or its fiscal agents is authorized to withhold funds otherwise payable under this act to the provider.

(j) The Attorney General may, when requested by the commissioner or his agent, apply ex parte to the Superior Court to compel any party to comply forthwith with a subpena issued under this act. Any party who, having been served with a subpena issued pursuant to the provisions of this act, fails either to attend any hearing, or to appear or be examined, to answer any question or to produce any books, records, accounts, papers or documents, shall be liable to a penalty of $500.00 for each such failure, to be recovered in the name of the State in a summary civil proceeding to be initiated in the Superior Court. The Attorney General shall prosecute the actions for the recovery of the penalty prescribed in this section when requested to do so by the commissioner or his agent and when, in the judgment of the Attorney General, the facts and law warrant such prosecution. Such failure on the part of the party shall be punishable as contempt of court by the court in the same manner as like failure is punishable in an action pending in the court when the matter is brought before the court by motion filed by the Attorney General and supported by affidavit stating the circumstances.

C. 30:4D-17.1 Suspension, debarment or disqualification of providers; termination or restriction of benefits; rules and regulations.

17. (New section) a. The director may suspend, debar or disqualify for good cause any provider presently participating or who has applied for participation in the program, or may suspend, debar or disqualify for good cause any person, company, firm, association, corporation or other entity who is participating directly or indirectly in the Medicaid program, or who is an agent, servant, employee or independent contractor of a provider in the Medicaid program.

b. The director may terminate or otherwise restrict medical assistance benefits to any eligible recipient thereof for good cause.

c. The director may promulgate such rules, regulations and administrative orders as are necessary to effectuate the provisions and purposes of this section.

C. 30:4D-17.2 Enforcement of decisions, orders and determinations.

18. (New section) Any decision, order, final judgment, or final determination of the commissioner or director issued pursuant to the provisions of this act not involving the recovery of Medicaid payments may be enforced in a civil action brought in a summary manner by the Attorney General on behalf of either the commissioner or director in the Superior Court. In any such action said order, decision, final judgment or final determination shall be considered res judicata, except that an appeal may be taken to the Appellate Division of the Superior Court from the final decision of the commissioner or director in accordance with the applicable Rules of the Court.

19. This act shall take effect immediately and, except for the amendatory provisions of section 16(a) through (d) hereof, shall apply to any and all claims, causes of action or proceedings arising prior to, on or after the effective date of this act.

Approved February 4, 1980.

CHAPTER 366

AN ACT concerning the taxation of mobile homes.

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

C. 54:4C-1 Assessment and taxation of mobile homes.

1. a. Any mobile home assessed and taxed as real property prior to and on March 20, 1979 for which no appeal has been taken on the imposition of a real property tax as of said date, shall be assessed and taxed as real property. Any mobile home that was not assessed and taxed as real property prior to and on March 20, 1979 shall not be assessed and taxed as real property until October 1, 1980 for the tax year 1981.

b. Any mobile home acquired after March 20, 1979 shall be assessed and taxed as real property; except that any mobile home located after said date in any mobile home park in which mobile homes were not assessed and taxed as real property prior to March 20, 1979 for which no appeal has been taken on the imposition of a real property tax as of said date, shall not be assessed and taxed as real property until October 1, 1980 for the tax year 1981.

c. During the period of the moratorium, and for the tax years 1978, 1979 and 1980, no mobile home subject to the moratorium shall be assessed as an added or omitted assessment and taxed as real property.

C. 54:4C-2 Sales tax.

2. a. Except as otherwise provided in subsection b. of this section, a sales tax pursuant to subsection (v) of section 2 of P. L. 1966, c. 30 (C. 54:32B–2 (v)) on any mobile home sale made on or after March 20, 1979, shall remain in effect and be enforced as heretofore until December 31, 1980.

b. Any sale of a mobile home assessed and taxable as real property pursuant to section 1 of this act shall not be subject to the sales tax, except in the case of the sale of a new or previously unused mobile home which shall be subject to the sales tax only to the extent of the taxation of the sale of tangible personal property for building construction pursuant to subsection (e) (2) (A) of section 2 of P. L. 1966, c. 30 (C. 54:32B–2 (e) (2) (A)).

3. This act shall take effect immediately.

Approved February 4, 1980.

CHAPTER 367

AN ACT concerning the taxation of motor fuels and amending R. S. 54:39–55.

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

1. R. S. 54:39–55 is amended to read as follows:

Violation of act; penalty.

54:39–55. Any person, firm, partnership, association or corporation or any officer or agent thereof failing to pay the tax as herein provided, or violating any of the provisions of article 3 of this chapter (R. S. 54:39–17 et seq.), or making any false statement, or concealing any material fact in any report or affidavit is guilty of a crime of the fourth degree, and upon conviction thereof shall be punished by a fine of not more than $5,000.00 or by imprisonment for not more than 18 months, or by both such fine and imprisonment.

2. This act shall take effect immediately.

Approved February 4, 1980.

CHAPTER 368

AN ACT concerning workers' compensation and amending R. S. 34:15–49.

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

1. R. S. 34:15–49 is amended to read as follows:

Jurisdiction for all claims; director's salary; salaries and qualifications of judges.

34:15–49. The Division of Workers' Compensation shall have the exclusive original jurisdiction of all claims for workers' compensation benefits under this chapter. The judges of the Division of Workers' Compensation shall hereinafter be appointed on a bipartisan basis by the Governor, with the advice and consent of the Senate and shall serve during good behavior. The salary of the director of the division shall be as provided in salary range 40 of the Compensation Plan adopted by the Civil Service Commission

in accordance with Title 11, chapter 8 of the Revised Statutes of New Jersey. The salary of the judges of compensation shall be as provided in salary range 39 of the Compensation Plan adopted by the Civil Service Commission in accordance with Title 11, chapter 8 of the Revised Statutes of New Jersey. In addition to his salary, a judge of compensation regularly assigned as a supervising judge of compensation by the director shall receive additional compensation of $1,500.00 per annum during the period of such assignment. In establishing the applicable increment category level of the director and the judges of compensation appropriate credit shall be given for years of service heretofore and hereafter as judge of compensation, supervising judge of compensation, chief judge of compensation, director of the division or referee of formal hearings. No subsequent annual increment for a judge of compensation shall be made unless the judge of compensation is evaluated favorably by the director of the division on the basis of recommendations made by the supervising judge of compensation. Judges of compensation shall not engage in the practice of law, shall devote full time to their judicial duties, and shall have been licensed attorneys for 10 years prior to their appointments. The director of the division shall have the same qualifications for appointment as a judge of compensation.

2. This act shall take effect immediately.

Approved February 4, 1980.

CHAPTER 369

AN ACT to amend "An act concerning payment of tax liens on fire damaged properties in certain instances," approved January 8, 1979 (P. L. 1978, c. 184).

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

1. Section 1 of P. L. 1978, c. 184 (C. 17:36–8) is amended to read as follows:

C. 17:36-8 Payment of claims over $2,500; submission of certificate of search for municipal liens by insured person.

1. No insurer issuing fire insurance policies in this State shall pay any claims for fire damages in excess of $2,500.00 on any real

property located within a municipality having adopted an ordinance pursuant to section 2 of this act, unless or until the insured person submits an official certificate of search for municipal liens pursuant to R. S. 54:5–12, certifying that all taxes, assessments or other municipal liens or charges, levied and assessed and due and payable against said property have been paid, or the municipality submits a certified copy of a resolution adopted pursuant to section 4 of this act. Any request, pursuant to this section, for an official certificate of search for municipal liens shall specify that the search concerns fire damaged property.

2. Section 2 of P. L. 1978, c. 184 (C. 17:36–9) is amended to read as follows:

C. 17:36-9 Payment of claims in excess of $2,500 for fire damages; filing of municipal ordinance; notification; alterations in certificate of search.

2. Any municipality may, by ordinance, prohibit the payment to a claimant by any insurance company of any claim in excess of $2,500.00 for fire damages on any real property located within the municipality pursuant to any fire insurance policy issued or renewed after the adoption of such ordinance and after the filing of such ordinance with the State Commissioner of Insurance, until such time as all taxes and assessments and all other municipal liens or charges due and payable appearing on the official certificate of search shall have been paid either by the owner of such real property or by the insurance company pursuant to the provisions of section 3 of this act, or the municipality submits to the insurance company a copy of a resolution adopted pursuant to section 4 of this act. No change in such an ordinance shall take effect until filed with the commissioner.

The State Commissioner of Insurance shall cause to have published in the New Jersey Register a list of all municipalities which have adopted ordinances pursuant to this section and said list shall designate by asterisk those municipalities which have adopted said ordinances since the previous date of publication of said list.

The official certificate of search may, from time-to-time, be altered, by the bonded official responsible for preparing such certificates, in order to correct any errors or omissions or to add any municipal liens or related charges due and payable subsequent to the preparation of the official certificate.

3. Section 3 of P. L. 1978, c. 184 (C. 17:36–10) is amended to read as follows:

C. 17:36-10 Payment by insurance company of liens appearing on certificate.

3. Unless a resolution is received in accordance with section 4 of this act by an insurance company writing fire insurance policies in any municipality having adopted an ordinance pursuant to section 2 of this act, such insurance company is hereby authorized and required, prior to the payment of any claims for fire damages in excess of $2,500.00, to pay to the municipality the amount of the liens appearing on the official certificate and such other recorded liens or related charges as may be certified to the insurance company; provided, however, that if an appeal is taken on the amount of any lien or charge, other than an appeal on the assessed valuation of real property pursuant to R. S. 54:3-21, the insurance company shall issue a draft payable to the court of record, to be held by the court in an interest bearing escrow account in a banking institution or savings and loan association in the State, in an amount totalling 75% of the full amount of the lien or charge being contested but not to exceed the proceeds payable under its insurance policy, and the insurance company shall issue a draft payable to the municipality for the remaining 25% of the lien or charge being contested, with the full amount paid by the insurance company to the court and the municipality not to exceed the proceeds payable under its insurance policy pending termination of all proceedings, at which time such moneys and all interest accruing thereon at a rate paid on interest bearing accounts in banking institutions or savings and loan associations in the State, shall be disbursed in accordance with the final order or judgment of the court.

4. Section 5 of P. L. 1978, c. 184 (C. 17:36-12) is amended to read as follows:

C. 17:36-12 Municipal claim paramount to other claims; exception.

5. A municipal claim made in accordance with the provisions of this act shall be paramount to any other claims on the proceeds of the fire insurance policy, except the claim of the holder of a purchase money mortgage held as a first mortgage or an institutional lender which is a holder of a mortgage on the fire damaged property, where the fire insurance policy at the time of the loss listed the mortgagee as the holder of an insurable interest, in which event the claim of the mortgagee to the proceeds shall be paramount to the municipal lien under this act only to the extent of the amount due and payable to the mortgagee under the mortgage contract. As used in this paragraph, "institutional lender" means any bank,

savings bank, State or Federally chartered savings and loan association, or insurance company.

Nothing in this act shall be construed:

a. To obligate an insurance company for any amount in excess of the proceeds payable under its fire insurance policy;

b. Except as provided in the case of appeals under section 3 of this act, to obligate the insurance company for any liens not appearing on the official certificate or any certified changes submitted by the bonded official; or

c. To affect the authority of a municipality to enforce a municipal lien under any other law of this State.

5. This act shall take effect immediately.

Approved February 4, 1980.

CHAPTER 370

AN ACT concerning the authorization of the Supreme Court to receive criminal history record information from the Federal Bureau of Investigation.

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

C. 2A:1-12 Authorization of Supreme Court to receive criminal history record information of attorneys.

1. The Supreme Court is hereby authorized to receive criminal history record information from the Federal Bureau of Investigation for use in licensing and disciplining attorneys-at-law of this State.

2. This act shall take effect immediately.

Approved February 4, 1980.

CHAPTER 371

AN ACT to validate certain proceedings of school districts and any bonds or other obligations issued or to be issued pursuant to such proceedings.

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

Validating act.

1. All proceedings heretofore had or taken by any school district or at any school district election for the authorization or issuance of bonds of the school district, and any bonds or other obligations of the school district issued or to be issued in pursuance of a proposal adopted by the legal voters at such election, are hereby ratified, validated and confirmed, notwithstanding that the supplemental debt statement required by N. J. S. 18A:24–16 was not prepared and filed as required by N. J. S. 18A:24–17; provided, however, that a supplemental debt statement has heretofore been made, sworn to, and filed in the places required by N. J. S. 18A:24–16 and N. J. S. 18A:24–17; and provided further, that no action, suit or other proceeding of any nature to contest the validation of such proceeding has heretofore been instituted prior to the date upon which this act takes effect and within the time fixed therefor by or pursuant to law or rule of court, or when such time has not heretofore expired, is instituted within 30 days after the effective date of this act.

2. This act shall take effect immediately.

Approved February 4, 1980.

CHAPTER 372

AN ACT to extend the term of the Corporation Law Revision Commission.

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

C. 1:14-11 Corporation law revision commission reconstituted.

1. The Corporation Law Revision Commission as reconstituted by P. L. 1977, chapter 66, shall continue in existence until December 31, 1981.

2. This act shall take effect immediately.

Approved February 4, 1980.

CHAPTER 373

AN ACT concerning the escheat of unclaimed bank deposits and repealing certain statutes.

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

C. 17:9-27 to C. 17:9-40 repealed.

1. The following acts, together with all amendments and supplements thereto, are repealed:

P. L. 1947, c. 92 (C. 17:9–27 to C. 17:9–39 inclusive);
P. L. 1951, c. 192 (C. 17:9–40).

2. This act shall take effect immediately.

Approved February 4, 1980.

CHAPTER 374

AN ACT concerning children and repealing certain statutes.

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

Repealer.

1. The following sections, acts and parts of acts, together with all amendments and supplements thereto, are hereby repealed:

R. S. 9:5–1 to 9:5–5 inclusive;
R. S. 9:8–1;
R. S. 9:9–1 to 9:9–3 inclusive;
R. S. 9:20–1 to 9:20–5 inclusive.

2. This act shall take effect immediately.

Approved February 4, 1980.

CHAPTER 375

AN ACT authorizing the sale of surplus real property owned by the Department of Defense.

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

1. The Department of Defense is authorized to sell and convey all of the State's interest in 4.5 acres of surplus real property in the township of Woodbridge, Middlesex county. The property is designated as Block 895, Lot 1, on the Woodbridge tax map.

2. The sale shall be upon terms and conditions as approved by the State House Commission.

3. This act shall take effect immediately.

Approved February 4, 1980.

CHAPTER 376

AN ACT authorizing the sale of surplus real property owned by the Department of Defense.

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

1. The Department of Defense is authorized to sell and convey all of the State's interest in approximately 1.4 acres of surplus real property in the city of Orange, Essex county. The property is designated as Block 66, Lots 13, 14, 15, 18A, 19, 20, on the city of Orange tax map.

2. The sale shall be upon terms and conditions as approved by the State House Commission.

3. This act shall take effect immediately.

Approved February 4, 1980.

CHAPTER 377

AN ACT authorizing the conveyance of certain real property owned by the Department of Environmental Protection.

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

1. The Department of Environmental Protection is authorized to convey all of the State's interest in 44.918 acres of land located in the township of Freehold, county of Monmouth, which State land is a portion of Block 93, Lot 34, as designated on the tax map of the township of Freehold, to the county of Monmouth in exchange for all of said county's interest in 44.918 acres of land, also located in the township of Freehold, county of Monmouth, which county land is a portion of Block 93, Lot 50, as designated on the tax map of the township of Freehold.

2. The conveyance shall be upon terms and conditions as approved by the State House Commission.

3. This act shall take effect immediately.

Approved February 4, 1980.

CHAPTER 378

AN ACT concerning the acquisition, enforcement and disposition of conservation restrictions and historic preservation restrictions by governmental bodies and by certain corporations and trusts, and supplementing Title 13 of the Revised Statutes.

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

C. 13:8B-1 Short title.

1. This act shall be known and may be cited as the "New Jersey Conservation Restriction and Historic Preservation Restriction Act."

C. 13:8B-2 Definitions.

2. As used in this act:

a. "Charitable conservancy" means a corporation or trust whose purposes include the acquisition and preservation of land or water areas or of a particular land or water area, or either thereof, in a natural, scenic or open condition, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and which has received tax exemption under section 501 (c) of the 1954 Internal Revenue Code;

b. "Conservation restriction" means an interest in land less than fee simple absolute, stated in the form of a right, restriction, easement, covenant, or condition, in any deed, will or other instrument, other than a lease, executed by or on behalf of the owner of the land, appropriate to retaining land or water areas predominantly in their natural, scenic or open or wooded condition, or for conservation of soil or wildlife, or for outdoor recreation or park use, or as suitable habitat for fish or wildlife, to forbid or limit any or all:

(1) Construction or placing of buildings, roads, signs, billboards or other advertising, or other structures on or above the ground;

(2) Dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste or unsightly or offensive materials;

(3) Removal or destruction of trees, shrubs or other vegetation;

(4) Excavation, dredging or removal of loam, peat, gravel, soil, rock or other mineral substance;

(5) Surface use except for purposes permitting the land or water area to remain predominantly in its natural condition;

(6) Activities detrimental to drainage, flood control, water conservation, erosion control or soil conservation, or fish and wildlife habitat preservation;

(7) Other acts or uses detrimental to the retention of land or water areas according to the purposes of this act.

c. "Local unit" means a municipality, county or other political subdivision of this State, or any agency thereof.

d. "Historic preservation restriction" means an interest in land less than fee simple absolute, stated in the form of a right, restriction, easement, covenant, or condition, in any deed, will or other instrument, other than a lease, executed by or on behalf of the owner of the land, appropriate to preserving a structure or site which is historically significant for its architecture, archeology or associations, to forbid or limit any or all:

(1) Alteration in exterior or interior features of such structure;

(2) Changes in appearance or condition of such site;

(3) Uses of such structure or site which are not historically appropriate;

(4) Other acts or uses detrimental to the appropriate preservation of such structure or site.

C. 13:8B-3 Acquisition of conservation restriction or historic preservation restriction; enforcement.

3. A conservation restriction or an historic preservation restriction may be acquired by the Commissioner of Environmental Protection in the name of State, or by any local unit, or by any charitable conservancy in the same manner as other interests in land may be acquired by gift, purchase or devise and, in the case of the State or local unit, by condemnation. Such restrictions may be enforced in the same manner as other interests in land, and shall entitle representatives of the holder of such restriction to enter the land or water area involved in a reasonable manner and at reasonable times so as to assure compliance with the provisions of said restriction.

C. 13:8B-4 Priority of estate or contract; recording and indexing of restrictions.

4. No conservation restriction or an historic preservation restriction held by the State or a local unit or by a charitable conservancy, shall be unenforceable by reason of lack of privity of estate or contract, or lack of benefit to particular land, or an account of the benefit being assignable or being assigned to any other governmental body or charitable conservancy with like purposes. All such restrictions shall be duly recorded and indexed in the registry of deeds for the county where the land lies so as to affect its title, in the manner of other conveyances of interests in land, and shall describe the land subject to said restrictions by adequate legal description or by reference to a recorded plan showing its boundaries.

C. 13:8B-5 Release of restrictions; hearing.

5. A conservation restriction or an historic preservation restriction may be released in whole or in part, by the holder thereof, for such consideration, if any, as the holder may determine, in the same manner as the holder may dispose of other interests in land, subject to such conditions as may have been imposed at the time of creation of the restriction; provided, however, that prior to any release, a public hearing shall be held, after notice by publication thereof at least twice in each of the 3 weeks next preceding the

date of such hearing in a newspaper of general circulation in the municipality or municipalities in which the land is situated. The hearing shall be held by the governmental body holding the restriction, or if held by a charitable conservancy, by the governing body of the municipality in which the land is situated.

C. 13:8B-6 Approval of commissioner.

6. The provisions of section 5 of this act notwithstanding, no conservation restriction acquired pursuant to this act shall be released without the approval of the Commissioner of Environmental Protection. Approval of releases shall be evidenced by certificates of the Commissioner of Environmental Protection and shall be recorded in the same manner as the restriction itself. In determining whether the release should be approved, the Commissioner of Environmental Protection shall take into consideration the public interest in preserving these lands in their natural state, and any State, regional or local program in furtherance thereof, as well as any State, regional or local comprehensive land use or development plan affecting such property.

C. 13:8B-7 Considerations in establishing full value of lands.

7. The existence of any conservation restriction or historical preservation restriction acquired pursuant to this act shall be considered by local assessors in establishing the full value of any lands subject to such restriction.

C. 13:8B-8 Construction of act.

8. Nothing in this act shall be construed to imply that any restriction, easement, covenant, or condition which does not have the benefit of this act, on account of any provision hereof, is unenforceable. Nothing in this act shall diminish the powers granted by any general or special law to acquire by purchase, gift, eminent domain or otherwise and to use land for public purposes.

C. 13:8B-9 Partial invalidity.

9. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

10. This act shall take effect immediately.

Approved February 5, 1980.

CHAPTER 379

AN ACT concerning unemployment compensation and amending R. S. 43:21–19.

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

1. R. S. 43:21–19 is amended to read as follows:

Definitions.

43:21–19. Definitions. As used in this chapter (R. S. 43:21–1 et seq.) unless the context clearly requires otherwise:

(a) (1) "Annual payroll" means the total amount of wages paid during a calendar year (regardless of when earned) by an employer for employment.

(2) "Average annual payroll" means the average of the annual payrolls of any employer for the last 3 or 5 preceding calendar years, whichever average is higher, except that any year or years throughout which an employer has had no "annual payroll" because of military service shall be deleted from the reckoning; the "average annual payroll" in such case is to be determined on the basis of the prior 3 to 5 calendar years in each of which the employer had an "annual payroll" in the operation of his business, if the employer resumes his business within 12 months after separation, discharge or release from such service, under conditions other than dishonorable, and makes application to have his "average annual payroll" determined on the basis of such deletion within 12 months after he resumes his business; provided, however, that "average annual payroll" solely for the purposes of paragraph (3) of subsection (e) of section 43:21–7 of this Title means the average of the annual payrolls of any employer on which he paid contributions to the State Disability Benefits Fund for the last 3 or 5 preceding calendar years, whichever average is higher; provided further, that only those wages be included on which employer contributions have been paid on or before January 31 (or the next succeeding day if such January 31 is a Saturday or Sunday) immediately preceding the beginning of the 12 months' period for which the employer's contribution rate is computed.

(b) "Benefits" means the money payments payable to an individual, as provided in this chapter (R. S. 43:21–1 et seq.), with respect to his unemployment.

(c) "Base year" with respect to benefit years commencing on or after January 1, 1953, shall mean the 52 calendar weeks ending with the second week immediately preceding an individual's benefit year.

(d) "Benefit year" with respect to any individual means the 364 consecutive calendar days beginning with the day on, or as of, which he first files a valid claim for benefits, and thereafter beginning with the day on, or as of, which the individual next files a valid claim for benefits after the termination of his last preceding benefit year. Any claim for benefits made in accordance with subsection (a) of section 43:21–6 of this Title shall be deemed to be a "valid claim" for the purpose of this subsection if (1) no remuneration was paid or is payable for the day on which, or as of which he files a claim for benefits, and no work is available to him with his current employing unit on such day, or, he is unemployed for the week in which, or as of which, he files a claim for benefits; and (2) he has fulfilled the conditions imposed by subsection (e) of section 43:21–4 of this Title.

(e) "Division" means the Division of Unemployment and Temporary Disability Insurance of the Department of Labor and Industry established by c. 446, P. L. 1948, and any transaction or exercise of authority by the director of the division thereunder, or under this chapter (R. S. 43:21–1 et seq.), shall be deemed to be performed by the division.

(f) "Contributions" means the money payments to the State Unemployment Compensation Fund required by R. S. 43:21–7. "Payments in lieu of contributions" means the money payments to the State Unemployment Compensation Fund by employers electing or required to make payments in lieu of contributions as provided in section 3 or section 4 of this act (C. 43:21–7.2 and 43:21–7.3).

(g) "Employing unit" means the State or any of its instrumentalities or any political subdivision thereof or any of its instrumentalities or any instrumentality of more than one of the foregoing or any instrumentality of any of the foregoing and one or more other States or political subdivisions or any individual or type of organization, any partnership, association, trust, estate, joint-stock company, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has or subsequent to January 1, 1936, had in its employ one or more individuals performing services for it within

this State. All individuals performing services within this State for any employing unit which maintains two or more separate establishments within this State shall be deemed to be employed by a single employing unit for all the purposes of this chapter (R. S. 43:21–1 et seq.). Each individual employed to perform or to assist in performing the work of any agent or employee of an employing unit shall be deemed to be employed by such employing unit for all the purposes of this chapter (R. S. 43:21–1 et seq.), whether such individual was hired or paid directly by such employing unit or by such agent or employee; provided, the employing unit had actual or constructive knowledge of the work.

(h) "Employer" means:

(1) Any employing unit which in either the current or the preceding calendar year paid remuneration for employment in the amount of $1,000.00 or more;

(2) Any employing unit (whether or not an employing unit at the time of acquisition) which acquired the organization, trade or business, or substantially all the assets thereof, of another which at the time of such acquisition was an employer subject to this chapter (R. S. 43:21–1 et seq.);

(3) Any employing unit which acquired the organization, trade or business, or substantially all the assets thereof, of another employing unit and which, if treated as a single unit with such other employing unit, would be an employer under paragraph (1) of this subsection;

(4) Any employing unit which together with one or more other employing units is owned or controlled (by legally enforcible means or otherwise), directly or indirectly by the same interests, or which owns or controls one or more other employing units (by legally enforcible means or otherwise), and which, if treated as a single unit with such other employing unit or interest, would be an employer under paragraph (1) of this subsection;

(5) Any employing unit for which service in employment as defined in R. S. 43:21–19 (i) (1) (B) (i); is performed after December 31, 1971; and as defined in R. S. 43:21–19 (i) (1) (B) (ii) is performed after December 31, 1977;

(6) Any employing unit for which service in employment as defined in R. S. 43:21–19 (i) (1) (C) is performed after December 31, 1971 and which in either the current or the preceding calendar year paid remuneration for employment in the amount of $1,000.00 or more:

(7) Any employing unit not an employer by reason of any other paragraph of this subsection (h) for which, within either the current or preceding calendar year, service is or was performed with respect to which such employing unit is liable for any Federal tax against which credit may be taken for contributions required to be paid into a State unemployment fund; or which, as a condition for approval of the Unemployment Compensation Law for full tax credit against the tax imposed by the Federal Unemployment Tax Act is required pursuant to such act to be an employer under this chapter (R. S. 43:21–1 et seq.);

(8) Deleted by amendment (P. L. 1977, C. 307).

(9) Deleted by amendment (P. L. 1977, C. 307).

(10) Deleted by amendment (P. L. 1977, C. 307).

(11) Any employing unit subject to the provisions of the Federal Unemployment Tax Act within either the current or the preceding calendar year except for employment hereinafter excluded under paragraph (7) of subsection (i) of this section.

(12) Any employing unit for which agricultural labor in employment as defined in R. S. 43:21–19 (i) (1) (I) is performed after December 31, 1977;

(13) Any employing unit for which domestic service in employment as defined in R. S. 43:21–19 (i) (1) (J) is performed after December 31, 1977;

(14) Any employing unit which, having become an employer under the Unemployment Compensation Law (R. S. 43:21–1 et seq.), has not under R. S. 43:21–8 ceased to be an employer; or for the effective period of its election pursuant to R. S. 43:21–8, any other employing unit which has elected to become fully subject to this chapter (R. S. 43:21–1 et seq.);

(i) (1) "Employment" means:

(A) Any service performed prior to January 1, 1972, which was employment as defined in the Unemployment Compensation Law (R. S. 43:21–1 et seq.) prior to such date, and, subject to the other provisions of this subsection, service performed on or after January 1, 1972, including service in interstate commerce, performed for remuneration or under any contract of hire, written or oral, express or implied.

(B) (i) Service performed after December 31, 1971 by an individual in the employ of this State or any of its instrumentalities or in the employ of this State and one or more other states or their instrumentalities for a hospital or institution

of higher education located in this State, if such service is not excluded from employment under paragraph (D) below.

(ii) Service performed after December 31, 1977, in the employ of this State or any of its instrumentalities or any political subdivision thereof or any of its instrumentalities or any instrumentality of more than one of the foregoing or any instrumentality of the foregoing and one or more other states or political subdivisions if such service is not excluded from "employment" under paragraph (D) below.

(C) Service performed after December 31, 1971 by an individual in the employ of a religious, charitable, educational, or other organization, which is excluded from "employment" as defined in the Federal Unemployment Tax Act solely by reason of section 3306 (c) (8) of that act, if such service is not excluded from employment under paragraph (D) below.

(D) For the purposes of paragraphs (B) and (C), the term "employment" does not apply to services performed

(i) In the employ of (I) a church or convention or association of churches, or (II) an organization or school which is operated primarily for religious purposes and which is operated, supervised, controlled or principally supported by a church or convention or association of churches;

(ii) By a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order;

(iii) Prior to January 1, 1978, in the employ of a school which is not an institution of higher education, and after December 31, 1977, in the employ of a governmental entity referred to in section 19 (i) (1) (B) if such service is performed by an individual in the exercise of duties

(aa) as an elected official;

(bb) as a member of a legislative body, or a member of the judiciary, of a State or political subdivision;

(cc) as a member of the State National Guard or Air National Guard;

(dd) as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood or similar emergency;

(ee) in a position which, under or pursuant to the laws of this State, is designated as a major nontenured policymaking or advisory position, or a policymaking or advisory

position the performance of the duties of which ordinarily does not require more than 8 hours per week; or

(iv) By an individual receiving rehabilitation or remunerative work in a facility conducted for the purpose of carrying out a program of rehabilitation of individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market;

(v) By an individual receiving work-relief or work-training as part of an unemployment work-relief or work-training program assisted in whole or in part by any Federal agency or an agency of a State or political subdivision thereof; or

(vi) Prior to January 1, 1978, for a hospital in a State prison or other State correctional institution by an inmate of the prison or correction institution and after December 31, 1977, by an inmate of a custodial or penal institution.

(E) The term "employment" shall include the services of an individual who is a citizen of the United States, performed outside the United States after December 31, 1971 (except in Canada and in the case of the Virgin Islands, after December 31, 1971 and prior to January 1 of the year following the year in which the U.S. Secretary of Labor approves the unemployment compensation law of the Virgin Islands under section 3304 (a) of the Internal Revenue Code of 1954) in the employ of an American employer (other than the service which is deemed employment under the provisions of paragraphs 43:21–19 (i) (2) or (5) or the parallel provisions of another state's Unemployment Compensation Law), if

(i) The American employer's principal place of business in the United States is located in this State; or

(ii) The American employer has no place of business in the United States, but (I) the American employer is an individual who is a resident of this State; or (II) the American employer is a corporation which is organized under the laws of this State; or (III) the American employer is a partnership or trust and the number of partners or trustees who are residents of this State is greater than the number who are residents of any other state; or

(iii) None of the criteria of divisions (i) and (ii) of this subparagraph (E) is met but the American employer has elected to become an employer subject to the Unemployment

Compensation Law (R. S. 43:21–1 et seq.) in this State, or the American employer having failed to elect to become an employer in any state, the individual has filed a claim for benefits, based on such service, under the law of this State.

(iv) An "American employer" for the purposes of this subparagraph (E), means (I) an individual who is a resident of the United States; or (II) a partnership if two-thirds or more of the partners are residents of the United States; or (III) a trust, if all the trustees are residents of the United States, or (IV) a corporation organized under the laws of the United States or of any state.

(F) Notwithstanding R. S. 43:21–19 (i) (2), all service performed after January 1, 1972 by an officer or member of the crew of an American vessel or American aircraft on or in connection with such vessel or aircraft, if the operating office from which the operations of such vessel or aircraft operating within, or within and without, the United States are ordinarily and regularly supervised, managed, directed, and controlled, is within this State.

(G) Notwithstanding any other provision of this subsection, service in this State with respect to which the taxes required to be paid under any Federal law imposing a tax against which credit may be taken for contributions required to be paid into a State unemployment fund or which as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act is required to be covered under the Unemployment Compensation Law (R. S. 43:21–1 et seq.).

(H) The term "United States" when used in a geographical sense in subsection R. S. 43:21–19 (i) includes the states, the District of Columbia, the commonwealth of Puerto Rico and, effective on the day after the day on which the U.S. Secretary of Labor approves for the first time under section 3304 (a) of the Internal Revenue Code of 1954 an unemployment compensation law submitted to the Secretary by the Virgin Islands for such approval, the Virgin Islands.

(I) (i) Service performed after December 31, 1977 in agricultural labor in a calendar year for an entity which is an employer as defined in the Unemployment Compensation Law (R. S. 43:21–1 et seq.) as of January 1 of such year; or for an employing unit which

(aa) during any calendar quarter in either the current or the preceding calendar year paid remuneration in cash of

$20,000.00 or more to individuals employed in agricultural labor, or

(bb) for some portion of a day in each of 20 different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year, employed in agricultural labor 10 or more individuals, regardless of whether they were employed at the same moment of time.

(ii) For the purposes of this subsection any individual who is a member of a crew furnished by a crew leader to perform service in agricultural labor for any other entity shall be treated as an employee of such crew leader

(aa) if such crew leader holds a valid certification of registration under the Farm Labor Contractor Registration Act of 1963; or P. L. 1971, c. 192 (C. 34:8A–7 et seq.); or substantially all the members of such crew operate or maintain tractors, mechanized harvesting or cropdusting equipment, or any other mechanized equipment, which is provided by such crew leader; and

(bb) if such individual is not an employee of such other person for whom services were performed.

(iii) For the purposes of subparagraph (I) (i) in the case of any individual who is furnished by a crew leader to perform service in agricultural labor for any other entity and who is not treated as an employee of such crew leader under (I) (ii)

(aa) such other entity and not the crew leader shall be treated as the employer of such individual; and

(bb) such other entity shall be treated as having paid cash remuneration to such individual in an amount equal to the amount of cash remuneration paid to such individual by the crew leader (either on his own behalf or on behalf of such other entity) for the service in agricultural labor performed for such other entity.

(iv) For the purposes of subparagraph (I) (i), the term "crew leader" means an individual who

(aa) furnishes individual to perform service in agricultural labor for any other entity;

(bb) pays (either on his own behalf or on behalf of such other entity) the individuals so furnished by him for the service in agricultural labor performed by them; and

(cc) has not entered into a written agreement with such other entity under which such individual is designated as an employee of such other entity.

(J) Domestic service after December 31, 1977 performed in the private home of an employing unit which paid cash remuneration of $1,000.00 or more to one or more individuals for such domestic service in any calendar quarter in the current or preceding calendar year.

(2) The term "employment" shall include an individual's entire service performed within or both within and without this State if:

(A) The service is localized in this State; or

(B) The service is not localized in any state but some of the service is performed in this State, and (i) the base of operations, or, if there is no base of operations, then the place from which such service is directed or controlled, is in this State; or (ii) the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this State.

(3) Services performed within this State but not covered under paragraph (2) of this subsection shall be deemed to be employment subject to this chapter (R. S. 43:21–1 et seq.) if contributions are not required and paid with respect to such services under an unemployment compensation law of any other state or of the Federal Government.

(4) Services not covered under paragraph (2) of this subsection and performed entirely without this State, with respect to no part of which contributions are required and paid under an Unemployment Compensation Law of any other state or of the Federal Government, shall be deemed to be employment subject to this chapter (R. S. 43:21–1 et seq.) if the individual performing such services is a resident of this State and the employing unit for whom such services are performed files with the division an election that the entire service of such individual shall be deemed to be employment subject to this chapter (R. S. 43:21–1 et seq.).

(5) Service shall be deemed to be localized within a state if:

(A) The service is performed entirely within such state; or

(B) The service is performed both within and without such state, but the service performed without such state is incidental to the individual's service within the State, for example, is

temporary or transitory in nature or consists of isolated transactions.

(6) Services performed by an individual for remuneration shall be deemed to be employment subject to this chapter (R. S. 43:21–1 et seq.) unless and until it is shown to the satisfaction of the division that

(A) Such individual has been and will continue to be free from control or direction over the performance of such service, both under his contract of service and in fact; and

(B) Such service is either outside the usual course of the business for which such service is performed, or that such service is performed outside of all the places of business of the enterprise for which such service is performed; and

(C) Such individual is customarily engaged in an independently established trade, occupation, profession or business.

(7) Provided that such services are also exempted under the Federal Unemployment Tax Act, as amended, or that contributions with respect to such services are not required to be paid into a State Unemployment Fund as a condition for a tax offset credit against the tax imposed by the Federal Unemployment Tax Act, as amended, the term "employment" shall not include:

(A) Agricultural labor performed prior to January 1, 1978; and after December 31, 1977, only if performed in a calendar year for an entity which is not an employer as defined in the Unemployment Compensation Law (R. S. 43:21–1 et seq.) as of January 1 of such calendar year; or unless performed for an employing unit which

(i) during a calendar quarter in either the current or the preceding calendar year paid remuneration in cash of $20,000.00 or more to individuals employed in agricultural labor, or

(ii) for some portion of a day in each of 20 different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year, employed in agricultural labor 10 or more individuals, regardless of whether they were employed at the same moment of time.

(B) Domestic service in a private home performed prior to January 1, 1978; and after December 31, 1977, unless performed in the private home of an employing unit which paid cash remuneration of $1,000.00 or more to one or more individuals for such domestic service in any calendar quarter in the current or preceding calendar year;

(C) Service performed by an individual in the employ of his son, daughter or spouse, and service performed by a child under the age of 18 in the employ of his father or mother;

(D) Service performed prior to January 1, 1978, in the employ of this State or of any political subdivision thereof or of any instrumentality of this State or its political subdivisions except as provided in R. S. 43:21–19 (i) (1) (B) above, and service in the employ of the South Jersey Port Corporation or its successors;

(E) Service performed in the employ of any other state or its political subdivisions or of an instrumentality of any other state or states or their political subdivisions: to the extent that such instrumentality is with respect to such service exempt under the Constitution of the United States from the tax imposed under the Federal Unemployment Tax Act, as amended, except as provided in R. S. 43:21–19 (i) (1) (B) above;

(F) Service performed in the employ of the United States Government or of an instrumentality of the United States exempt under the Constitution of the United States from the contributions imposed by the Unemployment Compensation Law, except that to the extent that the Congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a State Unemployment Compensation Law, all of the provisions of this act shall be applicable to such instrumentalities, and to service performed for such instrumentalities, in the same manner, to the same extent and on the same terms as to all other employers, employing units, individuals and services; provided, that if this State shall not be certified for any year by the Secretary of Labor of the United States under section 3304 of the Federal Internal Revenue Code (26 U. S. C., sec. 3304), the payments required of such instrumentalities with respect to such year shall be refunded by the division from the fund in the same manner and within the same period as is provided in R. S. 43:21–14 (f) with respect to contributions erroneously paid to or collected by the division;

(G) Services performed in the employ of fraternal beneficiary societies, orders, or associations operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system and providing for the payment of life, sick, accident, or other benefits

to the members of such society, order, or association, or their dependents;

(H) Services performed as a member of the board of directors, a board of trustees, a board of managers, or a committee of any bank, building and loan or savings and loan association, incorporated or organized under the laws of this State or of the United States, where such services do not constitute the principal employment of the individual;

(I) Service with respect to which unemployment insurance is payable under an unemployment insurance program established by an Act of Congress;

(J) Service performed by agents of mutual fund brokers or dealers in the sale of mutual funds or other securities, by agents of insurance companies, exclusive of industrial insurance agents, or by agents of investment companies, if the compensation to such agents for such services is wholly on a commission basis;

(K) Services performed by real estate salesmen or brokers who are compensated wholly on a commission basis;

(L) Services performed in the employ of any veterans' organization chartered by Act of Congress or of any auxiliary thereof, no part of the net earnings of which organization, or auxiliary thereof, inures to the benefit of any private shareholder or individual;

(M) Service performed for or in behalf of the owner or operator of any theatre, ballroom, amusement hall or other place of entertainment, not in excess of 10 weeks in any calendar year for the same owner or operator, by any leader or musician of a band or orchestra, commonly called a "name band," entertainer, vaudeville artist, actor, actress, singer or other entertainer;

(N) Services performed after January 1, 1973 by an individual for a labor union organization, known and recognized as a union local, as a member of a committee or committees reimbursed by the union local for time lost from regular employment, or as a part-time officer of a union local and the remuneration for such services is less than $1,000.00 in a calendar year;

(O) Services performed in the sale or distribution of merchandise by home-to-home salespersons or in-the-home demonstrators whose remuneration consists wholly of commissions or commissions and bonuses.

(P) Service performed in the employ of a foreign government, including service as a consular, nondiplomatic representative, or other officer or employee;

(Q) Service performed in the employ of an instrumentality wholly owned by a foreign government if (i) the service is of a character similar to that performed in foreign countries by employees of the United States Government or of an instrumentality thereof, and (ii) the division finds that the United States Secretary of State has certified to the United States Secretary of the Treasury that the foreign government with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar services performed in the foreign country by employees of the United States Government and of instrumentalities thereof;

(R) Service in the employ of an international organization entitled to enjoy the privileges, exemptions and immunities under the International Organization Immunities Act (22 U. S. C. 288 et seq.);

(S) Service covered by an election duly approved by an agency charged with the administration of any other state or Federal Unemployment Compensation or Employment Security Law, in accordance with an arrangement pursuant to R. S. 43:21–21 during the effective period of such election;

(T) Service performed in the employ of a school, college, or university if such service is performed (i) by a student enrolled at such school, college, or university on a full-time basis in an educational program or completing such educational program leading to a degree at any of the severally recognized levels, or (ii) by the spouse of such a student, if such spouse is advised at the time such spouse commences to perform such service that (I) the employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college, or university, and (II) such employment will not be covered by any program of unemployment insurance;

(U) Service performed by an individual under the age of 22 who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, as a student in a full-time program, taken for credit at such institution, which combines academic instruction

with work experience, if such service is an integral part of such program, and such institution has so certified to the employer, except that this subparagraph shall not apply to service performed in a program established for or on behalf of an employer or group of employers;

(V) Service performed in the employ of a hospital, if such service is performed by a patient of the hospital; service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and regularly attending classes in a nurses' training school approved under the laws of this State; and service performed as an intern in the employ of a hospital by an individual who has completed a 4-year course in a medical school approved pursuant to the law of this State.

(W) Services performed after the effective date of this amendatory act by agents of mutual benefit associations if the compensation to such agents for such services is wholly on a commission basis.

(8) If one-half or more of the services in any pay period performed by an individual for an employing unit constitutes employment, all the services of such individual shall be deemed to be employment; but if more than one-half of the service in any pay period performed by an individual for an employing unit does not constitute employment, then none of the service of such individual shall be deemed to be employment. As used in this paragraph, the term "pay period" means a period of not more than 31 consecutive days for which a payment for service is ordinarily made by an employing unit to individuals in its employ.

(j) "Employment office" means a free public employment office, or branch thereof operated by this State or maintained as a part of a State-controlled system of public employment offices.

(k) "Fund" means the unemployment compensation fund established by this chapter (R. S. 43:21–1 et seq.), to which all contributions required and from which all benefits provided under this chapter (R. S. 43:21–1 et seq.) shall be paid.

(l) "State" includes, in addition to the states of the United States of America, the District of Columbia, the Virgin Islands and Puerto Rico.

(m) Unemployment.

(1) An individual shall be deemed "unemployed" for any week during which he is not engaged in full-time work and with respect to which his remuneration is less than his weekly benefit rate,

including any week during which he is on vacation without pay; provided, such vacation is not the result of the individual's voluntary action.

(2) The term "remuneration" with respect to any individual for benefit years commencing on or after July 1, 1961, and as used in this subsection, shall include only that part of the same which in any week exceeds 20% of his weekly benefit rate (fractional parts of a dollar omitted) or $5.00 whichever is the larger.

(3) An individual's week of unemployment shall be deemed to commence only after his registration at an employment office, except as the division may by regulation otherwise prescribe.

(n) "Unemployment compensation administration fund" means the unemployment compensation administration fund established by this chapter (R. S. 43:21–1 et seq.), from which administrative expenses under this chapter (R. S. 43:21–1 et seq.) shall be paid.

(o) "Wages" means remuneration paid by employers for employment; provided, however, that for eligibility and benefit purposes wages earned but not paid when the amount thereof has been calculated and is due as determined by the established and customary practices of the employer shall be construed as having been paid when earned. If a worker receives gratuities regularly in the course of his employment from others than his employer, his "wages" shall also include the gratuities so received if reported in writing to his employer in accordance with regulations of the division, and if not so reported, his "wages" shall be determined in accordance with the minimum wage rates prescribed under any labor law or regulation of this State or of the United States, or the amount or remuneration actually received by the employee from his employer, whichever is the higher.

(p) "Remuneration" means all compensation for personal services, including commissions and bonuses and the cash value of all compensation in any medium other than cash.

(q) "Week" means such period or periods of 7 consecutive days ending at midnight, as the division may by regulation prescribe.

(r) "Calendar quarter" means the period of 3 consecutive calendar months ending on March 31, June 30, September 30, or December 31.

(s) "Investment company" means any company as defined in paragraph 1-a of c. 322 of the laws of 1938, entitled "An act concerning investment companies, and supplementing Title 17 of the Revised Statutes by adding thereto a new chapter entitled 'investment companies.' "

(t) "Base week" means any calendar week of an individual's base year during which he earned in employment from an employer remuneration equal to not less than $30.00; provided, if in any calendar week, an individual is in employment with more than one employer, he may in such calendar week establish a base week with respect to each such employer from whom the individual earns remuneration equal to not less than $30.00 during such week.

(u) "Average weekly wage" means the amount derived by dividing an individual's total wages received during his base year base weeks (as defined in subsection (t) of this section) from that most recent base year employer with whom he has established at least 20 base weeks, by the number of base weeks in which such wages were earned. In the event that such claimant had no employer in his base year with whom he had established at least 20 base weeks, then such individual's average weekly wage shall be computed as if all of his base week wages were received from one employer and as if all his base weeks of employment had been performed in the employ of one employer.

If on application of a claimant it is determined that he has been employed during at least the 4 weeks immediately preceding his separation from employment by an employer on a substantially reduced schedule of weekly hours due to lack of work, all weeks of substantially reduced schedule within the base period and his wages therefor shall be disregarded in computing his average weekly wage.

(v) "Initial determination" means, subject to the provisions of R. S. 43:21–6 (b) (2) and (3), a determination of benefit rights as measured by an eligible individual's base year employment with a single employer covering all periods of employment with that employer during the base year. Subject to the provisions of R. S. 43:21–3 (d) (3) if an individual has been in employment in his base year with more than one employer, no benefits shall be paid to that individual under any successive initial determination until his benefit rights have been exhausted under the next preceding initial determination.

(w) "Last date of employment" means the last calendar day in the base year of an individual on which he performed services in employment for a given employer.

(x) "Most recent base year employer" means that employer with whom the individual most recently, in point of time, performed services in employment in the base year.

(y) (1) "Education institution" means any public or other nonprofit institution (including an institution of higher education)

(A) In which participants, trainees, or students are offered an organized course of study or training designed to transfer to them knowledge, skills, information, doctrines, attitudes or abilities from, by or under the guidance of an instructor(s) or teacher(s);

(B) Which is approved, licensed or issued a permit to operate as a school by the State Department of Education or other government agency that is authorized within the State to approve, license or issue a permit for the operation of a school; and

(C) Which offers courses of study or training which may be academic, technical, trade, or preparation for gainful employment in a recognized occupation.

(2) "Institution of higher education" means an educational institution which:

(A) Admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(B) Is legally authorized in this State to provide a program of education beyond high school;

(C) Provides an educational program for which it awards a bachelor's or higher degree, or provides a program which is acceptable for full credit toward such a degree, a program of post-graduate or post-doctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation; and

(D) Is a public or other nonprofit institution.

Notwithstanding any of the foregoing provisions of this subsection, all colleges and universities in this State are institutions of higher education for purposes of this section.

(z) "Hospital" means an institution which has been licensed, certified or approved under the law of this State as a hospital.

2. This act shall take effect immediately.

Approved February 5, 1980.

CHAPTER 380

AN ACT concerning homeowners' and other liability insurance, amending R. S. 34:15–78 and R. S. 34:15–92, and supplementing Title 17 of the Revised Statutes.

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

C. 17:36-5.29 Coverage for domestic servant or household employee.

1. (New section) Every homeowners' policy or other policy providing comprehensive personal liability insurance delivered, issued for delivery, or renewed in this State on or after the effective date of this act shall afford coverage against liability for the payment of any obligation which the policyholder may incur to an injured domestic servant or household employee or the dependents thereof pursuant to the provisions of chapter 15 of Title 34 of the Revised Statutes.

2. R. S. 34:15–78 is amended to read as follows:

Coverage for liability in stock company or mutual association; notice; filing; exception.

34:15–78. Every employer not operating under section 34:15–77 of this title shall insure and keep insured his liability in any stock company or mutual association authorized to engage in workmen's compensation or employer's liability insurance in this State. If insurance be effected by either method mentioned in this section, the insurance company or mutual association shall file with the commissioner of banking and insurance a notice setting forth the name of the insurance company, its principle office in this State, together with a copy of the policy of insurance and copies of all indorsements attached and such other data in relation thereto as the commissioner of banking and insurance may require except that no such filing shall be required in connection with insurance coverage for domestic servants or household employees written pursuant to P. L. , c. , (now pending before the Legislature as Assembly Bill No. 949 of 1978).

3. R. S. 34:15–92 is amended to read as follows:

Exemptions.

34:15–92. Each employer of domestic servants or household employees and every stock company or mutual association affording

insurance for the liability of such employers by reason of that employment shall be exempted from the provisions of R. S. 34:15–79, and R. S. 34:15–80. The provisions of R. S. 34:15–81 shall not be applicable where the insurance coverage is afforded pursuant to P. L. , c. , (now pending before the Legislature as Assembly Bill No. 949 of 1978).

C. 17:36-5.30 Transaction of workers' compensation insurance.

4. (New section) Notwithstanding R. S. 17:17–7, every insurer who is admitted to transact liability insurance under R. S. 17:17–1 is also deemed to be admitted to transact workers' compensation insurance for the purpose of covering those persons specified in this act.

5. This act shall take effect with respect to homeowners' policies or other policies providing comprehensive personal liability insurance delivered, issued for delivery, or received on or after the one hundred and eigthieth day after enactment.

Approved February 5, 1980.

CHAPTER 381

AN ACT concerning the establishment, enlargement, and dissolution of fire districts, and amending sections 40A:14–70, 40A:14–90 and 40A:14–91 of the New Jersey Statutes.

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

1. N. J. S. 40A:14–70 is amended to read as follows:

Designation of fire districts; number; commissioners; election and meetings.

40A:14–70. In any municipality not having a paid or part-paid fire department and force, the governing body, upon application of at least 5% of the registered voters or 20 legal voters whichever is the greater, by ordinance, shall designate a territorial location or locations for use as a fire district or fire districts and, by resolution, provide for the election of a board of fire commissioners for the district or each district to consist of five persons, residents therein, and specify the time and place for such election.

The district or each district shall be assigned a number and the commissioners thereof and their successors shall be a body

corporate, to be known as "the commissioners of fire district No. ..... in ..... (name of municipality), county of ..... (name of county)". The said body corporate shall have the power to acquire real and personal property for its purposes. It may adopt and use a corporate seal, sue or be sued and shall have such powers, duties and functions as are usual and necessary for said purposes.

At the time and place specified for the election of the first board the clerk of the municipality shall conduct the election and shall preside at the meeting until the board shall have been elected.

At the first meeting of a newly elected board of fire commissioners of a district the board shall choose a chairman and fix the time and place for the annual election. The members of the board shall divide themselves by lot into three classes; the first to consist of two members to be elected for terms of 1 year; the second, two members for terms of 2 years; and the third, one member for a term of 3 years. Upon the expiration of said terms their successors shall be elected for terms of 3 years.

Any vacancy in the membership shall be filled by the remaining members until the next succeeding annual election, at which time a resident of the district shall be elected for the unexpired term.

2. N. J. S. 40A:14–90 is amended to read as follows:

Enlargement of fire district.

40A:14–90. The governing body of a municipality having a fire district therein, by ordinance, may enlarge such fire district by extending the boundaries thereof to include additional territory in such municipality but not included in another fire district.

Upon the adoption of any such ordinance and publication thereof as required by law the additional territory shall become part of said fire district.

Nothing contained herein shall affect the terms or tenure of members of the board of fire commissioners or officers or personnel thereof, nor the bonds and obligations, if any, of such fire district.

3. N. J. S. 40A:14–91 is amended to read as follows:

Dissolution of fire district.

40A:14–91. Upon a written application therefor, of at least 5% of the registered voters or 20 legal voters whichever is the greater, the governing body of the municipality, wherein the fire district

is located, shall consider the dissolution of the fire district. Upon receipt of such an application the governing body of said municipality shall fix a time and place for a hearing thereon. The municipal clerk shall advertise the notice of hearing in a newspaper circulating in the county wherein the municipality is located at least once and not less than 10 days prior to the meeting.

After the hearing the governing body of said municipality shall determine the question of the proposed dissolution.

If a resolution be adopted that the fire district be dissolved, any moneys remaining in the fire district treasury shall be disposed of as the said governing body shall direct.

4. This act shall take effect immediately.

Approved February 5, 1980.

CHAPTER 382

AN ACT concerning cemeteries and repealing N. J. S. 8A:3–21.

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

Repealer.

1. N. J. S. 8A:3–21 is repealed.

2. This act shall take effect immediately.

Approved February 5, 1980.

CHAPTER 383

AN ACT to amend "A supplement to the 'New Jersey Medical Assistance and Health Services Act,' approved January 15, 1969 (P. L. 1968, c. 413)," approved February 22, 1979 (P. L. 1979, c. 27).

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

1. Section 1 of P. L. 1979, c. 27 (C. 30:4D–34) is amended to read as follows:

C. 30:4D-34 Reimbursement for cost of prescription drugs.

1. Any eligible person under the program of Pharmaceutical Assistance to the Aged shall, upon the submission of such application and proof of expenditure as the department may prescribe, be reimbursed for the cost of all prescription drugs purchased by such person, minus a $2.00 copayment per prescription, during the period commencing 30 days after such person's properly completed application was received by the department and ending on the date on which such person received his proof of eligibility from the department; provided, however, that no reimbursement under this act shall be made for any prescription drug purchased prior to the effective date of this act.

2. This act shall take effect immediately.

Approved February 5, 1980.

CHAPTER 384

AN ACT concerning municipal tax collectors, amending N. J. S. 40A:9–141, 40A:9–142, 40A:9–144 and 40A:9–145 repealing N. J. S. 40A:9–144.1 and supplementing Title 40A of the New Jersey Statutes.

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

C. 40A:9-145.1 Definitions.

1. (New section) As used in this act:

a. "Director" means the Director of the Division of Local Government Services; and,

b. "Tax collector" means the official charged with the duty of collecting taxes upon real and personal property in a municipality.

C. 40A:9-145.2 Semi-annual examinations for certification as tax collector; qualifications; application fee.

2. (New section) Commencing on the effective date of this act, the director shall hold examinations semi-annually, and at such other times as he may determine appropriate, for certification as tax collector. An applicant for examination shall furnish proof to the director, not less than 30 days before an examination, that the applicant is not less than 21 years of age, is a citizen of the United States, is of good moral character, has obtained a certificate

or diploma issued after at least 4 years of study in an approved secondary school or has received an academic education considered and accepted by the Commissioner of Education as fully equivalent, and has graduated from a 4 year course at an institution of higher education of recognized standing. An applicant who does not meet the college education requirement may substitute on a year-for-year basis full-time experience in tax collection or accounting. An applicant who does not meet the college education or full-time experience requirements may substitute certificates of completion of municipal tax collection I, II and III courses offered through Rutgers, The State University. The proofs required pursuant to this section shall be provided on such application forms and in such manner as shall be prescribed by the director. Each completed application form shall be accompanied by a fee in the amount of $10.00 to the order of the State Treasurer. Examinations shall be written, or both written and oral, and shall be of such character as fairly to test and determine the qualifications, fitness and ability of the person tested to actually perform the duties of tax collector.

C. 40A:9-145.3 Tax collector certificate; issuance; additional fee.

3. (New section) Upon the successful completion of the examination by an applicant, a tax collector certificate shall be issued to him, upon the payment of an additional fee of $25.00 to the order of the State Treasurer.

C. 40A:9-145.4 Issuance of certificate without examination; conditions.

4. (New section) Upon payment of a fee of $25.00 to the order of the State Treasurer, the director shall issue a tax collector certificate without examination under the following conditions:

a. An applicant who, on or after the effective date of this act but not later than December 31, 1981, while actually in office as a collector, and having obtained tenure pursuant to 40A:9–145, shall furnish proof that he has served as a coadjutant faculty member instructor of training courses designated as Principles of Municipal Tax Collection and Advanced Tax Collection—Tax Sales offered through Rutgers, The State University; or,

b. An applicant who, on or after the effective date of this act but not later than December 31, 1981, while actually in office as a collector, and having obtained tenure pursuant to 40A:9–145, shall furnish proof that he has received certificates indicating satisfactory completion of training courses designated as Principles of Municipal Tax Collection and Advanced Tax Collection—Tax Sales offered through Rutgers, The State University.

The provisions of this section shall apply to every person actually in office as tax collector performing the duties of tax collector whether or not in the classified service under Title 11 of the Revised Statutes (Civil Service), and shall expire on December 31, 1982.

C. 40A:9-145.5 Revocation or suspension of certificate.

5. (New section) Any tax collector certificate may be revoked or suspended by the director for dishonest practices, or willful or intentional failure, neglect or refusal to comply with the Constitution of the State of New Jersey or laws relating to the collection of taxes, or other good cause. The governing body or chief executive officer of any municipality may request a review by the director of the behavior or practices of a certified tax collector. No certificate shall be revoked or suspended except upon a proper hearing before the director or his designee after due notice. If the tax collector certificate of a person serving as tax collector shall be revoked, such person shall be removed from office by the director, his office shall be declared vacant, and such person shall not be eligible to hold that office, nor may he make application for recertification, for a period of 5 years from the date of such revocation.

C. 40A:9-145.6 Prohibitions.

6. (New section) No person shall serve as a tax collector who is a member of the governing body of a municipality.

C. 40A:9-145.7 Appointment or reappointment.

7. (New section) Commencing January 1, 1982, no person shall be appointed or reappointed as tax collector in any municipality of this State unless he shall hold a tax collector certificate issued pursuant to section 3 or 4 of this act.

C. 40A:9-145.8 Tenure; removal from office; procedure.

8. (New section) Notwithstanding the provisions of any other law to the contrary, any person who:

a. Shall be reappointed tax collector subsequent to having received a tax collector certificate pursuant to section 3 or 4 of this act and having served as tax collector or performed the duties of tax collector for not less than 4 consecutive years immediately prior to such reappointment; or,

b. Shall have acquired tenure; shall hold his office during good behavior and efficiency, notwithstanding that such reappointment was for a fixed term of years; and he shall not be removed therefrom for political reasons but only for good cause shown and after a proper hearing before the director or his designee. The removal

of a municipal tax collector shall be only upon a written complaint setting forth with specificity the charge or charges against him. The complaint shall be filed with the municipal clerk and the director and a certified copy thereof shall be served upon the person so charged, with notice of a designated hearing date before the director or his designee, which shall be not less than 30 days nor more than 60 days from the date of service of the complaint. Such date may be extended by the Superior Court for good cause shown upon the application of either party. The person so charged and the complainant shall have the right to be represented by counsel and the power to subpena witnesses and documentary evidence together with discovery proceedings. The provisions of this section shall apply to every person actually in office as tax collector or performing the duties of tax collector whether or not in the classified service under Title 11 of the Revised Statutes (Civil Service).

C. 40A:9-145.9 Tenure of office.

9. (New section) Commencing January 1, 1982, no tax collector shall acquire tenure of office under any law of this State unless he holds a tax collector certificate issued pursuant to section 3 or 4 of this act. Nothing contained in this act shall be construed to affect tenure of office theretofore acquired nor to affect in any way the unexpired term of office of any tax collector theretofore appointed or elected, nor to affect any provision of Title 11 of the Revised Statutes (Civil Service) or any other law providing for tenure of office, except with respect to the acquisition of tenure by a tax collector on or after January 1, 1982.

C. 40A:9-145.10 Holding office after effective date of act.

10. (New section) The provisions of any other law to the contrary notwithstanding, commencing on the effective date of this act, all tax collectors shall hold office by virtue of appointment pursuant to the provisions of N. J. S. 40A:9–141 and 40A:9–142, except as otherwise provided in sections 11 and 12 of this act.

C. 40A:9-145.11 Continuation in office.

11. (New section) All tax collectors holding office on the effective date of this act shall continue in office until their successors are appointed in the manner provided by N. J. S. 40A:9–141 and 40A:9–142.

C. 40A:9-145.12 Tenure in office.

12. (New section) Nothing contained in this act or in any other statute shall prevent any tax collector who upon the effective date

of this act holds office by virtue of his election thereto, from acquiring tenure upon being appointed thereto after the effective date of this act, if he otherwise qualifies for such tenure pursuant to this act or pursuant to N. J. S. 40A:9–144 or 40A:9–145.

13. N. J. S. 40A:9–141 is amended to read as follows:

Appointment of tax collector; compensation.

40A:9–141. Notwithstanding any other law the governing body or chief executive, as shall be appropriate to the form of government of the municipality, by ordinance, shall provide for the appointment of a municipal tax collector and the compensation of said tax collector shall be fixed in the manner otherwise provided by law. The office of municipal tax collector and municipal treasurer, or municipal clerk may be held by the same person.

14. N. J. S. 40A:9–142 is amended to read as follows:

Term of office.

40A:9–142. Every municipal tax collector shall hold his office for a term of 4 years from the first day of January next following his appointment. Vacancies other than due to expiration of term shall be filled by appointment for the unexpired term.

Nothing herein contained shall affect any of the provisions of Title 11 (Civil Service) of the Revised Statutes.

15. N. J. S. 40A:9–144 is amended to read as follows:

Tenure of tax collector.

40A:9–144. On or before December 31, 1981, whenever a person has or shall have held the office of municipal tax collector for 10 consecutive years, the governing body of the municipality may grant tenure in office to such person. In the event the governing body fails to grant tenure in office to a municipal tax collector who has held that office for 10 consecutive years, a petition may be filed for a referendum vote on the question of whether the collector of taxes shall continue to hold office during good behavior and efficiency, and shall not be removed therefrom except for just cause and then only after public hearing upon a written complaint setting forth the charge or charges against him. The petition shall be signed by at least 10% of the registered voters of the municipality and filed with the municipal clerk. Upon the filing of the petition the question shall be submitted to the voters at the next general or regular municipal election which shall occur not less than 60 days thereafter. The municipal clerk shall cause the question to be placed upon the official ballot to be used at the general election in the manner provided by law in substan-

tially the following form: "Shall the collector of taxes continue to hold office during good behavior and efficiency and not be removed therefrom except for just cause and then only after public hearing upon a written complaint setting forth the charge or charges against him?"

Immediately to the left of the question there shall be printed the words "Yes" and "No", each with a square, in either of which the voter may make a cross (×), or a plus sign (+) or check mark (√) according to his choice. There shall also be printed the following: "Place a cross (×), or a plus sign (+) or check mark (√) in one of the above squares indicating your choice." Where voting machines are used, voting thereon shall be equivalent to the foregoing.

The election shall be held in accordance with the general law relating to public questions to be voted on in a single municipality at elections as provided for by Title 19 (Elections) of the Revised Statutes. No election shall be held pursuant to this section on or after January 1, 1982.

16. N. J. S. 40A:9–145 is amended to read as follows:

Tenure in office upon receiving certificate.

40A:9–145. Any person who has held or shall have held the office of tax collector in any municipality for a continuous period of not less than 5 years or who shall be reelected or reappointed to said office upon the completion of one full term of 4 years, upon filing, on or before December 31, 1981 with the clerk of the municipality and with the Division of Local Finance in the Department of Community Affairs a certificate evidencing his satisfactory completion of a course of instruction in the functions and duties of tax collectors approved by the Division of Local Finance as said division shall by regulation provide, shall thereafter continue to hold such office during good behavior and shall not be removed therefrom except for good cause shown after a fair and impartial hearing, notwithstanding that said person was appointed or elected for a fixed term.

The term "tax collector" as used herein shall be construed to mean and include the official charged with the duty of collecting taxes upon real and personal property in each municipality.

Repealer.

17. N. J. S. 40A:9–144.1 is repealed effective January 1, 1982.

18. This act shall take effect immediately.

Approved February 5, 1980.

CHAPTER 385

AN ACT concerning fish and game penalties and amending parts of the statutory law.

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

1. Section 10 of P. L. 1973, c. 309 (C. 23:2A–10) is amended to read as follows:

C. 23:2A-10 Violation of act; penalty enforcement.

10. a. If any person violates any of the provisions of this act or any rule, regulation or order promulgated pursuant to the provisions of this act, the department may institute a civil action in a court of competent jurisdiction for injunctive relief to prohibit and prevent such violation or violations and the said court may proceed in the action in a summary manner.

b. Any person who violates the provisions of this act or any rule, regulation or order promulgated pursuant to this act shall be liable to a penalty of not less than $100.00 and not more than $3,000.00 for each offense, to be collected in a civil action by a summary proceeding under the Penalty Enforcement Law (N. J. S. 2A:58–1 et seq.) or in any case before a court of competent jurisdiction wherein injunctive relief has been requested. Penalties recovered for violations hereof shall be remitted as provided in R. S. 23:10–19. The Superior Court, municipal court and county district court shall have jurisdiction to enforce said Penalty Enforcement Law. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense.

c. The department is hereby authorized and empowered to compromise and settle any claim for a penalty under this section in such amount in the discretion of the department as may appear appropriate and equitable under all of the circumstances.

2. R. S. 23:3–1 is amended to read as follows:

License for hunting, fishing or trapping; penalty; exemptions.

23:3–1. No person shall at any time hunt, take or attempt to take, kill or pursue, with a gun or any firearms of any kind or character, or with longbow and arrow, a wild bird, animal or fowl, or take or attempt to take any skunk, mink, muskrat, or other fur-bearing animal by means of a trap, or set a trap for any fur-

bearing animal, and no person above the age of 14 years shall at any time take or attempt to take fish in any of the fresh waters of this State by the method commonly known as angling with a hand line or rod and line, or with longbow and arrow unless he has first procured a proper license. Nor shall any person engage in hunting, fishing or trapping unless the appropriate license or tag as prescribed hereunder is visibly displayed in a holder in a conspicuous place on the outer clothing at the time of such hunting, fishing or trapping. A licensee shall exhibit his license and tag for inspection to any conservation officer, deputy conservation officer, police officer or other person requesting to see it. No person under 12 years of age shall be issued a trapping license.

Any person found hunting, fishing or trapping without the proper license tag as may be required conspicuously displayed shall be liable to a penalty of $10.00 and costs to be recovered pursuant to the provisions of Title 23, chapter 10, of the Revised Statutes.

A person who is on active duty with any branch or department of the armed service of the United States, shall be entitled to hunt or fish upon obtaining the proper resident license therefor.

Nothing in this section shall prevent the occupant of a farm in this State, who actually resides thereon, or the immediate members of his family who also reside thereon, from hunting for, taking, killing or pursuing with a gun or firearm or a longbow and arrow on the farm a wild bird, animal or fowl, from taking any skunk, mink, muskrat, or other fur-bearing animal by means of a trap or from setting a trap for a fur-bearing animal on the farm, or from taking fish on the farm with hand line or rod and line, or a longbow and arrow in the manner provided by law during the time when it is lawful so to do, without being licensed hereunder. The exemption of this paragraph shall not apply to a person residing on the farm or in a tenant house thereon who is not a member of the occupant's family, nor to a servant of the occupant. Any person who violates any provision of this section for which a penalty is not otherwise expressly provided, shall be liable to a penalty of not less than $25.00 nor more than $100.00 for each offense.

3. R. S. 23:4–1 is amended to read as follows:

Open and close seasons; federal regulations; penalty for violations.

23:4–1. No person shall capture, kill, injure, destroy or have in possession or hunt, hunt for, or attempt to capture, kill, injure or destroy any reedbird, wild swans, wood duck, wild geese, brant,

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wild ducks, rails or marsh hens, gallinules, coot (commonly known as crow duck), upland plover, black-bellied plover, golden plover, greater or lesser yellowlegs, willets, sandpipers, dowitchers or robin snipe, brown backs, curlews, turnstones or calico backs, godwits or marlin, tattlers, Wilson snipe or jacksnipe, woodcock or any other birds commonly known as shore birds, surf snipe or bay snipe, unless an open season is prescribed therefor by the regulations of the United States Department of the Interior, made under the provisions of an Act of Congress relating to migratory birds, and then only during the respective open seasons fixed for such birds by such regulations.

No person shall capture, kill, injure, destroy or have in possession any quail, rabbit, hare, gray, black or fox squirrel, raccoon, woodchuck, English or ring-necked pheasant, ruffed grouse, wild turkey, partridge, or any other game bird or game animal, other than those mentioned in the first paragraph of this section, unless an open season is prescribed therefor by the State Fish and Game Code, and then only during the respective open seasons fixed by such code; or, in the absence of such provision in said code, unless an open season is prescribed therefor by law, and then only during the respective open seasons fixed by this section.

Unless otherwise prescribed by the State Fish and Game Code, the open season for quail, rabbit, hare, gray, black or fox squirrel, male English or ring-necked pheasant, ruffed grouse, or partridge, except as hereinafter in this article is restricted, shall be from November 10 to December 10; provided, however, no person shall capture, kill, injure, destroy or have in his possession any of the birds or animals mentioned in this paragraph on the first day of any open season for such birds and animals before 9 a. m.

Unless otherwise prescribed by the State Fish and Game Code, the open season for woodchuck shall be from May 1 to September 30; between sunrise and sunset only.

Unless otherwise prescribed by the State Fish and Game Code, the open season for raccoon shall be from November 1 to January 15, between sunset and sunrise only, except during the open season for deer.

Unless otherwise provided by the State Fish and Game Code, the birds and animals for which an open season is prescribed by this section may be possessed during the respective open seasons therefor and for the additional period of 10 days immediately succeeding the open seasons.

Except as otherwise specifically provided by this act or any other law, for capturing, killing, injuring, destroying, or having in possession or hunting, hunting for, or attempting to capture, kill, injure or destroy any of the game birds or game animals mentioned in this section, or any other game bird or game animal, other than during the respective open seasons, if any, and at the times, if any, fixed therefor by the respective provisions of the State Fish and Game Code, or, in the absence of any such provisions in said code, fixed therefor by this section, or for violating any other provision of this section, a person shall be liable to a penalty of not less than $20.00 and not more than $100.00 for each bird or animal or part thereof unlawfully captured, killed, injured, destroyed, had in possession, or hunted, hunted for, attempted to be captured, killed, injured or destroyed; provided, however, that a person shall be liable to a penalty of not less than $100.00 and not more than $300.00 for each wild turkey, black bear, coyote, bobcat, otter, or part thereof, unlawfully captured, killed, injured, destroyed, possessed, or hunted, hunted for, attempted to be captured, killed, injured or destroyed.

4. R. S. 23:4–16 is amended to read as follows:

Using automobiles or lights for hunting purposes; casting arrow or discharging firearm across highway; possession of loaded gun near dwelling or school playground; penalty.

23:4–16. No person, either in an automobile or vehicle of any kind whatsoever, or by the aid or use of a light carried on or attached to a vehicle of any kind, shall hunt for, pursue, shoot, shoot at, kill, capture, injure or destroy a bird or animal in this State, and no person shall use any portable light or lights for the purpose of hunting for any game bird or animal excepting raccoon, and no person shall, for the purpose of hunting, taking or killing any bird or animal, cast an arrow or discharge any firearm upon or across any State, county or municipal road or highway, and no person, except the owner or lessee of the property and persons specifically authorized by him in writing, shall, for the purpose of hunting, taking or killing any bird or animal, have in his possession a loaded gun while within 450 feet of any occupied dwelling in this State, or of a school playground, under a penalty of not less than $50.00 and not more than $100.00 for each offense.

5. R. S. 23:4–27 is amended to read as follows:

Possession for sale of game; penalty.

23:4–7. No person shall sell, offer for sale or possess for sale in this State, whether killed or taken within or without the State,

a dead body, or part thereof, of any species of squirrel, wild rabbit, wild hare, or wild deer, or of a game bird or song bird belonging to a species or subspecies native to this State and protected by the provisions of the State Fish and Game Code, or, in the absence of any provision in said code to the contrary protected by law or belonging to a family, any species or subspecies of which is native to this State and protected by the provisions of the State Fish and Game Code, or, in the absence of any provision in said code to the contrary, protected by law, under a penalty of $20.00 for each such squirrel, wild rabbit, wild hare, wild deer or bird so sold, offered for sale or possessed for sale; and under a penalty of not less than $100.00 and not more than $300.00 for each such wild deer so sold, offered for sale or possessed for sale; provided, however, that wild rabbits or wild hares legally killed in another State may be brought into this State at any time for possession, sale and consumption; and provided, further, however, that nothing herein contained shall prohibit the sale of commercially raised wild rabbits and wild hares. The carcasses of deer and the unplucked carcasses of mallard, black and wood ducks, Canada geese, ruffed grouse, squirrels, rabbits, hares, quails and pheasants of all species raised on licensed game preserves and properly tagged, and the unplucked carcasses of Scotch grouse, European black grouse, European black plover, red-legged partridge and Egyptian quail coming from a foreign country, which are properly tagged by the State authorities, may be sold at any time for food purposes.

6. Section 2 of P. L. 1964, c. 37 (C. 23:4–63.6) is amended to read as follows:

C. 23:4-63.6 Permits issued; denial or cancellation; rules and regulations.

2. The Division of Fish, Game and Shell Fisheries is authorized to issue permits to the owners of lands used for agricultural purposes for the use of said devices and no such device shall be used by any person without first obtaining such permit. Any person who violates this section shall be liable to a penalty of $20.00 for each such offense. Whenever the governing body of any municipality adopts a resolution pointing to undue hardship on nearby residents as a result of the use of any such device, and requests that the division deny or cancel the right to use such device, the Director of the Division of Fish, Game and Shell Fisheries, after review of all available evidence, may deny or cancel a permit to use such devise when he determines that the use thereof creates an undue hardship on nearby residents. In arriving at any such decision, the director may consult with any county or Statewide

advisory group he may designate to advise him on such matters. The division shall promulgate rules and regulations governing the types and use of such devices as will insure the safety of the public.

7. This act shall take effect immediately.

Approved February 5, 1980.

CHAPTER 386

AN ACT concerning coastal resources, amending P. L. 1970, c. 33 and P. L. 1948, c. 448, supplementing Title 13 of the Revised Statutes, and repealing P. L. 1945, c. 22, s. 29.

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

1. Section 4 of P. L. 1970, c. 33 (C. 13:1D–3) is amended to read as follows:

C. 13:1D-3 Division of marine services continued as division of coastal resources.

4. a. The Division of Marine Services, together with all of its functions, powers and duties is continued as the Division of Coastal Resources in the Department of Environmental Protection.

b. The Natural Resource Council, together with all of its functions, powers and duties, is continued as the Tidelands Resource Council in the Department of Environmental Protection. This act shall not affect the terms of office of the present members of the council. The members of the council shall continue to be appointed as provided by existing law.

2. Section 13 of P. L. 1948, c. 448 (C. 13:1B–13) is amended to read as follows:

C. 13:1B-13 Riparian leases or grants; approval by commissioner.

13. No action shall be taken by the council except upon the approval of the Commissioner of Environmental Protection. No riparian leases or grants shall hereafter be allowed except when approved by at least a majority of the council and signed by the chairman of the council; and no such leases or grants shall hereafter in any case be allowed except when approved and signed by the Governor and the Commissioner of Environmental Protection.

C. 13:1D-18.2 References to tide lands resource council.

3. (New section) a. Whenever the term "Division of Resource Development", "Division of Natural Resources", or "Division of Marine Services" or the terms "Director of the Division of Resource Development", "Director of the Division of Natural Resources", or "Director of the Division of Marine Services" occurs or any reference is made thereto in any law, contract or document, the same shall be deemed to mean or refer to the Division of Coastal Resources and director thereof, respectively.

b. Whenever the term " Resource Development Council", "Planning and Development Council" or "Natural Resource Council" occurs or any reference is made thereto in any law, contract or document, the same shall be deemed to mean or refer to the Tidelands Resource Council.

4. Section 29 of P. L. 1945, c. 22 (C. 13:1A–29) is repealed.

5. This act shall take effect immediately.

Approved February 5, 1980.

CHAPTER 387

AN ACT to validate certain proceedings of school districts and any bonds or other obligations issued or to be issued pursuant to such proceedings.

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

Validating act.

1. All proceedings heretofore had or taken by any school district or at any school district election for the authorization or issuance of bonds of the school district, and any bonds or other obligations of the school district issued or to be issued in pursuance of a proposal adopted by the legal voters at such election, are hereby ratified, validated and confirmed, notwithstanding that the consents of the commissioner of education and the local finance board were not endorsed on such proposal in accordance with the requirements of N. J. S. 18A:24–23 and N. J. S. 18A:24–25, or notwithstanding that such proposal was not adopted by the board of education in accordance with the requirements of N. J. S. 18A:24–10 and N. J. S.

18A:24–12; provided, however, that prior to the issuance of any bonds or other obligations of the school district, a resolution adopting such proposal in accordance with the provisions of N. J. S. 18A:24–10 and N. J. S. 18A:24–12 shall be adopted by the board of education of such district; and provided further, that no action, suit or proceedings of any nature to contest the validity of such proceedings has heretofore been instituted prior to the date upon which this act takes effect and within the time fixed therefor by or pursuant to law or rule of court or when such time has not heretofore expired, is instituted within 30 days after the effective date of this act.

2. This act shall take effect immediately.

Approved February 5, 1980.

CHAPTER 388

AN ACT to revise, correct and repeal certain statutes.

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

1. N. J. S. 2A:37–30 is amended to read as follows:

Presumption of abandonment of moneys or other personal property.

2A:37–30. a. Except as may be otherwise provided by subsections (b), (c) and (d) of this section, whenever a corporation, partnership, limited partnership or other business association incorporated or organized under the laws of this State or whenever any natural person doing business and domiciled in this State shall have custody or possession of, or otherwise be the holder of, or shall have deposited with or given to an agent or trustee residing within or without this State custody or possession of, stock dividends or any moneys and other accretions which are or shall be due or payable to any person as a dividend upon capital stock, preferred or common, or as interest payable upon bonds, indentures, notes or other formal instruments evidencing indebtedness, or any moneys payable as wages to any person, or any moneys payable on other general cash obligations, or any moneys payable on a credit balance, and except as may be otherwise provided by subsections (b), (c) and (d) of this section, whenever any corpora-

tion, partnership, limited partnership or other business association incorporated or organized under the laws of any other state or of the United States or whenever any natural person doing business within or without this State, and subject to the laws of this State shall have custody or possession or otherwise be a holder of any moneys or other personal property which are due or payable by such holder to any person in any of the categories above enumerated whose last known address according to the records of the holder is within this State and the owner of, beneficial owner of, or person entitled to the same has been and remains unknown for a period of 5 successive years, or the whereabouts of such person has been and remains unknown for a period of 5 successive years, or such personal property has been and remains unclaimed for a period of 5 successive years, such moneys or other personal property shall be presumed abandoned and subject to delivery to the State Treasurer for safekeeping.

(b) (1) Any funds deposited with or paid to any State or Federal savings and loan association, credit union or investment company engaged in business in this State for savings or toward the purchase of shares or other interest in the organization and any interest or dividends thereon shall be presumed abandoned unless the owner of same has within 10 years:

(i) Increased or decreased the amount of the funds on deposit or presented an appropriate record for the crediting of interest or dividends; or

(ii) Corresponded in writing with the organization concerning the funds or deposits;

(iii) Otherwise indicated an interest in the funds or deposit as evidenced by a memorandum on file with the organization.

(2) Any funds held by any State or Federal savings and loan association, credit union or investment company engaged in business in this State payable on any check, or other general cash obligation of the organization which have remained unpaid or unclaimed for 5 successive years shall be presumed abandoned.

(c) All personal property distributable in the course of a voluntary dissolution or other liquidation of:

(1) Any corporation, partnership, limited partnership, unincorporated business association, financial association or other business or financial entity, incorporated or organized within or under the laws of this State; or

(2) Any corporation, partnership, limited partnership, unincorporated business association, financial association or other business

or financial entity incorporated or organized within or under the laws of any other state, or of the United States, which personal property is payable to a person whose last known address is within this State, which is unclaimed by the person entitled thereto within 2 years after the date of final distribution is presumed abandoned and subject to delivery to the State Treasurer for safekeeping.

(d) Any sum payable on a money order or travelers check issued or sold in this State by a corporation, partnership, limited partnership or other business association subject to the laws of this State, which has been outstanding for more than 7 years from the date of its issuance in the case of a money order or for more than 15 years from the date of its issuance in the case of a travelers check, is presumed abandoned, unless the owner has within 7 years in the case of a money order or 15 years in the case of a travelers check corresponded in writing with such corporation, partnership, limited partnership or other business association concerning it, or otherwise indicated an interest as evidence by a memorandum on file with such corporation, partnership, limited partnership or other business association.

Repealer.

2. "An act prohibiting the sexual exploitation of children in photographs and films and supplementing Title 2A of the New Jersey Statutes," approved January 10, 1978 (P. L. 1977, c. 329; C. 2A:142A-1 to 2A:142A-5), is repealed.

3. N. J. S. 2C:51-2 is amended to read as follows:

Forfeiture of Public Office.

2C:51-2. Forfeiture of Public Office. a. A person holding any public office, position, or employment, elective or appointive, under the government of this State or any agency or political subdivision thereof, who is convicted of an offense shall forfeit such office or position if:

(1) He is convicted under the laws of this State of an offense involving dishonesty or of a crime of the third degree or above or under the laws of another state or of the United States of an offense or a crime which, if committed in this State, would be such an offense or crime;

(2) He is convicted of an offense involving or touching such office, position or employment; or

(3) The Constitution or a statute other than the code so provides.

b. The forfeiture set forth in subsection a. shall take effect:

(1) Upon finding of guilt by the trier of fact or a plea of guilty, if the court so orders; or

(2) Upon sentencing unless the court for good cause shown, orders a stay of such forfeiture. If the conviction be reversed, he shall be restored, if feasible, to his office, position or employment with all the rights, emoluments and salary thereof from the date of forfeiture.

c. In addition to the punishment prescribed for the offense, and the forfeiture set forth in 2C:51–2 a., any person convicted of an offense involving or touching on his public office, position or employment shall be forever disqualified from holding any office or position of honor, trust or profit under this State or any of its administrative or political subdivisions.

d. Except as may otherwise be ordered by the Attorney General as the public need may require, any person convicted of an offense under sections 2C:27–2, 2C:27–4, 2C:27–6, 2C:27–7, 2C:29–4, 2C:30–2, or 2C:30–3 of this Title shall be ineligible, either directly or indirectly, to submit a bid, enter into any contract, or to conduct any business with any board, agency, authority, department, commission, public corporation, or other body of this State, of this or one or more other states, or of one or more political subdivisions of this State for a period of, but not more than, 10 years from the date of conviction for a crime of the second degree, or 5 years from the date of conviction for a crime of the third degree. It is the purpose of this subsection to bar any individual convicted of any of the above enumerated offenses and any business, including any corporation, partnership, association or proprietorship in which such individual is a principal, or with respect to which such individual owns, directly or indirectly, or controls 5% or more of the stock or other equity interest of such business, from conducting business with public entities.

The Secretary of State shall keep and maintain a list of all corporations barred from conducting such business pursuant to this section.

4. Section 3 of P. L. 1975, c. 212 (C. 18A:7A–3) is amended to read as follows:

C. 18A:7A-3 Definitions.

3. For the purposes of this act, unless the context clearly requires a different meaning:

"Administrative order" means a written directive ordering specific corrective action by a district which has shown insufficient

educational progress within a reasonable period of time in meeting goals and standards.

"Approved special class pupil" means a pupil enrolled in any class for atypical pupils pursuant to chapter 46 of Title 18A of the New Jersey Statutes.

"Approved special education services pupil" means a pupil receiving specific services pursuant to chapter 46 of Title 18A of the New Jersey Statutes but excluding pupils attending county special services school districts.

"Bilingual education pupil" means a pupil enrolled in a program of bilingual education approved by the State board.

"Budgeted capital outlay" means those capital outlay expenditures that are included in the annual school budget.

"Categorical programs" means those programs and services recognized in this act as requiring per pupil expenditures over and above those applicable to regular programs, as provided in section 20 of this act.

"Current expense" means all expenses of the school district, as enumerated in N. J. S. 18A:22–8, other than those required for interest and debt redemption charges and any budgeted capital project.

"Debt service" means and includes payments of principal and interest upon school bonds and other obligations issued to finance the acquisition of school sites and the acquisition, construction or reconstruction of school buildings, including furnishings, equipment and the costs of issuance of such obligations and shall include payments of principal and interest upon bonds heretofore issued to fund or refund such obligations, and upon municipal bonds and other obligations which the commissioner approves as having been issued for such purposes. Debt service pursuant to the provisions of P. L. 1971, c. 10 (C. 18A:58–33.6 et seq.) and P. L. 1968, c. 177 (C. 18A:33.2 et seq.) is excluded.

"District equalized valuation per pupil" means the quotient resulting from dividing the total equalized valuations in the school district by the resident enrollment of the district; provided that in the determination of the equalized valuation per pupil of a county vocational school the total equalized valuations in the county shall be divided by the total resident enrollment in all school districts of the county to obtain the county vocational school equalized valuation per pupil.

"Equalized valuations" means the equalized valuation of the taxing district or taxing districts as certified by the Director of the Division of Taxation on October 1 of the pre-budget year.

With respect to regional districts and their constituent districts, however, the equalized valuations as described above shall be allocated among the regional and constituent districts in proportion to the number of pupils in each of them.

"Evening school pupils" means the equated full-time resident enrollment of pupils enrolled in an accredited evening high school, an evening vocational high school, and in other evening schools except schools offering programs for self-improvement and social enrichment.

"Goals" means a written statement of educational aspirations for learner achievement and the educational process stated in general terms.

"Guaranteed valuation per pupil" means the product, rounded to the nearest dollar, of 1.344 times the State average valuation per pupil for the year in which the calculation of aid is made.

"Joint Committee on the Public Schools" means the committee created pursuant to P. L. 1975, c. 16 (C. 52:9R–1 et seq.).

"Local vocational pupils" means the full-time equivalent of pupils enrolled in approved categorical vocational programs in school districts designated as local area vocational school districts.

"Minimum aid guaranteed valuation per pupil" means the product, rounded to the nearest whole dollar, of 11.5 times the State average equalized valuation per pupil for the year in which the calculation of aid is made.

"Needs assessment" means a written analysis of the current status of an educational system in terms of achieving its goals.

"Net current expense budget" means the balance after deducting (1) State support for categorical programs pursuant to section 20 of this act, (2) the difference between the transportation amount in the current expense budget and 10% of the estimated approved transportation amount, and (3) all other revenue in the current expense budget except the amount to be raised by local taxation, equalization State support, the State support for approved transportation.

"Net current expenses per pupil" means the quotient resulting from dividing the net current expense budget by the resident enrollment.

"Net debt service and budgeted capital outlay" means the balance after deducting all revenues from the school debt service and budgeted capital outlay budgets of the school district and the school debt service amount included in the municipal budget, except the amount to be raised by local taxation and State support.

"Objective" means a written statement of the intended outcome of a specific educational process.

"Pre-budget year" means the school year preceding the year in which the school budget will be implemented.

"Resident enrollment" means the number of pupils who are resident of the district and are enrolled in day or approved evening schools on the last school day of September of the pre-budget year and are attending: (1) the public schools of the district; (2) another school district or a State college demonstration school to which the district of residence pays tuition; or (3) a State facility; provided that a district shall count pupils regularly attending both the schools of the district and of a county vocational school in the same county on an equated full-time basis.

"Standards" means the process and stated levels of proficiency used in determining the extent to which goals and objectives are being met.

"State average net current expense budget per pupil" means the quotient resulting from dividing the total net current expense budget of all districts in the State by the total resident enrollment in the State.

"State average valuation per pupil" means the quotient resulting from dividing the total equalized valuations in the State as certified by the Director of the Division of Taxation on October 1 by the total resident enrollment in the State. In the event that the equalized table certified by the Director of the Division of Taxation shall be revised by the Division of Tax Appeals on or before January 30 of the next succeeding year, such revised valuation shall be used in any recomputation of aid for an individual district filing such appeal but will have no effect upon the State average valuation per pupil.

"State compensatory education pupil" means a pupil who is enrolled in preventive and remedial programs, approved by the State board, supplemental to the regular programs and designed to assist pupils who have academic, social, economic or environmental needs that prevent them from succeeding in regular school programs.

"State facility" means a State residential facility for the retarded; a day training center which is operated by or under contract with the State and in which all the children have been placed by the State; a State residential youth center; a State training school or correctional facility; a State child treatment center or psychiatric hospital.

"State support limit" means the sixty-fifth percentile net current expense budget per pupil for the prebudget year when all district figures are ranked from low to high. The State support limit shall be calculated and applied separately for (a) limited purpose regional districts offering grades 9 through 12, (b) limited purpose regional districts offering grades 7 through 12, provided, however, that the figure used for such districts shall be not less than 90% of the sixty-fifth percentile for limited purpose regional districts offering grades 9 through 12, (c) constituent districts of limited purpose regional districts offering grades 9 through 12, (d) constituent districts of limited purpose regional districts offering grades 7 through 12, provided, however, that the figure used for such districts shall be not less than 90% of the sixty-fifth percentile for constituent districts of limited purpose regional districts offering grades 9 through 12, and (e) all other districts.

5. Section 29 of P. L. 1970, c. 226 (C. 24:21–29) is amended to read as follows:

C. 24:21-29 Second or subsequent offenses.

29. Second or subsequent offenses. a. Any person convicted of any offense under this act, if the offense is a second or subsequent offense, shall be punished by a term of imprisonment of up to twice that otherwise authorized, by up to twice the fine otherwise authorized, or by both; provided, however, that this section shall not apply to section 20a. (3) and (4) and b. offenses.

b. For purposes of this section, an offense shall be considered a second or subsequent offense, if, prior to the commission of the offense, the offender has at any time been convicted of an offense or offenses under this act or under any law of the United States or of any state relating to narcotic drugs, marihuana, depressant, stimulant, or hallucinogenic drugs.

6. Section 2 of P. L. 1971, c. 136 (C. 26:2H–2) is amended to read as follows:

C. 26:2H-2 Definitions.

2. The following words or phrases, as used in this act, shall have the following meanings, unless the context otherwise requires:

a. "Health care facility" means the facility or institution whether public or private, engaged principally in providing services for health maintenance organizations, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, including, but not limited to, a general hospital, special hospital, mental hospital, public health center, diagnostic center, treatment center, rehabilitation center, extended care facility, skilled nursing home, nursing home, intermediate care facility, tuberculosis hospital, chronic disease hospital, maternity hospital, outpatient clinic, dispensary, home health care agency, boarding home or other home for the sheltered care of adult persons and bio-analytical laboratory (except as specifically excluded hereunder) or central services facility serving one or more such institutions but excluding institutions that provide healing solely by prayer and excluding such bio-analytical laboratories as are independently owned and operated, and are not owned, operated, managed or controlled, in whole or in part, directly or indirectly by any one or more health care facilities, and the predominant source of business of which is not by contract with health care facilities within the State of New Jersey and which solicit or accept specimens and operate predominantly in interstate commerce.

b. "Health care service" means the preadmission, outpatient, inpatient and postdischarge care provided in or by a health care facility, and such other items or services as are necessary for such care, which are provided by or under the supervision of a physician for the purpose of health maintenance organizations, diagnosis or treatment of human disease, pain, injury, disability, deformity or physical condition, including, but not limited to, nursing service, home care nursing and other paramedical service, ambulance service, service provided by an intern, resident in training or physician whose compensation is provided through agreement with a health care facility, laboratory service, medical social service, drugs, biologicals, supplies, appliances, equipment, bed and board, but excluding services provided by a physician in his private practice or by practitioners of healing solely by prayer, and services provided by volunteer first aid, rescue and ambulance squads as defined in the "New Jersey Highway Safety Act of 1971," P. L. 1971, c. 351.

c. "Construction" means the erection, building, or substantial acquisition, alteration, reconstruction, improvement, renovation, extension or modification of a health care facility, including its equipment, the inspection and supervision thereof; and the studies,

surveys, designs, plans, working drawings, specifications, procedures, and other actions necessary thereto.

d. "Board" means the Health Care Administration Board established pursuant to this act.

e. "Commission" means the Hospital Rate Setting Commission established pursuant to this act.

f. "Government agency" means a department, board, bureau, division office, agency, public benefit or other corporation, or any other unit, however described, of the State or political subdivision thereof.

g. "Statewide Health Coordinating Council" means the Statewide Health Coordinating Council formed under the provisions of Federal Law 93–641, as amended and supplemented.

h. "Health Systems Agency" means an officially recognized health systems agency formed under the provisions of Federal Law 93–641 as amended and supplemented.

i. "Department" means the State Department of Health.

j. "Commissioner" means the State Commissioner of Health.

k. "Preliminary cost base" means that proportion of a hospital's current costs which may reasonably be required to be reimbursed to a properly utilized hospital for the efficient and effective delivery of appropriate and necessary health care services of high quality required by such hospital's mix of patients. The preliminary cost base initially may include costs identified by the commissioner and approved or adjusted by the commission as being in excess of that proportion of a hospital's current costs identified above, which excess costs shall be eliminated in a timely and reasonable manner prior to certification of the revenue base. The preliminary cost base shall be established in accordance with regulations proposed by the commissioner and approved by the board.

l. "Certified revenue base" means the preliminary cost base adjusted by the commission, as appropriate and necessary pursuant to regulations proposed by the commissioner and approved by the board, to provide for the financial solvency of a hospital which is properly utilized and which delivers, effectively and efficiently, appropriate and necessary health care services of a high quality required by its mix of patients.

m. "Provider of health care" means an individual (1) who is a direct provider of health care service in that the individual's primary activity is the provision of health care services to individuals or the administration of health care facilities in which

such care is provided and, when required by State law, the individual has received professional training in the provisions of such services or in such administration and is licensed or certified for such provision or administration; or (2) who is an indirect provider of health care in that the individual (a) holds a fiduciary position with, or has a fiduciary interest in, any entity described in subparagraph b (ii) or subparagraph b (iv); provided, however, that a member of the governing body of a county or any elected official shall not be deemed to be a provider of health care unless he is a member of the board of trustees of a health care facility or a member of a board, committee or body with authority similar to that of a board of trustees, or unless he participates in the direct administration of a health care facility; or (b) received, either directly or through his spouse, more than one-tenth of his gross annual income for any one or more of the following:

(i) Fees or other compensation for research into or instruction in the provision of health care services;

(ii) Entities engaged in the provision of health care services or in research or instruction in the provision of health care services;

(iii) Producing or supplying drugs or other articles for individuals or entities for use in the provision of or in research into or instruction in the provision of health care services;

(iv) Entities engaged in producing drugs or such other articles.

n. "Private long-term health care facility" means a nursing home, skilled nursing home or intermediate care facility presently in operation and licensed as such prior to the adoption of the 1967 Life Safety Code by the State Department of Health in 1972 and which has a maximum 50-bed capacity and which does not accommodate Medicare or Medicaid patients.

7. Section 5 of P. L. 1966, c. 301 (C. 27:1A–5) is amended to read as follows:

C. 27:1A-5 Powers of commissioner.

5. The commissioner, as head of the department, shall have all of the functions, powers and duties heretofore vested in the State Highway Commissioner and shall, in addition to the functions, powers and duties invested in him by this act or by any other law:

(a) Develop, and maintain a comprehensive master plan for all modes of transportation development, with special emphasis on

public transportation. Such plan shall be revised and updated at least every 5 years;

(b) Develop and promote programs to foster efficient and economical transportation services in the State;

(c) Prepare plans for the preservation, improvement and expansion of the public transportation system, with special emphasis on the coordination of transit modes and the use of rail rights of way, highways and public streets for public transportation purposes;

(d) Enter into contracts with the New Jersey Transit Corporation for the provision and improvement of public transportation services;

(e) Coordinate the transportation activities of the department with those of other public agencies and authorities;

(f) Cooperate with interstate commissions and authorities, State departments, councils, commissions and other State agencies, with appropriate Federal agencies, and with interested private individuals and organizations in the coordination of plans and policies for the development of air commerce and air facilities;

(g) Make an annual report to the Governor and the Legislature of the department's operations, and render such other reports as the Governor shall from time to time request or as may be required by law; and

(h) Promulgate regulations providing for the charging of and setting the amount of fees for certain services performed by and permits issued by the department, including but not limited to the following:

(1) Providing copies of documents prepared by or in the custody of the department;

(2) Aeronautics permits;

(3) Right-of-way permits;

(4) Traffic signal control systems; and

(i) Plan, design, construct, equip, operate, improve and maintain a railroad, subway, street, traction or electric railway for the purpose of carrying freight in this State or between points in this State and points in other states.

8. Section 20 of P. L. 1952, c. 16 (C. 27:12B–20) is amended to read as follows:

C. 27:12B-20 The Garden State Parkway; authorization.

20. The authority, pursuant to the provisions of this act, is hereby authorized to construct, maintain, improve, repair and

operate a project to be known as "The Garden State Parkway," consisting of a highway at the following location or such part or parts thereof as the authority may from time to time determine to be suitable for a project as contemplated by this act: Beginning at such points as the authority may select as most feasible and practicable at Paterson and also at State Highway Route No. 17 in Paramus or Ridgewood and thence in a general southerly direction to a junction in Passaic county and thence generally along the State highway route referred to in section 21 hereof through Clifton, Passaic county, Essex county and Union county to Woodbridge and thence in a general southerly direction to the vicinity of the Edison bridge and thence over the Raritan river through Middlesex county and Monmouth county to Toms River and thence to a point at or near the city of Cape May; but, notwithstanding any of the prior provisions of this act, the authority: (1) shall exclude from any part of such highway situate north of its interchange with State Highway Route No. 18 all traffic except passenger motor vehicles, hearses, funeral flower and service vehicles of types for which issuance of passenger car plates is authorized, campers, omnibuses, taxicabs, and panel vans, pickup trucks and similar vehicles having a gross weight not exceeding 6,999 pounds, and may further regulate the use thereof pursuant to the provisions of section 17(b) hereof; and (2) shall not fix, prescribe, charge or collect tolls or other charges for transit over or use of any part of said project which is or was a portion of a State highway route if such part was designated as toll-free by written certificate of the State Highway Department filed with the Secretary of State prior to October 1, 1952, unless and until such part has been acquired from the State pursuant to section 21 hereof; and (3) shall, with respect to any part of said project located in Essex county, provide connections therewith by means of parallel, marginal, connecting or other service roads or otherwise, to and from existing county highways intersecting such part of said project between and including Springfield avenue, Irvington, and Belleville avenue, Bloomfield, or such of said county highways as, prior to September 15, 1952 or such later date as may be fixed by the authority, shall be designated by certificate of the county engineer of Essex county, approved by resolution of the authority; and (4) unless and until the authority, pursuant to an agreement with the commissioner, shall have set aside in a special reserve fund to be held by it the sum of $13,000,000.00 to be expended and used as hereinafter provided, shall not collect tolls on such project at

Springfield avenue, Irvington, or Belleville avenue, Bloomfield, or at any point between said avenues, except with respect to vehicles entering or leaving the project south of said Springfield avenue or north of said Belleville avenue. The moneys in said special reserve fund may be expended and used by the authority to make payments to the commissioner, pursuant to and as required by the aforementioned agreement, of the excess of the net cost to the State of the construction (generally as a depressed highway and underpassing intersecting roads, streets, highways and the Garden State Parkway, unless subsurface soil conditions are found to be unstable or drainage conditions of such a nature that underpassing the Parkway becomes unfeasible, as determined from engineering studies and reports, then the Freeway shall go over the Parkway) of the part of the public highway approved and designated by the commissioner as Highway Route I-280 and known as the East-West Freeway situate in Essex county between a point easterly of Prospect avenue, West Orange, and a point in Newark between First street and Sixth street, over the net cost to the State, as estimated by the commissioner, of the construction of said part of said public highway as an elevated highway, and no moneys in said fund shall be applied to any purpose except (1) payments to the commissioner as aforesaid, (2) temporary investment pending other authorized use in accordance herewith, or (3) use by the authority for any of its corporate purposes of any balance thereof remaining after payments therefrom to the commissioner aggregating the lesser of (a) $13,000,000.00 or (b) such sum as the commissioner may certify to the authority as the total amount of the aforesaid excess cost of construction, provided, however, that at any time when the amount in said fund, valuing any temporary investments therein at cost or market value whichever is lower, together with the amount of all payments theretofore made therefrom to the commissioner shall exceed $13,000,000.00, the amount of such excess may be withdrawn from said fund by the authority and deposited in the series one construction fund created under section 502 of the resolution of the authority entitled: "First Supplemental Junior Bond Resolution Authorizing $40,000,000.00 Junior Bonds," adopted by the authority on July 7, 1962, and held or applied as other moneys in said construction fund. In the design, construction and operation of such parkway project, it shall be the duty of the authority, so far as may be deemed practicable by it and may be permitted by the terms of any agreement by it with the holders of its bonds or notes, to permit the largest possible

toll-free use of the project by intracounty or short-haul traffic and provide the largest possible number of points of connection between public highways and the project consistent with safe and efficient use of such project and public highways and safe and economical construction and operation of the project on a self-supporting basis.

9. Section 7 of P. L. 1972, c. 201 (C. 40:48C–41) is amended to read as follows:

C. 40:48C-41 Non-profit organizations; exclusion from taxation.

7. No tax shall be imposed under any ordinance adopted pursuant to articles 2 through 8 of the "Local Tax Authorization Act of 1970" (C. 40:48C–1 et seq.) with respect to transactions of any religious, charitable or educational institution or organization organized not for profit.

10. Section 13 of P. L. 1971, c. 199 (C. 40A:12–13) is amended to read as follows:

C. 40A:12-13 Sales of real property, capital improvements or personal property; exceptions; procedure.

13. Sales of real property, capital improvements or personal property; exceptions; procedure. Any county or municipality may sell any real property, capital improvements or personal property, or interests therein, not needed for public use, as set forth in the resolution or ordinance authorizing the sale, other than county or municipal lands, real property otherwise dedicated or restricted pursuant to law, and, except as otherwise provided by law, all such sales shall be made by one of the following methods:

(a) By public sale to the highest bidder after advertisement thereof in a newspaper circulating in the municipality or municipalities in which the lands are situated by two insertions at least once a week during 2 consecutive weeks, the last publication to be not earlier than 7 days prior to such sale. In the case of public sales, the governing body may by resolution fix a minimum price, or prices, with or without the reservation of the right, to reject all bids where the highest bid is not accepted. Notice of such reservation shall be included in the advertisement of the sale and public notice thereof shall be given at the time of sale. Such resolution may provide, without fixing a minimum price, that upon the completion of the bidding, the highest bid may be accepted or all the bids may be rejected. The invitation to bid may also impose restrictions on the use to be made of such real property, capital improvement or personal property and any conditions of sale as to buildings or structures, or as to the type, size, or other

specifications of buildings or structures to be constructed thereon, or as to demolition, repair, or reconstruction of buildings or structures, and the time within which such conditions shall be operative, or any other conditions of sale in like manner and to the same extent as by any other vendor. Such conditions shall be included in the advertisement, as well as the nature of the interest retained by the county or municipality. Such restrictions or conditions shall be related to a lawful public purpose and encourage and promote fair and competitive bidding of the county or municipality and shall not, in the case of a municipality, be inconsistent with or impose a special or higher standard than any zoning ordinance or building, plumbing, electrical, or similar code or ordinance then in effect in the municipality.

In any case in which a county or municipality intends to retain an estate or interest in any real property, capital improvement or personal property, in the nature of an easement, contingent or reversionary, the invitation to bid and the advertisements required herein shall require each bidder to submit one bid under each Option A and Option B below.

(1) Option A shall be for the real property, capital improvement or personal property subject to the conditions or restrictions imposed, or interest or estate retained, which the county or municipality proposes to retain or impose.

(2) Option B shall be for the real property, capital improvement or personal property to be sold free of all such restrictions, conditions, interests or estates on the part of the county or municipality.

The county or the municipality may elect or reject either or both options and the highest bid for each. Such acceptance or rejection shall be made not later than at the second regular meeting of the governing body following the sale, and, if the governing body shall not so accept such highest bid, or reject all bids, said bids shall be deemed to have been rejected. Any such sale may be adjourned at the time advertised for not more than 1 week without readvertising.

(b) At private sale when authorized by resolution, in the case of a county, or by ordinance, in the case of a municipality, in the following cases:

(1) A sale to any political subdivision, agency, department, commission, board or body corporate and politic of the State of New Jersey or to an interstate agency or body of which the State of New Jersey is a member or to the United States of America or any department or agency thereof.

(2) A sale to a person submitting a bid pursuant to subsection (a) of this section where all bids have been rejected, provided that the terms and price agreed to shall in no event be less than the highest bid rejected and provided further that the terms and conditions of sale shall remain identical.

(3) A sale by any county or municipality when it has or shall have conveyed its right, title and interest in any real property, capital improvement or personal property not needed for public use, and it was assumed and intended that there should be conveyed a good and sufficient title in fee simple to said real property, capital improvement or personal property, free of all encumbrances and the full consideration has been paid therefor, and it shall thereafter appear that the title conveyed was insufficient or that said county or municipality at the time of said conveyance was not the owner of some estate or interest in said real property, capital improvement or personal property or of some encumbrances thereon and the county or municipality shall thereafter acquire a good and sufficient title in fee simple, free of all encumbrances of said real property, capital improvement or personal property or shall acquire such outstanding estate or interest thereon or outstanding encumbrance thereon and said county or municipality, by resolution of the governing body and without the payment of any additional consideration, has deemed to convey or otherwise transfer to said purchaser, his heirs or assigns, such after-acquired title, or estate or interest in, or encumbrance upon, such real property, capital improvement or personal property to perfect the title or interest previously conveyed.

(4) A sale of an easement upon any real property previously conveyed by any county or municipality may be made when the governing body of any county by resolution, or any municipality, by ordinance, has elected to release the public rights in the nature of easements, in, on, over or under any real property within the county or the municipality, as the case may be, upon such terms as shall be agreed upon with the owner of such lands, if the use of such rights is no longer desirable, necessary or required for public purposes.

(5) A sale to the owner of the real property contiguous to the real property being sold provided that the property being sold is less than the minimum size required for development under the municipal zoning ordinance and is without any capital improvement thereon; except that when there is more than one owner with real property contiguous thereto, said property shall be sold to

the highest bidder from among all such owners. Any such sale shall be for not less than the fair market value of said real property.

In the case of any sale of real property hereafter made pursuant to subsection (b) of this section, in no event shall the price agreed upon with the owner be less than the difference between the highest bid accepted for the real property subject to easements (Option A) and the highest bid rejected for the real property not subject to easements (Option B). After the adoption of the resolution or ordinance, and compliance by the owner of said real property with the terms thereof, said real property shall be free, and entirely discharged of and from such rights of the public and of the county or municipality, as the case may be, but no such release shall affect the right of lawful occupancy or use of any such real property by any municipal or private utility to occupy or use any such real property lawfully occupied or used by it.

A list of the property so authorized to be sold, pursuant to subsection (b) of this section, together with the minimum prices respectively, as determined by the governing body, shall be included in the resolution or ordinance authorizing the sale, and said list shall be posted on the bulletin board or other conspicuous space in the building which the governing body usually holds its regular meetings, and advertisement thereof made in a newspaper circulating in the municipality or municipalities in which the real property, capital improvement or personal property is situated within 5 days following enactment of said resolution or ordinance. Offers for any or all properties so listed may thereafter be made to the governing body or its designee for a period of 20 days following the advertisement herein required, at not less than said minimum prices, by any prospective purchaser, real estate broker, or other authorized representative. In any such case, the governing body may reconsider its resolution or ordinance, not later than 30 days after its enactment, and advertise the real property, capital improvement, or personal property in question for public sale pursuant to subsection (a) of this section.

Any county or municipality selling any real property, capital improvement or personal property pursuant to subsection (b) of this section shall file with the Director of the Division of Local Government Services in the Department of Community Affairs, sworn affidavits verifying the publication of advertisements as required by this subsection.

All sales either public or private may be made for cash or upon credit. A deposit not exceeding 10% of the minimum price or value of the property to be sold may be required of all bidders. When made upon credit, the county or municipality may accept a purchase-money mortgage, upon terms and conditions which shall be fixed by the resolution of the governing body; provided, however, that any such mortgage shall be fully payable within 5 years from the date of the sale and shall bear interest at a rate equal to that authorized under Title 31 of the Revised Statutes, as amended and supplemented, and the regulations issued pursuant thereto, or the rate last paid by the county or municipality upon any issue of notes pursuant to the Local Bond Law (chapter 2 of Title 40A of the New Jersey Statutes), whichever is highest. The governing body may, by resolution, fix the time for closing of title and payment of the consideration.

In all sales made pursuant to this section, the governing body of any county or municipality may provide for the payment of a commission to any real estate broker, or authorized representative other than the purchaser actually consummating such sale; provided, however, that no commission shall be paid unless notice of the governing body's intention to pay such a commission shall have been included in the advertisement of sale and the recipient thereof shall have filed an affidavit with the governing body stating that said recipient is not the purchaser. Said commissions shall not exceed, in the aggregate, 5% of the sale price, and be paid, where there has been a public sale, only in the event that the sum of the commission and the highest bid price does not exceed the next highest bid price (exclusive of any realtor's commission). As used in this section, "purchaser" shall mean and include any person, corporation, company, association, society, firm, partnership, or other business entity owning or controlling, directly or indirectly, more than 10% of the purchasing entity.

11. Section 3 of P. L. 1968, c. 54 (C. 46:10B–3) is amended to read as follows:

C. 46:10B-3 Additional payments.

3. A mortgagor shall have the right, during any 6 month period beginning with the date of the mortgage loan, to pay, without charge or penalty, an additional sum of $50.00, or multiples thereof, on account of the principal amount owing on a mortgage loan, provided that the additional sums so paid and the principal payments required to be made by the terms of such mortgage loan

during such 6 month period do not together exceed in any such 6 month period 33⅓% of the face amount of such mortgage loan. The right to make additional payments as provided by this section shall not be cumulative, and to the extent that it is not exercised during any 6 month period, shall lapse.

12. Section 4 of P. L. 1945, c. 162 (C. 54:10A–4) is amended to read as follows:

C. 54:10A-4 Definitions.

4. For the purposes of this act, unless the context requires a different meaning:

(a) "Commissioner" shall mean the Director of the Division of Taxation of the State Department of the Treasury.

(b) "Allocation factor" shall mean the proportionate part of a taxpayer's net worth or entire net income used to determine a measure of its tax under this act.

(c) "Corporation" shall mean any corporation, joint-stock company or association and any business conducted by a trustee or trustees wherein interest or ownership is evidenced by a certificate of interest or ownership or similar written instrument.

(d) "Net worth" shall mean the aggregate of the values disclosed by the books of the corporation for (1) issued and outstanding capital stock, (2) paid-in or capital surplus, (3) earned surplus and undivided profits, (4) surplus reserves which can reasonably be expected to accrue to holders or owners of equitable shares, not including reasonable valuation reserves, such as reserves for depreciation or obsolescence or depletion, and (5) the amount of all indebtedness owing directly or indirectly to holders of 10% or more of the aggregate outstanding shares of the taxpayer's capital stock of all classes, as of the close of a calendar or fiscal year. In the case of financial business corporations which are funded through debt from affiliated corporations, the debt to the affiliated corporations is not to be considered as "net worth." The foregoing aggregate of values shall be reduced by 50% of the amount disclosed by the books of the corporation for investment in the capital stock of one or more subsidiaries, which investment is defined as owership (1) of at least 80% of the total combined voting power of all classes of stock of the subsidiary entitled to vote and (2) of at least 80% of the total number of shares of all other classes of stock except nonvoting stock which is limited and preferred as to dividends. In the case of investment in an entity organized under the laws of a foreign country, the foregoing requisite degree of ownership shall

effect a like reduction of such investment from net worth of the taxpayer, if the foreign entity is considered a corporation for any purpose under the United States Federal income tax laws, such as (but not by way of sole examples) for the purpose of supplying deemed-paid foreign tax credits or for the purpose of status as a controlled foreign corporation. In calculating the net worth of a taxpayer entitled to reduction for investment in subsidiaries, the amount of liabilities of the taxpayer shall be reduced by such proportion of the liabilities as corresponds to the ratio which the excluded portion of the subsidiary values bears to the total assets of the taxpayer.

If in the opinion of the commissioner, the corporation's books do not disclose fair valuations the commissioner may make a reasonable determination of the net worth which, in his opinion, would reflect the fair value of the assets, exclusive of subsidiary investments as defined aforesaid, carried on the books of the corporation, in accordance with sound accounting principles, and such determination shall be used as net worth for the purpose of this act.

(e) "Indebtedness owing directly or indirectly" shall include, without limitation thereto, all indebtedness owing to any stockholder or shareholder and to members of his immediate family where a stockholder and members of his immediate family together or in the aggregate own 10% or more of the aggregate outstanding shares of the taxpayer's capital stock of all classes.

(f) "Investment company" shall mean any corporation whose business during the period covered by its report consisted, to the extent of at least 90% thereof of holding, investing and reinvesting in stocks, bonds, notes, mortgages, debentures, patents, patent rights and other securities for its own account, but this shall not include any corporation which: (1) is a merchant or a dealer of stocks, bonds and other securities, regularly engaged in buying the same and selling the same to customers; or (2) had less than 90% of its average gross assets in New Jersey, at cost, invested in stocks, bonds, debentures, mortgages, notes, patents, patent rights or other securities or consisting of cash on deposit during the period covered by its report or (3) is a banking corporation or a financial business corporation as defined in the Corporation Business Tax Act.

(g) "Regulated investment company" shall mean any corporation which for a period covered by its report, is registered and regulated under the Investment Company Act of 1940 (54 Stat. 789), as amended.

(h) "Taxpayer" shall mean any corporation required to report or to pay taxes, interest or penalties under this act.

(i) "Fiscal year" shall mean an accounting period ending on any day other than the last day of December on the basis of which the taxpayer is required to report for Federal income tax purposes.

(j) Except as herein provided, "privilege period" shall mean the calendar or fiscal accounting period for which a tax is payable under this act.

(k) "Entire net income" shall mean total net income from all sources, whether within or without the United States, and shall include the gain derived from the employment of capital or labor, or from both combined, as well as profit gained through a sale or conversion of capital assets. For the purpose of this act, the amount of a taxpayer's entire net income shall be deemed prima facie to be equal in amount to the taxable income, before net operating loss deduction and special deductions, which the taxpayer is required to report to the United States Treasury Department for the purpose of computing its Federal income tax; provided, however, that in the determination of such entire net income,

(1) Entire net income shall exclude 100% of dividends which were included in computing such taxable income for Federal income tax purposes, paid to the taxpayer by one or more subsidiaries owned by the taxpayer to the extent of the 80% or more ownership of investment described in subsection (d) of this section. With respect to other dividends, entire net income shall not include 50% of the total included in computing such taxable income for Federal income tax purposes;

(2) Entire net income shall be determined without the exclusion, deduction or credit of:

(A) The amount of any specific exemption or credit allowed in any law of the United States imposing any tax on or measured by the income of corporations;

(B) Any part of any income from dividends or interest on any kind of stock, securities or indebtedness, except as provided in subsection (k) (1) of this section;

(C) Taxes paid or accrued to the United States on or measured by profits or income, or the tax imposed by this act, or any tax paid or accrued with respect to subsidiary dividends excluded from entire net income as provided in subsection (k) (1) of this section;

(D) Net operating losses sustained during any year or period other than that covered by the report;

(E) 90% of interest on indebtedness owing directly or indirectly to holders of 10% or more of the aggregate outstanding shares of the taxpayer's capital stock of all classes; except that such interest may, in any event, be deducted

(i) Up to an amount not exceeding $1,000.00;

(ii) In full to the extent that it relates to bonds or other evidences of indebtedness issued, with stock, pursuant to a bona fide plan of reorganization, to persons, who, prior to such reorganization, were bona fide creditors of the corporation or its predecessors, but were not stockholders or shareholders thereof;

(iii) In full to the extent that it relates to debt of a financial business corporation owed to an affiliate corporation; provided that such interest rate does not exceed 2% over prime rate; the prime rate to be determined by the Commissioner of Banking.

(3) The commissioner may, whenever necessary to properly reflect the entire net income of any taxpayer, determine the year or period in which any item of income or deduction shall be included, without being limited to the method of accounting employed by the taxpayer.

(l) "Real estate investment trust" shall mean any unincorporated trust or unincorporated association qualifying and electing to be taxed as a real estate investment trust under Federal law.

(m) "Financial business corporation" shall mean any corporate enterprise which is (1) in substantial competition with the business of national banks and which (2) employs moneyed capital with the object of making profit by its use as money, through discounting and negotiating promissory notes, drafts, bills of exchange and other evidences of debt; buying and selling exchange; making of or dealing in secured or unsecured loans and discounts; dealing in securities and shares of corporate stock by purchasing and selling such securities and stock without recourse, solely upon the order and for the account of customers; or investing and reinvesting in marketable obligations evidencing indebtedness of any person, copartnership, association or corporation in the form of bonds, notes or debentures commonly known as investment securities; or dealing in or underwriting obligations of the United States, any state or any political subdivision thereof, or of a corporate instrumentality of any of them. This shall include, without limitation of the foregoing business commonly known as industrial banks, dealers in commercial paper and acceptances, sales finance, personal finance, small

loan and mortgage financing businesses, as well as any other enterprise employing moneyed capital coming into competition with the business of national banks; provided, that the holding of bonds, notes, or other evidences of indebtedness by individual persons not employed or engaged in the banking or investment business and representing merely personal investments not made in competition with the business of national banks, shall not be deemed financial business. Nor shall "financial business" include national banks, production credit associations organized under the Farm Credit Act of 1933, stock and mutual insurance companies duly authorized to transact business in this State, security brokers or dealers or investment companies or bankers not employing moneyed capital coming into competition with the business of national banks, real estate investment trusts, or any of the following entities organized under the laws of this State: credit unions, savings banks, savings and loan and building and loan associations, pawnbrokers, and State banks and trust companies.

13. Sections 1 through 7 and sections 9 through 12 shall take effect immediately. Section 8 shall take effect upon the opening to traffic of a connection and interchange between State Highway Route 18 and the Garden State Parkway, but if said connection and interchange shall have been opened upon the enactment of this act, section 8 shall take effect immediately.

Approved February 5, 1980.

CHAPTER 389

A SUPPLEMENT to "The Banking Act of 1948," approved April 29, 1948 (P. L. 1948, c. 67, C. 17:9A–1 et seq.).

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

C. 17:9A-316.3 Investment by foreign banks acting in fiduciary capacity.

1. A foreign bank authorized by section 316 of P. L. 1948, c. 67 (C. 17:9A–316) to act as executor, testamentary trustee or guardian may, when acting in such capacity, invest any money received and held by it in such capacity, in any common trust fund or funds maintained by it in accordance with the laws of the State of its incorporation; provided, that the will under which it is acting as

executor, testamentary trustee or guardian does not specifically prohibit such investment and any such investment is made subject to the provisions of subsection B of section 37 of P. L. 1948, c. 67 (C. 17:9A–37), and the provisions of section 38 of P. L. 1948, c. 67 (C. 17:9A–38) relating to investments by a qualified bank incorporated under the laws of this State in a common trust fund; and provided that a qualified bank incorporated under the laws of this State is permitted by the laws of the state of incorporation of such foreign bank, when acting in a similar fiduciary capacity in that state to invest any moneys, received and held by it in such capacity, in any common trust fund or funds maintained by it in accordance with the laws of this State.

2. This act shall take effect immediately.

Approved February 6, 1980.

CHAPTER 390

A SUPPLEMENT to the "Public Employees' Retirement System Act," approved June 28, 1954 (P. L. 1954, c. 84, C. 43:15A–1 et seq.) as said short title was amended by P. L. 1971, c. 213.

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

1. a. Any member of the Public Employees' Retirement System who is ineligible to receive the death benefits established by sections 38, 41, 45, 46, 48 and 49e. of P. L. 1954, c. 84 as a result of his failure to comply with the provisions of section 47 of P. L. 1971, c. 213 (C. 43:15A–41.1) and administrative regulations promulgated pursuant thereto, may, within 6 months following the effective date of this act, apply to the board of trustees of the retirement system for such death benefit coverage; provided that the member furnishes satisfactory evidence of insurability not later than 1 year following the submission of his application and on the date of such application is actively at work and performing all his regular duties at his customary place of employment.

b. In his application for death benefit coverage, the member may also apply to purchase the additional death benefit coverage provided in section 57 of P. L. 1954, c. 84 (C. 43:15A–57); provided,

however, that no application for such purchase shall be approved unless the member meets the conditions set forth in subsection a. of this section and the board extends to the member death benefits established under sections 38, 41, 45, 46, 48 and 49e. of P. L. 1954, c. 84.

c. The effective date of the death benefit coverage and additional death benefit coverage granted under the provisions of this supplementary act shall be the first day of the month which immediately follows the later of (1) the date of application, or, (2) the date such evidence of insurability is determined to be satisfactory.

d. In the case of a member who elects to purchase the additional death benefit coverage, the board of trustees shall establish schedules of contributions separate from those schedules adopted pursuant to subsection f. of section 57 of P. L. 1954, c. 84 (C. 43:15A–57f.). Such contributions shall be so computed that the contributions made by or on behalf of the members covered pursuant to this supplementary act, shall, in the aggregate, be sufficient to provide for the cost of the benefits established under section 57 of P. L. 1954, c. 84 (C. 43:15A–57). Such schedules of contributions shall be subject to adjustment from time to time by the board of trustees as the experience may indicate. The board of trustees may for the purposes of establishing schedules of contributions and any subsequent readjustment of such schedules based upon experience, consider any member who elects to purchase the additional death benefit pursuant to this supplementary act as part of the group eligible to purchase the additional death benefit pursuant to P. L. 1979, c. 72.

2. This act shall take effect immediately.

Approved February 6, 1980.

CHAPTER 391

AN ACT concerning boards of education in relation to certain group insurance programs, amending N. J. S. 18A:16–8, repealing N. J. S. 18A:16–10 and supplementing Title 18A of the New Jersey Statutes.

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

C. 18A:16-12 Definitions.

1. (New section). As used in this act:

a. "Dependents" means an employee's spouse and the employee's unmarried children, including stepchildren, legally adopted children, and, at the option of the local board of education and the carrier, foster children, under the age 19 who live with the employee in a regular parent-child relationship, and may also include, at the option of the local board of education and the carrier, other unmarried children of the employee under the age of 23 who are dependent upon the employee for support and maintenance, but shall not include a spouse or child while serving in the military service;

b. "Employees" may, at the option of the local board of education, include elected officials, but shall not include persons employed on a short-term, seasonal, intermittent or emergency basis, persons compensated on a fee basis, or persons whose compensation from the local board of education is limited to reimbursement of necessary expenses actually incurred in the discharge of their duties;

c. "Federal Medicare Program" means the coverage provided under Title XVIII of the Social Security Act as amended in 1965, or its successor plan or plans.

C. 18A:16-13 Entering into group life, hospitalization, health and accident insurance contracts.

2. (New section). Any local board of education may enter into contracts of group life, accidental death and dismemberment, hospitalization, medical, surgical, major medical expense, or health and accident insurance with any insurance company or companies authorized to do business in this State, or may contract with a nonprofit hospital service or medical service corporation with respect to the benefits which they are authorized to provide respectively. Such contract or contracts shall provide any one or more of such coverages for the employees of the local board of education and may include their dependents. A local board of education may enter into a contract or contracts to provide drug prescription and other health care benefits, or enter into a contract or contracts to provide drug prescription and other health care benefits as may be required to implement a duly executed collective negotiations agreement, or as may be required to implement a determination by a local board of education to provide such benefit or benefits to employees not included in collective negotiations units. Nothing herein contained shall be deemed to authorize coverage of

dependents of an employee under a group life insurance policy or to allow the issuance of a group life insurance policy under which the entire premium is to be derived from funds contributed by the insured employee.

C. 18A:16-14 Exclusions from eligibility.

3. (New section). The contract shall exclude from eligibility:

a. Employees and dependents, active or retired, who are otherwise eligible for coverage but who, although they meet the age eligibility requirement of the Federal Medicare Program, are not covered by the complete Federal program;

b. Any class or classes of employees who are eligible for like or similar coverage under another group contract covering such class or classes of employees.

C. 18A:16-15 Limitations, exclusions or exceptions contained in contracts.

4. (New section). Any contract or contracts permitted under this act shall contain limitations, exclusions or exceptions so as to avoid duplication of benefits or services otherwise available pursuant to accidental death and dismemberment, hospitalization, medical, surgical, major medical expense or health and accident coverage under any other law of this State or the coverage afforded under the laws of the United States, such as the Federal Medicare Program, and at the option of the local board of education and the carrier, group insurance or any other arrangement of coverage for individuals in a group, whether on an insured or uninsured basis.

Any contract permitted under this act may condition the eligibility of any employee upon satisfying a waiting period stated in the contract.

C. 18A:16-16 Termination of coverage; grounds.

5. (New section). The coverage of any employee, and of his dependents, if any, shall cease upon the discontinuance of his employment or upon cessation of active full-time employment in the classes eligible for coverage subject to such provision as may be made in any contract made by the local board of education for limited continuance of coverage during disability, part-time employment, leave of absence other than leave for military service, and for continuance of coverage after retirement.

C. 18A:16-17 Payment of premiums.

6. (New section). Any local board of education entering into a contract pursuant to this act is authorized to pay part or all of the premiums or charges for such contracts and may appropriate

out of its general funds any money necessary to pay such premiums or charges or portions thereof.

The contribution required of any employee toward the cost of such coverage may be deducted from the pay, salary or other compensation of such employee upon authorization in writing made to the local board of education.

The local board of education may reimburse an active employee for his premium charges under Part B of the Federal Medicare Program covering the employee alone.

Nothing herein shall be construed as compelling a local board of education to pay any portion of the premiums or charges attributable to such contracts.

C. 18A:16-18 Coverage after retirement; contributions; payment.

7. (New section). The continuance of coverage after retirement of any employee may be provided at such rates and under the conditions as shall be prescribed in the contract subject, however, to the requirements set forth in section 8 hereof. The contribution required of any retired employee toward the cost of such coverage may be paid by him to the local board of education or in such other manner as the local board of education shall direct.

C. 18A:16-19 Retired employees; payment for cost of coverage; rates.

8. (New section). Retired employees shall be required to pay for the entire cost of coverage for themselves and their dependents at rates which are deemed adequate to cover the benefits, as affected by Medicare, of such retired employees and their dependents on the basis of the utilization of services which may be reasonably expected of such older age classification; provided, however, that the total rate payable by such a retired employee for himself and his dependents, for coverage under the contract and for Part B of Medicare, shall not exceed by more than 25%, the total amount that would have been required to have been paid by the employee and the local board of education for the coverage maintained had he continued in office or active employment and he and his dependents were not eligible for Medicare benefits.

The local board of education may, in its discretion, assume the entire cost of such coverage and pay all of the premiums for employees who have retired after 25 years or more service with the local board of education, including the premiums on their dependents, if any, under such uniform conditions as the local board of education shall prescribe.

C. 18A:16-20 Group insurance with multiple coverages; summary of costs.

9. (New section). In the event an insurance company issues a group insurance policy to a local board of education which includes two or more of the coverages authorized under this act, such insurance company shall at the end of each policy year furnish to the local board of education a summary of the cost of each such coverage.

C. 18A:16-21 Filing copy of contract with commission.

10. (New section). It shall be the duty of the local board of education, entering into a contract pursuant to the provisions of this act, to file a copy thereof with the State Employees Health Benefits Commission. The commission shall prepare and file periodically, and not less than every 2 years, a report to the Governor and the Legislature as to such contracts being entered into by local boards of education and shall make such recommendations concerning said contracts and the coverage thereunder as it deems appropriate to achieve uniformity of coverage and benefits for employees throughout the State.

C. 18A:16-22

11. (New section). a. Contracts executed between a local board of education and an authorized insurer prior to the effective date of this act are hereby confirmed and validated until the contract anniversary next following the first anniversary of said date when such contracts, exclusive of group life insurance, will have to be conformed to the provisions of this act.

b. It shall not be a defense to the payment or satisfaction of any claim for benefits under any contract or policy hereby confirmed and validated that such contract or policy was ultra vires, improperly entered into or otherwise not authorized by law.

12. N. J. S. 18A:16-8 is hereby amended to read as follows:

Salary deductions for government bonds.

18A:16-8. Salary deductions for government bonds. Whenever one or more of the persons employed by a board of education shall agree, in writing, to participate in any plan for the purchase of bonds of the United States government the board may, by a recorded roll call majority vote of its full membership direct the secretary of the board to deduct from the salaries of such employees as shall participate in such plan under such rules as may be established by the board specified amounts for the purchase of bonds and pay the total amount of such deductions directly or indirectly to the Federal Government for such bonds, and the making of any

such deductions shall be construed as voluntary payments by the employee.

Repealer.

13. N. J. S. 18A:16–10 is hereby repealed.

14. This act shall take effect immediately.

Approved February 6, 1980.

CHAPTER 392

AN ACT concerning issuance of warrants for removal in actions to recover possession for premises rented for a seasonal term, amending N. J. S. 2A:18–57 and supplementing chapter 42 of Title 2A of the New Jersey Statutes.

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

1. N. J. S. 2A:18–57 is amended to read as follows:

Issuance of warrant; judgment for possession.

2A:18–57. If no sufficient cause is shown to the contrary when the action comes on for trial, the court shall issue its warrant to any officer of the court, commanding him to remove all persons from the premises, and to put the claimant into full possession thereof, and to levy and make the costs out of the goods and chattels of the person in possession.

No warrant of removal shall issue until the expiration of 3 days after entry of judgment for possession, except as provided for in chapter 42 of this Title.

C. 2A:42-10.17 Warrant for removal.

2. (New section) The provisions of any other law to the contrary notwithstanding, in any action alleging habitual violation of section 2b. of P. L. 1974, c. 49 (C. 2A:18–61.1b.), or violation of section 2c. of P. L. 1974, c. 49 (C. 2A:18–61.1c.), brought by a landlord against a tenant to recover possession of any furnished unit leased or rented for seasonal use in any premises of five or fewer units, the court having jurisdiction shall issue a warrant for removal within 2 days from judgment for possession. Such a warrant for removal may be stayed only upon consent by the land-

lord. For the purposes of this act "seasonal use" means use for a term of not more than 125 consecutive days for residential purposes by a person having a permanent place of residence elsewhere. "Seasonal use" does not mean use as living quarters for seasonal, temporary or migrant farm workers in connection with any work or place where work is being performed. The landlord shall have the burden of proving that the use of the unit is seasonal.

3. This act shall take effect immediately.

Approved February 6, 1980.

CHAPTER 393

AN ACT concerning voter registration of high school students and amending R. S. 19:31–2.

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

1. R. S. 19:31–2 is amended to read as follows:

Commissioner of registration; employees; civil service; evening and out-of-office registration; registration of high school students; expenses; powers and duties.

19:31–2. In all counties having a superintendent of elections, the superintendent of elections is hereby constituted the commissioner of registration and in all other counties the secretary of the county board is hereby constituted the commissioner of registration.

The commissioner of registration in all counties having a superintendent of elections, and the county board in all other counties, shall have complete charge of the permanent registration of all eligible voters within their respective counties.

The commissioner of registration in counties of the first class having a superintendent of elections and having less than 800,000 inhabitants, and the county board in all other counties, shall have power to appoint temporarily, and the commissioner of registration in counties of the first class having more than 800,000 inhabitants shall have power to appoint on a permanent, or temporary basis, such number of persons, as in his or its judgment may be necessary in order to carry out the provisions of this Title. All persons appointed by the commissioner of registration in counties of the first class having more than 900,000 inhabitants according to the 1970 Federal census to serve for terms of more than 6 months in any 1

year shall be in the classified service of the civil service and shall be appointed, and hold their positions, in accordance with the provisions of Title 11, Civil Service. All persons appointed by the commissioner of registration in counties of the first class having more than 800,000 but less than 900,000 inhabitants according to the 1970 Federal census to serve for terms of more than 6 months in any 1 year, other than the chief deputy and chief clerk and confidential secretary and chief custodian, shall be in the classified service of the civil service and shall be appointed and hold their positions, in accordance with the provisions of Title 11, Civil Service. Persons appointed by the commissioner of registration in such counties to serve for terms of 6 months or less in any 1 year and persons appointed by the commissioner of registration, or by the county board of elections, in other counties, shall not be subject to any of the provisions of Title 11, Civil Service, but shall be in the unclassified service.

In each county the commissioner of registration shall submit to the Secretary of State on or before February 15 of each year a plan providing for evening registration for the primary election and on or before July 1 plans providing for evening and out-of-office registration for the general election, which plans shall be subject to approval by the Secretary of State. Evening registration shall be made available in the office of each commissioner of registration between the hours of 4 p.m. and 9 p.m. for at least 6 working days immediately preceding the close of registration, in each municipality having a population in excess of 12,000 persons according to the most recent United States census between the hours of 4 p.m. and 9 p.m. for at least 3 working days immediately preceding the close of registration, and in each municipality having a population of less than 12,000 persons between the hours of 4 p.m. and 9 p.m. on the day of the close of registration for the primary and general elections and for municipal elections. Such plan for out-of-office registration may include door-to-door registration, and shall include the schedule and route to be followed by any out-of-office registration units, as well as a description of the number and nature of units to be used, and such further pertinent information as the Secretary of State may by rule or regulation require. Out-of-office registration shall be made available pursuant to such plan in each municipality having a population in excess of 12,000 persons according to the most recent United States census. Nothing in this section shall preclude the commissioner from providing pursuant to plan evening registration or out-of-office regis-

tration in excess of the requirements of this section, or shall preclude or in any way limit out-of-office registration conducted by persons or groups other than the commissioner.

During the month of March of each year the commissioner of registration in all counties shall arrange for and conduct registration in each public and nonpublic high school in the county, of all students who are eligible to register to vote in the ensuing election. School officials shall cooperate with efforts to register students in such schools. The commissioner of registration shall complete, on a form prescribed by the Secretary of State, a report concerning the number of students registered during the designated month. Copies of such report shall be forwarded to the Secretary of State.

The commissioner of registration in counties having a superintendent of elections, and the county board in all other counties, shall provide such printed forms, blanks, supplies and office telephone and transportation equipment and shall prescribe such reasonable rules and regulations not inconsistent with those of the Secretary of State as are necessary in the opinion of the commissioner or county board to carry out the provisions of this Title and any amendments or supplements thereto.

Subject to the limitations set forth in chapter 32 of this Title as hereby amended all necessary expenses incurred, as and when certified and approved by the commissioner of registration in counties having a superintendent of elections, and by the county board in all other counties, shall be paid by the county treasurer of the county.

Nothing in the provisions of subtitle 2 of the Title, Municipalities and Counties (40:16–1 et seq.), shall in anywise be construed to affect, restrict or abridge the powers herein conferred on the commissioners in counties having a superintendent of elections, and upon the county boards in all other counties.

All powers granted to the commissioner in all counties not having superintendents of elections by the provisions of this Title are hereby conferred on the county board in such counties and any and all duties conferred upon the commissioner in all counties not having a superintendent of elections by the provisions of this Title shall only be exercised and performed by such commissioner under the instructions and directions of and subject to the approval of the county board of such counties.

2. This act shall take effect immediately.

Approved February 6, 1980.

CHAPTER 394

AN ACT to amend the "State Uniform Construction Code Act" approved October 7, 1975 (P. L. 1975, c. 217).

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

1. Section 8 of P. L. 1975, c. 217 (C. 52:27D–126) is amended to read as follows:

Administration and enforcement.

8. Administration and enforcement.

a. The appointing authority of any municipality shall appoint a construction official and any necessary subcode officials to administer and enforce the code and a construction board of appeals to hear and decide appeals from decisions made by said construction official and subcode officials, in the administration and enforcement of the code. Nothing herein, however, shall prevent a municipality from accepting inspections as to compliance with the code or any subcode thereof made by an inspection authority approved by the State of New Jersey pursuant to law.

b. To establish tenure rights or any other right or protection provided by the "State Uniform Construction Code Act" or Title 11 of the Revised Statutes, Civil Service, or any pension law or retirement system, the job title "construction official" shall be equivalent to that job title which, prior to the effective date of the "State Uniform Construction Code Act," entailed the chief administrative responsibility to enforce all municipal construction codes, the enforcement of which was not the responsibility of an authorized private inspection agency; and the job title "subcode official" shall be equivalent to that job title which, prior to the effective date of the "State Uniform Construction Code Act," entailed subordinate administrative responsibility to enforce one or more of the following: building, plumbing, electrical or fire codes.

Any person, in a municipality operating under Title 11 of the Revised Statutes, who prior to the effective date of the "State Uniform Construction Code Act" held the equivalent of the job title "construction" official or "subcode" official, but who no longer holds his position as a result of a determination that his old job title was not equivalent to that of "construction" official or "subcode" official, shall be offered reappointment as a construction

official or subcode official, as the case may be, and shall be granted permanent classified status in such position.

Tenure shall continue for (1) any construction official or subcode official who is serving under tenure as otherwise provided by law on the effective date of this act or within 1 year thereafter, or (2) any person certified pursuant to subsection c. of this section and who subsequently gains such tenure. A construction official or subcode official appointed in a municipality operating under the provisions of Title 11 of the Revised Statutes, and who at the time of adoption of the "Uniform Construction Code Act" had permanent classified status, or was employed in the unclassified service, shall be included in the classified civil service and shall have all rights provided by that classification. No person, on or after the effective date of this amendatory act, shall be appointed as construction or subcode official in a municipality operating under Title 11 of the Revised Statutes without having passed an examination administered by the Civil Service Commission certifying the merit and fitness of the person to hold such position; provided that, whenever a noncivil service municipality adopts the provisions of that Title, construction code officials and subcode officials of such municipality appointed prior to the filing of the petition for the adoption of civil service, shall attain permanent status in the classified service without examination. A construction official or subcode official in a noncivil service municipality shall be appointed for a term of 4 years and shall upon appointment to a second consecutive term or on or after the commencement of a fifth consecutive year of service including years of service in an equivalent job title held prior to the enactment of the "State Uniform Construction Code Act," be granted tenure and shall not be removed from office except for just cause after a fair and impartial hearing.

A construction or subcode official, to be eligible for appointment in civil service or noncivil service municipalities, shall be certified by the State of New Jersey in accordance with subsection c. of this section and shall have had at least 3 years experience in construction, design or supervision as a licensed engineer or registered architect; or 5 years experience in construction design, or supervision as an architect or engineer with a bachelor's degree from an accredited institution of higher education; or 10 years experience in construction, design or supervision as a journeyman in a trade or as a contractor. A subcode official shall, pursuant to any subcode which he administers, pass upon: (1) matters relative to

the mode, manner of construction or materials to be used in the erection or alteration of buildings or structures, except as to any such matter foreclosed by State approval pursuant to this act, and (2) actual execution of the approved plans and the installation of the materials approved by the State. The construction official in each municipality shall be the chief administrator of the "enforcing agency." He shall have the power to overrule a determination of a subcode official based on an interpretation of a substantive provision of the subcode which such subcode official administers only if the construction official is qualified to act pursuant to this act as a subcode official for such subcode. He may serve as subcode official for any subcode which he is qualified under this act to administer. A subcode official or municipal engineer may serve as a construction official if otherwise qualified under the provisions of this act. The municipal enforcing agency shall require compliance with the provisions of the code, of all rules lawfully adopted and promulgated thereunder and of laws relating to the construction, alteration, repair, removal, demolition and integral equipment and location, occupancy and maintenance of buildings and structures, except as may be otherwise provided for.

Two or more municipalities may provide by ordinance, subject to regulations established by the commissioner, for the joint appointment of a construction official and subcode official for the purpose of enforcing the provisions of the code in the same manner.

c. No person shall act as a construction official or subcode official for any municipality unless the commissioner determines that said person is so qualified except for the following: (1) a municipal construction official or subcode official holding office under permanent civil service status, or tenure as otherwise provided by law on the effective date of this act or within 1 year thereafter and (2) a municipal construction official or subcode official holding office without such permanent civil service status or tenure on the effective date of this act or within 1 year thereafter; provided said construction official or subcode official not having such permanent civil service status or tenure shall be certified in accordance with this act within 4 years of the effective date thereof provided further that a person holding on the effective date of this act a valid plumbing inspector's license from the Department of Health pursuant to Title 26 of the Revised Statutes may serve as a plumbing subcode official and a person holding on the effiective date of this act a valid electrical inspector's license from the Board of Public Utility Commissioners pursuant to Title 48 of the Revised Statutes

may serve as an electrical subcode official. The commissioner, after consultation with the code advisory board, may authorize the preparation and conducting of oral, written and practical examinations to determine if a person is qualified by this act to be eligible to be a construction official or subcode official or, in the alternative, may accept successful completion of programs of training as proof of qualification within the meaning of this act. Upon a determination of qualification the commissioner shall issue or cause to be issued a certificate to the construction official or subcode official or trainee stating that he is so certified. The commissioner, after consultation with the code advisory board, may establish classes of certification that will recognize the varying complexities of code enforcement in the municipalities within the State. The commissioner shall after consultation with the code advisory board, provide for educational programs designed to train and assist construction officials and subcode officials in carrying out their responsibilities.

Whenever the commissioner is required by the terms of this subsection to consult with the code advisory board and the matter in question concerns plumbing subcode officials, the commissioner shall also consult with the Public Health Council and Commissioner of Health.

d. The commissioner, after consultation with the code advisory board, may periodically require that each construction official and subcode official demonstrate a working knowledge of innovations in construction technology and materials, recent changes in and additions to the relevant portions of the State Uniform Construction Code, and current standards of professional ethics and legal responsibility; or, in the alternative, the commissioner, after consultation with the code advisory board, may accept successful completion of appropriate programs of training as proof of such working knowledge.

2. This act shall take effect immediately.

Approved February 6, 1980.

CHAPTER 395

AN ACT to amend the "Solid Waste Management Act" approved May 6, 1970 (P. L. 1970, c. 39, C. 13:1E–1 et seq.).

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

1. Section 9 of P. L. 1970, c. 39 (C. 13:1E–9) is amended to read as follows:

C. 13:1E-9 Codes, rules and regulations; injunctive relief; violation of act; penalty.

9. a. All codes, rules and regulations adopted by the department related to solid waste collection and disposal shall have the force and effect of law. Such codes, rules and regulations shall be observed throughout the State and shall be enforced by the department and every local board of health.

b. The commissioner may institute an action or proceeding in the Superior Court for injunctive and other relief, including the appointment of a receiver for any solid waste collection or disposal facility or operation, which is established or operated in violation of this act, or of any code, rule or regulation promulgated pursuant to this act and said court may proceed in the action in a summary manner. In any such proceeding the court may grant temporary or interlocutory relief notwithstanding the provisions of R. S. 48:2–24.

Such relief may include, singly or in combination:

(1) A temporary or permanent injunction;

(2) Assessment of the violator for the costs of any investigation, inspection, or monitoring survey which led to the establishment of the violation, and for the reasonable costs of preparing and litigating the case under this subsection;

(3) Assessment of the violator for any cost incurred by the State in removing, correcting or terminating the adverse effects upon water and air quality resulting from any violation of any provision of this act or any rule, regulation or condition of approval for which the action under this subsection may have been brought;

(4) Assessment against the violator of compensatory damages for any loss or destruction of wildlife, fish or aquatic life, and for any other actual damages caused by any violation of this act or any rules, regulations or condition of approval established pursuant to this act for which the action under this subsection may have

been brought. Assessments under this subsection shall be paid to the State Treasurer, or to the local board of health, as the case may be, except that compensatory damages may be paid by specific order of the court to any persons who have been aggrieved by the violation.

c. Any person who violates the provisions of this act or any code, rule or regulation promulgated pursuant to this act shall be liable to a penalty of not more than $25,000.00 per day to be collected in a civil action commenced by a local board of health or the commissioner by a summary proceeding under The Penalty Enforcement Law (N. J. S. 2A:58–1 et seq.) in the Superior Court, county district court, or a municipal court, all of which shall have jurisdiction to enforce said Penalty Enforcement Law in connection with this act. If the violation is of a continuing nature, each day during which it continues after the date given by which the violation must be eliminated in accordance with the order of the department shall constitute an additional, separate and distinct offense.

d. The department is hereby authorized and empowered to compromise and settle any claim for a penalty under this section in such amount in the discretion of the department as may appear appropriate and equitable under all of the circumstances, including a rebate of any such penalty paid up to 90% thereof where such person satisfies the department within 1 year or such other period as the department may deem reasonable that such violation has been eliminated or removed or that such order or injunction has been met or satisfied, as the case may be.

e. Any person who knowingly:

(1) Transports any hazardous waste to a facility which does not have authorization from the department to accept such waste,

(2) Disposes, treats or stores hazardous waste without authorization from the department,

(3) Makes any false statement on any hazardous waste application, label, manifest, record, report, design or other document required to be submitted to the department shall, upon conviction, be guilty of a crime of the third degree and, notwithstanding the provisions of N. J. S. 2C:43–3, shall be subject to a fine of not more than $25,000.00 for the first offense and not more than $50,000.00 for the second and each subsequent offense, in addition to any other appropriate disposition authorized by N. J. S. 2C:43–2.6.

f. Any person who recklessly:

(1) Transports any hazardous waste to a facility which does not have authorization from the department to accept such waste,

(2) Disposes, treats or stores hazardous waste without authorization from the department,

(3) Makes any false statement on any hazardous waste application, label, manifest, record, report, design or other document required to be submitted to the department, shall, upon conviction, be guilty of a crime of the fourth degree.

2. Section 38 of P. L. 1970, c. 39 (C. 13:1E–38) is amended to read as follows:

C. 13:1E-38 Definitions.

1. As used in this act, the following words and phrases shall have the following meanings, unless the context clearly requires another meaning:

a. "Bulk liquids" means liquid or semiliquid waste, including petroleum products, which is contained within, or is discharged from, any one vessel, tank or other container which has a capacity of 20 or more gallons;

b. "Chemical waste" means a material normally generated by or used in chemical, petrochemical, plastic, pharmaceutical, biochemical or microbiological manufacturing processes or petroleum refining processes, which has been selected for waste disposal and which is known to hydrolize, ionize or decompose, which is soluble, burns or oxidizes, or which may react with any of the waste materials which are introduced into the landfill, or which is buoyant on water, or which has a viscosity less than that of water or which produces a foul odor. Chemical waste may be either hazardous or nonhazardous.

c. "Hazardous waste" means any waste or any combination of waste which poses a present or potential threat to human health, living organisms or the environment. "Hazardous waste" shall include, but not be limited to, waste material that is toxic, corrosive, irritating, sensitizing, radioactive, biologically infectious, explosive or flammable;

d. "Leachate" is a liquid that has been in contact with solid waste and contains dissolved or suspended materials from that solid waste.

e. "Pesticide" means and includes any substance or mixture of substances labeled, designed, intended for or capable of use in preventing, destroying, repelling, sterilizing or mitigating any

insects, rodents, nematodes, predatory animals, fungi, weeds and other forms of plant or animal life or viruses, except viruses on or in living man or other animals. "Pesticide" shall also include any substance or mixture of substances labeled, designed or intended for use as a defoliant, desicant or plant regulator.

f. "Commercial solid waste facility" means any solid waste facility operated for profit which accepts any solid waste generated from any other source and is subject to the jurisdiction of the Board of Public Utilities pursuant to the provisions of P. L. 1970, c. 40 (C. 48:13A-1 et seq.).

3. This act shall take effect 60 days following enactment.

Approved February 6, 1980.

CHAPTER 396

AN ACT concerning the disposition of fines in criminal matters, amending N. J. S. 2A:166-13, repealing sections 2A:8-33, 2A:166-10 and 2A:166-19 of the New Jersey Statutes, and supplementing Title 2C of the New Jersey Statutes.

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

1. N. J. S. 2A:166-13 is amended to read as follows:

Termination of case; return of fine.

2A:166-13. When a defendant has paid a fine upon being found guilty of an offense and has taken an appeal and obtained a decision in his favor terminating the case of the State against him, the treasury of the governmental entity which received the fine shall return to such person the amount of the fine so paid.

C. 2C:43-3.1 Conviction of crime of violence resulting in injury or death; penalty; collection; disposition.

2. (New section) a. (1) In addition to any disposition made pursuant to the provisions of N. J. S. 2C:43-2, any person convicted of a crime of violence resulting in the injury or death of another person, shall be assessed a penalty of at least $25.00, but not to exceed $10,000.00 for each such crime for which he was convicted. In imposing this penalty the court shall consider factors such as the severity of the crime, the defendant's criminal record, the de-

fendant's ability to pay and the economic impact of the penalty on the defendant's dependents.

(2) In addition to any other disposition made pursuant to the provisions of N. J. S. 2C:43–2 or any other statute imposing sentences for crimes, any person convicted of an offense under N. J. S. 2C:12–1a, or any crime not resulting in the injury or death of another person shall be assessed a penalty of $25.00 for each such offense or crime for which he was convicted.

(3) All penalties provided for in this section shall be collected as provided for collection of fines and restitution in section 3 of this act and forwarded to the Violent Crimes Compensation Board as provided in subsection (4) hereof.

(4) All moneys collected pursuant to subsections 1 and 2 shall be forwarded to the State Treasury to be deposited in a separate account for use by the Violent Crimes Compensation Board in satisfying claims filed pursuant to the provisions of the "Criminal Injuries Compensation Act of 1971," P. L. 1971, c. 317 (C. 52:4B–1 et seq.).

b. All moneys, including fines and restitution, collected from a person convicted of an offense under N. J. S. 2C:12–1a, or any crime shall be applied first to any penalty imposed pursuant to this section upon such a person.

C. 2C:46-4 Fines and restitution; collection.

3. (New section) a. All fines and restitution shall be collected as follows:

(1) All fines and restitution imposed by the Superior Court or county district court, or otherwise imposed at the county level, shall be collected by the county probation department except when such fine or restitution is imposed in conjunction with a custodial sentence to a State correctional facility in which event such fine or restitution shall be collected by the Department of Corrections.

(2) All fines and restitution imposed by a municipal court shall be collected by the municipal court clerk except if such fine or restitution is ordered as a condition of probation in which event it shall be collected by the county probation department.

All fines so collected shall be distributed to the appropriate governmental treasury as provided herein.

b. Except as provided in subsection c. with respect to fines imposed on appeals following convictions in municipal courts, all fines imposed by the Superior Court, county district court, or other-

wise imposed at the county level, shall be paid over by the officer entitled to collect same to:

(1) The county treasurer with respect to fines imposed on defendants who are sentenced to and serve a custodial term, including a term as a condition of probation, in the county jail, workhouse or penitentiary except where such county sentence is served concurrently with a sentence to a State institution; or

(2) The State Treasurer with respect to all other fines.

c. All fines imposed by municipal courts on defendants convicted of crimes, disorderly persons offenses and petty disorderly persons offenses, and all fines imposed following conviction on appeal therefrom, shall be paid over by the officer entitled to collect same to the treasury of the municipality wherein the municipal court is located. In the case of any intermunicipal court, the fines shall be apportioned among the several municipalities to which the court's jurisdiction extends, according to the ratio of the municipalities' contributions to the total expense of maintaining said court.

C. 2C:46-5 Applicability of act.

4. (New section) This act shall not affect fines and restitutions imposed under Title 39 of the Revised Statutes or in proceedings in the juvenile and domestic relations court, which shall remain as heretofore.

Repealer.

5. Sections 2A:8–33, 2A:166–10 and 2A:166–19 of the New Jersey Statutes are repealed.

6. This act shall take effect immediately.

Approved February 6, 1980.

CHAPTER 397

AN ACT to amend the "Banking Act of 1948," approved April 29, 1948 (P. L. 1948, c. 67).

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

1. Section 306 of P. L. 1948, c. 67 (C. 17:9A–306) is amended to read as follows:

C. 17:9A-306 Board; membership; appointment; removal; qualifications.

306. The board shall consist, as heretofore, of the commissioner, who shall be ex officio the chairman of the board, and nine other members appointed by the Governor with the advice and consent of the Senate, as hereinafter provided. Any appointed member of the board may be removed from office by the Governor whenever, in his judgment, the public interest may so require. Of the nine appointed members, at least six shall each have had, at the time of his appointment, not less than 5 years of practical experience as an active executive officer in a banking institution or a savings and loan association located in the State of New Jersey; and three shall be public members who are not salaried officers, directors, or employees of any financial institution. At no time, however, shall there be more than a single representative on the board from any one banking institution or group of banking institutions which form a holding company. The six members specified to have had practical executive experience shall be appointed at least one each, from the following groups:

(1) Savings banks;
(2) Banks located in the Second Federal Reserve District;
(3) Banks located in the Third Federal Reserve District; and
(4) Savings and loan associations.

2. This act shall take effect immediately.

Approved February 8, 1980.

CHAPTER 398

AN ACT to amend the title of "An act to conserve certain natural resources of the State and to protect the public health; to provide for the licensing of well drillers; to fix fees therefor and to provide penalties for violations thereof," approved July 1, 1947 (P. L. 1947, c. 377), so that the same shall read "An act to conserve certain natural resources of the State and to protect the public health; to provide for the licensing of well drillers and pump installers; to fix fees therefor and to provide penalties for violations thereof," and to amend and supplement the body of said act and to amend P. L. 1947, c. 375 (C. 58:4A–1 et seq.) and P. L. 1951, c. 193 (C. 58:4A–4.1 et seq.).

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

Title amended.

1. The title of P. L. 1947, c. 377 is amended to read as follows:

An act to conserve certain natural resources of the State and to protect the public health; to provide for the licensing of well drillers and pump installers; to fix fees therefor and to provide penalties for violations thereof.

2. Section 1 of P. L. 1947, c. 377 (C. 58:4A–5) is amended to read as follows:

C. 58:4A-5 Rules and regulations.

1. The Commissioner of the Department of Environmental Protection, hereinafter called commissioner, in furtherance of his general powers of supervision over the natural resources of the State and their conservation for public use, is hereby authorized, empowered and directed to make effective the provisions of this act and to adopt and effectuate, such rules and regulations as may be proper for this purpose and for the administration of the provisions of this act. The commissioner may adopt rules and regulations to carry out the purposes of this act.

3. Section 2 of P. L. 1947, c. 377 (C. 58:4A–6) is amended to read as follows:

C. 58:4A-6 Well drilling or pump installation; license.

2. No person, partnership or corporation shall hereafter engage in well drilling or pump installation in this State except as provided in section 20 hereof unless he, if an individual, or a member of the firm, if a partnership, or an executive officer, if a corporation, shall be licensed as a well driller or pump installer of the proper class, as provided in this act.

No person, partnership, or corporation shall employ more than three other well drillers in well drilling in this State unless said well drillers' supervisor is qualified as a master well driller pursuant to the criteria established therefor under the rules and regulations of the commissioner.

No other agency or civil division of the State shall be empowered to license or to establish standards, requirements or specifications for engaging in the trade, business or calling of well drilling or pump installation which shall be applicable to any person licensed under this act.

4. Section 3 of P. L. 1947, c. 377 (C. 58:4A–7) is amended to read as follows:

C. 58:4A-7 Board of well drillers and pump installers; membership; appointment; terms; removal.

3. A board of 9 well driller and pump installer examiners is hereby created to be appointed by the Commissioner of Environmental Protection, which shall function as an examining board of well drillers and pump installers, and as an advisory board to the commissioner and shall be hereinafter referred to as the board. Three members of the board shall be employees of the department; one member not employed by the State or pecuniarily involved in well drilling or pump installing shall be appointed by the commissioner; one member shall have the qualification to qualify as a pump installer; and the remaining 4 members shall have the qualifications to qualify as master well drillers. Members of the board shall be appointed for terms of 3 years. A quorum of the board shall consist of 7 members. All persons appointed to said board shall be citizens of the United States and residents of the State of New Jersey. The commissioner may remove any member of the board, after hearing, for misconduct, incompetence, neglect of duty or for any other sufficient cause.

5. Section 4 of P. L. 1947, c. 377 (C. 58:4A–8) is amended to read as follows:

C. 58:4A-8 Designation of board; compensation.

4. Said board so appointed shall be designated and known as the "State Well Drillers and Pump Installers Examining and Advisory Board."

Each member of the board, except those who are employees of the department, shall receive actual and necessary expenses, such charges to be approved by the commissioner and paid from general funds of the State within the limits of appropriations to the department.

6. Section 6 of P. L. 1947, c. 377 (C. 58:4A–10) is amended to read as follows:

C. 58:4A-10 Powers and duties of board.

6. The board shall be vested with the following powers and duties:

(a) It shall be the duty of the board to examine as to their experience and qualifications all persons applying for licenses as well drillers or pump installers, and to certify the results thereof

within 10 days to the commissioner of the department. Such examinations may be oral or written and shall be of a practical nature.

(b) It shall, by a majority of all its members, formulate and recommend to the commissioner rules, regulations, and standards for engaging in the trade, business or calling of well drilling or pump installing which shall be applicable to any person licensed under this act.

7. Section 7 of P. L. 1947, c. 377 (C. 58:4A–11) is amended to read as follows:

C. 58:4A-11 Licenses; issuance.

7. The commissioner shall, upon payment of the required fee, issue licenses to such persons as have by said examination shown themselves competent and qualified to engage in the business, trade or calling of well driller or pump installer.

8. Section 8 of P. L. 1947, c. 377 (C. 58:4A–12) is amended to read as follows:

C. 58:4A-12 Revocation or suspension of licenses; grounds.

8. The board may after public hearing, recommend to the commissioner that he revoke, or suspend for any period less than 1 year the license of any well driller or pump installer, if the same was obtained through error or fraud, or if the board shall find him guilty of gross neglect, incompetency, or misconduct in the practice of well drilling or pump installing or if the holder thereof has a second time willfully violated any of the provisions of this law or any of the rules and regulations prescribed by the commissioner. Any person whose license has been revoked may, after the expiration of 1 year from the date of such revocation, apply for a new license.

The charges against any well driller or pump installer of whom complaint is made shall be in writing and sworn to by the complainant, and filed with the board.

Such charges unless dismissed by the board as unfounded or trivial shall be heard and determined by the board within 3 months after the date on which they are preferred unless the board shall determine that good cause exists for further delay. The board shall have the power at any such proceeding to require the attendance of witnesses before it, and the production of such books, papers and documents as it may require, and to issue or authorize the issuance of subpena therefor.

The time and place of the hearing, which may be adjourned from time to time, shall be fixed by the board. A copy of the charges, together with a notice of the time and place of hearing shall be served on the accused by the board personally or by certified mail, addressed to his last known place of residence in this State, at least 30 days before the day fixed for the hearing. At such hearing the accused shall have the right to appear personally or by counsel and to cross-examine witnesses against him and to produce evidence in his defense.

9. Section 9 of P. L. 1947, c. 377 (C. 58:4A–13) is amended to read as follows:

C. 58:4A-13 Supervision by licensed driller of certain operations.

9. Any operation on the drilling, boring, coring, driving, digging or construction of wells shall be under the immediate supervision of a licensed well driller, and the name of the owner shall be displayed on the equipment used by such driller. Nothing in this act shall be construed as applying to the drilling of blast holes in quarries or mines, or any operation on the installation, construction, or repair of a water system, including water pumps, water tanks, and water conditioners under the direct responsibility of a licensed professional engineer.

10. Section 10 of P. L. 1947, c. 377 (C. 58:4A–14) is amended to read as follows:

C. 58:4A-14 Permit for drilling; application fee; conditions for issuance.

10. No well shall be drilled until a permit therefor where required by the provisions of this act, has been secured from the said department. Application for each such permit shall be made upon forms prescribed and supplied by the department, and the applicant for a permit shall give such information pertaining to the proposed well as the commissioner shall require. Each permit application under 70 gallons per minute shall be accompanied by a fee of $10.00. Each permit application of over 70 gallons per minute shall be accompanied by a fee of $25.00.

As a further condition to the issuance of such permit, the commissioner may require that accurate samples of the materials encountered in sinking the proposed well shall be preserved and delivered to the department. Within 60 days of the completion of the drilling of any well, a report, on forms prescribed and supplied by the department, shall be filed by the driller with the department giving the log (i.e. description of materials penetrated), the size

and depth of the well, the diameters and lengths of casing and screen installed therein, the static and pumping levels and the yield of the well, and such other information pertaining to the construction or operation of the well as the department may require.

11. Section 12 of P. L. 1947, c. 377 (C. 58:4A–16) is amended to read as follows:

C. 58:4A-16 Applicants licensed in other states.

12. The department may license without examination, upon payment of the required license fee, applicants who are duly licensed under the laws of any other state having requirements deemed by the said board at least equivalent to those of this State.

12. Section 15 of P. L. 1947, c. 377 (C. 58:4A–19) is amended to read as follows:

C. 58:4A-19 Fees.

15. The following fees shall be required for licenses and renewals:

Master well driller's license	$25.00
Journeyman well driller's license	$10.00
Renewal of master well driller's license	$25.00
Renewal of journeyman well driller's license	$10.00
Pump installer's license	$10.00
Renewal of pump installer's license	$10.00

All revenues derived from such fees or from the fees contained in section 10 hereof shall be deposited in the "environmental services fund" and shall be used for the administration of well water programs.

13. Section 16 of P. L. 1947, c. 377 (C. 58:4A–20) is amended to read as follows:

C. 58:4A-20 Power to inspect and take samples; right of entry.

16. The said commissioner, or any authorized representative of the commissioner, shall have the power to make such inspections and take such samples as may be deemed necessary for the investigation of the construction and repair of wells throughout the State. They shall also have the right to enter upon any and all property for the purpose of obtaining information about wells, whether idle, in use or abandoned.

14. Section 19 of P. L. 1947, c. 377 (C. 58:4A–23) is amended to read as follows:

C. 58:4A-23 Definitions.

19. A "well" is any excavation whether drilled, bored or cored, for water, oil or gas, or in exploration for water, oil or gas, or for the storage or disposal thereof. Any excavation that is less in its diameter than its depth is a well.

A "well driller" is any person who engages in drilling, digging, driving, boring, coring, constructing, altering or repairing any well or engages in the installation and repair of pumps and appurtenances.

A "master well driller" is any person skilled in the planning, superintending and practical construction of wells and the installation and repair of well pumping equipment, who has been engaged in well drilling for at least 5 years, and who has been licensed as such by the board.

A "journeyman well driller" is any person, other than a master well driller, skilled in the practical construction of wells, or who engages in the installation and repair of pumps and appurtenances, who has had at least 3 years' experience in such work, and who has been licensed as such by the board.

A "pump" is mechanical equipment or a device used to remove water from a well.

A "pump installer" is any person who is qualified to engage in the installation, removal, alteration or repair of water pumps and appurtenances in connection with any water well including water lines between well and storage tank and licensed as such by the board.

The examining board, the board of examiners, the advisory board or the board of advisors means the "State Well Drillers and Pump Installers Examining and Advisory Board."

The "department" is the Department of Environmental Protection.

15. Section 20 of P. L. 1947, c. 377 (C. 58:4A–24) is amended to read as follows:

C. 58:4A-24 Violation of act; penalty enforcement.

20. Any person who shall engage in the trade, business or calling of a well driller or who shall operate a well drilling machine without having a license, except in the presence and under the immediate supervision of a master or journeyman well driller, or any person, partnership or corporation who, or which, shall engage in the trade, business or calling of well drilling without employing a

licensed driller to operate his, their or its well drilling machine, or who shall engage in the trade, business or calling of pump installing without employing a licensed pump installer or licensed well driller, or who shall operate without a permit as provided in this act, or who shall aid or abet in the commission of such violation, or who shall refuse to perform any duty or obey any direction lawfully enjoined upon him by this act or by the department or said commissioner shall be liable to a penalty of not less than $100.00 nor more than $250.00 for each and every such violation, which may be collected and enforced in an action by the State or any subdivision thereof in the name of the State in a court of competent jurisdiction in summary proceedings pursuant to the Penalty Enforcement Law N. J. S. 2A:58–1 et seq. All penalties and costs collected in such actions shall be payable to the municipality in which the offense occurred. Each day such violation shall continue shall constitute a separate offense. The acceptance by any person, partnership or corporation of any money or other consideration for the construction of any well by anyone other than a licensed driller of the proper class as provided by this act, shall be deemed prima facie evidence of the violation of this act.

C. 58:4A-20.1 Authority of master well driller; license; bond; rules and regulations.

16. (New section) A master well driller shall have the authority to certify that the well has been constructed to meet the standards promulgated pursuant to P. L. 1954, c. 199 (C. 58:11–23 et seq.) concerning well drilling and pump installation. Before any master well drillers license is granted, the applicant shall file a bond in an amount fixed by the commissioner, but not less than $5,000.00, with good and sufficient surety, and conditioned for the faithful performance by the applicant of the provisions of the act to which this act is supplementary and any and all rules and regulations adopted pursuant thereto.

Any master well driller licensed under the provisions of the act to which this act is supplementary who violates any rule or regulation of the department or any provision of this act, may, in addition to any other penalty prescribed by law, be deprived of his license for a period not to exceed 1 year.

17. Section 1 of P. L. 1947, c. 375 (C. 58:4A–1) is amended to read as follows:

C. 58:4A-1 Delineation of certain areas.

The Department of Environmental Protection shall delineate from time to time such areas of the State where diversion of sub-

surface and percolating waters exceeds or threatens to exceed, or otherwise threatens or impairs, the natural replenishment of such waters.

18. Section 2 of P. L. 1947, c. 375 (C. 58:4A–2) is amended to read as follows:

C. 58:4A-2 Permit for diversion or obtaining water; option to keep logs or use water meter.

In areas so delineated by the department no person, corporation or agency of the public shall hereafter divert or obtain water from subsurface or percolating sources in excess of 70 gallons per minute for any purpose unless such person, corporation or agency of the public shall first obtain a permit for such withdrawal from the department. Such permit may be refused, or if granted, may include such stipulations as may be necessary to conserve the subsurface and percolating waters of the State and prevent their exhaustion.

Stipulations in permits granted to commercial growers of agricultural and horticultural crops and livestock, shall offer an option of keeping logs or other appropriate records on diversion or withdrawal of water or the use of a water meter, and require annual reports of such diversion or withdrawal; provided, however, that if the department determines at any time that a permit holder who has elected to keep a log or other record has failed to comply with the department regulations regarding the keeping of logs or other appropriate records, an amended permit may be issued to such permit holder requiring the use of a water meter or meters for the keeping of records.

19. Section 3 of P. L. 1947, c. 375 (C. 58:4A–3) is amended to read as follows:

C. 58:4A-3 Refusal to grant permit.

3. Any refusal to grant a permit under this act by the department shall be subject to review by the Superior Court in a proceeding in lieu of prerogative writ.

20. Section 4 of P. L. 1947, c. 375 (C. 58:4A–4) is amended to read as follows:

C. 58:4A-4 Privilege of continuing diversion without permit; records.

4. Any person, corporation, or agency of the public diverting or obtaining water at the time of the passage of this act, or at the time an area is delineated as provided in section one of this act, in excess of one hundred thousand gallons per day from subsurface

or percolating water sources, shall have the privilege of continuing to take from the same source, the quantity of water which is the rated capacity of the equipment at that time used for such water diversion without securing a permit as provided above, if the rated capacity of the equipment at that time is reported to the department. Any such well owner shall, however, keep accurate records by meters, or other approved method, of the amount of water so diverted each month and shall report same quarterly to the department.

21. Section 2 of P. L. 1951, c. 193 (C. 58:4A–4.1) is amended to read as follows:

C. 58:4A-4.1 Sealing of abandoned wells and test holes; violations; penalty.

2. The owner of any well shall, upon abandonment of any existing well or test hole, so notify the department and shall effectively seal and fill such wells and test holes in accordance with the rules and regulations of the department. A well not in operation for 3 or more years or improperly maintained to prevent contamination may be deemed to have been abandoned. Any person who shall violate the provisions of this section shall be guilty of a misdemeanor.

22. Section 3 of P. L. 1951, c. 193 (C. 58:4A–4.2) is amended to read as follows:

C. 58:4A-4.2 Power to order sealing of wells; failure to comply; penalty.

3. The department shall have the power to order the sealing of any such abandoned well when in its judgment the condition of the well endangers or threatens to endanger the subsurface of percolating waters by the intrusion of salt water or from any other causes or endangers life. The owner of any abandoned well who shall fail or refuse to seal it in the time and manner ordered by the department shall be subject to a penalty of five hundred dollars ($500.00) for each and every violation, and further penalty of fifty dollars ($50.00) for each day during which such violation shall continue.

23. This act shall take effect immediately.

Approved February 8, 1980.

CHAPTER 399

AN ACT concerning State employees and supplementing chapter 14 of Title 52 of the Revised Statutes.

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

C. 52:14-17.13a Compensatory time off for State employees.

1. No employee of this State, or of any State agency or instrumentality, who is on approved vacation leave with pay on any day on which the department, division, agency or other office within which he is employed is officially closed due to inclement weather, hazardous transportation conditions, a declaration of public mourning, or for any other reason, shall be eligible to receive compensatory time off granted in connection with such official closing in the form of any type of leave of absence with pay.

2. This act shall take effect immediately.

Approved February 8, 1980.

CHAPTER 400

AN ACT concerning pensions payable to certain sheriffs' employees and supplementing article 6 of chapter 10 of Title 43 of the Revised Statutes.

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

C. 43:10-72.4 Adjustment in pension payments; amounts.

1. Any county of the second class which is paying pensions to retirants pursuant to the provisions of article 6 of chapter 10 of Title 43 of the Revised Statutes may, from time to time, by resolution or ordinance, as appropriate, of its governing body, make adjustments in the amounts of the pension benefits payable to said retirants so as to reflect increases or decreases in living costs and maintain the purchasing power of their pension benefits in a reasonable uniform state.

Any such adjustment may be made notwithstanding that the amount of pension benefits thereby payable will exceed the amount

prescribed by sections 43:10–61, 43:10–63, 43:10–64, 43:10–66 and 43:10–67, of the Revised Statutes but no such adjustment shall be made that will reduce pension benefits below the amount so prescribed.

C. 43:10-72.5 Adjustment limits.

2. No adjustments shall be made beyond those permitted to be made for pensioners in State administered retirement systems, as promulgated by the Director of the Division of Pensions in accordance with the provisions of the "Pension Increase Act," P. L. 1958, c. 143 (C. 43:3B–1 et seq.).

3. This act shall take effect immediately.

Approved February 8, 1980.

CHAPTER 401

AN ACT concerning responsibility of relatives for the support of needy persons, and amending sections 44:1–140 and 44:4–101 of Title 44 and section 30:4–66 of Title 30 of the Revised Statutes.

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

1. R. S. 44:1–140 is amended to read as follows:

Relatives chargeable.

44:1–140. a. The father and mother of a person under 18 years of age who applies for and is eligible to receive public assistance, and the children, and husband or wife, severally and respectively, of a person who applies for and is eligible to receive public assistance, shall, if of sufficient ability, at his or their charge and expense, relieve and maintain the poor person or child in such manner as shall be ordered, after due notice and opportunity to be heard, by any county or municipal director of welfare, or by any court of competent jurisdiction upon its own initiative or the information of any person.

b. The provisions of this section shall apply to the minor children of a mother whose husband shall fail properly to support and maintain such children when by reason thereof they are likely to become a public charge.

c. The provisions of this section shall not apply to any person 55 years of age or over except with regard to his or her spouse, or his or her natural or adopted child under the age of 18 years.

2. R. S. 44:4–101 is amended to read as follows:

Relatives chargeable.

44:4–101. a. The father and mother of a person under 18 years of age who applies for and is eligible to receive public assistance, and the children, and husband or wife, severally and respectively, of a person who applies for and is eligible to receive public assistance, shall, if of sufficient ability, at his or their charge and expense, relieve and maintain the poor person or child in such manner as shall be ordered, after due notice and opportunity to be heard, by any county director of welfare, or by any court of competent jurisdiction upon its own initiative or the information of any person.

b. The provisions of this section shall apply to the minor children of a mother whose husband shall fail properly to support and maintain such minor children when by reason thereof they are likely to become a public charge.

c. The provisions of this section shall not apply to any person 55 years of age or over except with regard to his or her spouse, or his or her natural or adopted child under the age of 18 years.

3. R. S. 30:4–66 is amended to read as follows:

Liability for patient's support.

30:4–66. Every patient supported in a State or county charitable institution shall be personally liable for his maintenance and for all necessary expenses incurred by the institution in his behalf and the husband, wife, father or mother of a child under 18 years of age, and the children, severally and respectively, being of sufficient ability, of every patient so confined, whose estate is not sufficient for his support, shall support, and maintain the patient in the institution in such manner and to such an amount as the court shall direct and as provided in section 30:4–60 of this Title. All spouses living separate and apart from their spouses so confined, and all parents of illegitimate children so confined shall also be personally liable for such expense.

But no payment shall be ordered to be made by a chargeable relative 55 years of age or over except with respect to the maintenance of his or her spouse or his or her natural or adopted child under the age of 18 years.

4. This act shall take effect immediately.

Approved February 8, 1980.

CHAPTER 402

AN ACT concerning the custody of certain public moneys and amending P. L. 1940, c. 257.

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

1. Section 9 of P. L. 1940, c. 257 (C. 54:4–122.9) is amended to read as follows:

C. 54:4-122.9 Designation of official tax receiving agency and bank or trust company; rules and regulations.

9. a. The local governing body of any municipality may, by resolution, from time to time designate a bank or trust company as "Official Tax Receiving Agency of ..... (insert name of municipality)," to receive current tax payments, current water and sewer rents, and other public moneys under the supervision of the tax collector of the municipality; and the local governing body shall have power to contract for the payment of a reasonable fee for such service. The local governing body shall designate a bank or trust company commonly and generally used by residents of the municipality and shall give preference to any one of such institutions as offers to render the service for the lowest net cost to the municipality. In the event that two or more such offers are equal, preference shall be given to the bank or trust company that has been the holder of the larger aggregate amount of the municipality's evidences of indebtedness during the period of 12 months next preceding.

b. The Director of the Division of Local Government Services shall establish, in accordance with the "Administrative Procedure Act," (P. L. 1968, c. 410; C. 52:14B–1 et seq.), rules and regulations to be followed in municipalities adopting the provisions of subsection a. of this section, which shall include, but not be limited to:

(1) Procedures for the appropriate and timely notification of taxpayers of any such designation made;

(2) Provisions for the exercise of the supervision of the tax collector over the receipt by the designated bank and trust company of public moneys as required under this section; and,

(3) Requirements or restrictions concerning the holding, use, accounting, reporting, and payment to the municipality, of public moneys received by such a designated bank or trust company.

2. This act shall take effect immediately.

Approved February 8, 1980.

CHAPTER 403

AN ACT to amend the title of "An act permitting the use of school buses for the transportation of senior citizens' groups and supplementing Title 18A of the New Jersey Statutes," approved January 18, 1977 (P. L. 1977, c. 5), so that the same shall read "An act permitting the use of school buses for the transportation of senior citizens' groups and handicapped citizens and supplementing Title 18A of the New Jersey Statutes," and to amend the body of said act.

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

Title amended.

1. The title of P. L. 1977, c. 5 is amended to read as follows:

An act permitting the use of school buses for the transportation of senior citizens' groups and handicapped citizens and supplementing Title 18A of the New Jersey Statutes.

2. Section 1 of P. L. 1977, c. 5 (C. 18A:39–22) is amended to read as follows:

C. 18A:39-22 Permission to use school buses for transporting senior citizens and handicapped citizens.

1. The board of education of any district may, pursuant to rules adopted by it, permit the use of school buses owned or leased by the school district for the purpose of transporting senior citizens' groups to and from such events within its district or in any contiguous district, and for transporting handicapped citizens in any district, as may be approved by the board; provided that such use of school buses shall not interfere with the transportation of school pupils; and provided that school buses so used shall be operated only by persons licensed as bus drivers. The board shall require groups seeking such use of school buses to pay all or part of any costs incurred by the district in permitting such use, including but not limited to the costs of fuel, driver salaries, insurance and depreciation.

3. Section 2 of P. L. 1977, c. 5 (C. 18A:39–23) is amended to read as follows:

C. 18A:39-23 No fee registration continued.

2. The use of school buses for the transportation of senior citizens and handicapped citizens as herein provided shall not be construed as use for hire and shall in no way affect the no fee registration of such vehicles as provided in R. S. 39:3–27.

4. This act shall take effect immediately.

Approved February 8, 1980.

CHAPTER 404

AN ACT to amend the "Law Against Discrimination," approved April 16, 1945 (P. L. 1945, c. 169).

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

1. Section 12 of P. L. 1945, c. 169 (C. 10:5–13) is amended to read as follows:

C. 10:5-13 Filing complaint; initiation of suit in court.

12. Any person claiming to be aggrieved by an unlawful employment practice or an unlawful discrimination may, by himself, or his attorney-at-law, make, sign and file with the division a verified complaint in writing which shall state the name and address of the person, employer, labor organization, employment agency, owner, lessee, proprietor, manager, superintendent, or agent alleged to have committed the unlawful employment practice or unlawful discrimination complained of and which shall set forth the particulars thereof and shall contain such other information as may be required by the division. The Commissioner of Labor and Industry, the Attorney General, or the Commissioner of Education may, in like manner, make, sign and file such complaint. Any employer whose employees, or some of them, refuse or threaten to refuse to co-operate with the provisions of this act, may file with the division a verified complaint asking for assistance by conciliation or other remedial action.

Any complainant may initiate suit in Superior Court under this act without first filing a complaint with the division or any municipal office. Prosecution of such suit in Superior Court under this act shall bar the filing of a complaint with the division or any municipal office during the pendency of any such suit.

At any time after 180 days from the filing of a complaint with the division, a complainant may file a request with the division to present the action by himself or through his own counsel to the Office of Administrative Law. Upon such request, the director of the division shall file the action with the Office of Administrative Law, provided that no action may be filed with the Office of Administrative Law where the director of the division has found that no probable cause exists to credit the allegations of the complaint or has otherwise dismissed the complaint.

A party to an action based upon a violation of this act shall mail a copy of the initial pleadings or claims, amended pleadings or claims, counterclaims, briefs, and legal memoranda to the division at the same time as filing such documents with the Office of Administrative Law or the court. Upon application to the Office of Administrative Law or to the court wherein the matter is pending, the division shall be permitted to intervene.

2. Section 15 of P. L. 1945, c. 169 (C. 10:5–16) is amended to read as follows:

C. 10:5-16 Procedure for presentation of case.

15. The case in support of the complaint shall be presented before the director by the attorney for the division and evidence concerning attempted conciliation shall not be received. The respondent shall file a written verified answer to the complaint and appear at such hearing in person or by representative, with or without counsel, and submit testimony. In the discretion of the director, the complainant may be allowed to intervene and present testimony in person and may be represented by counsel. The director or the complainant shall have the power reasonably and fairly to amend any complaint, and the respondent shall have like power to amend his answer. The director shall not be bound by the strict rules of evidence prevailing in civil actions in courts of competent jurisdiction of this State. The testimony taken at the hearing shall be under oath and be transcribed.

3. Section 16 of P. L. 1945, c. 169 (C. 10:5–17) is amended to read as follows:

C. 10:5-17 Findings and conclusions of director; powers.

16. If, upon all evidence at the hearing, the director shall find that the respondent has engaged in any unlawful employment practice or unlawful discrimination as defined in this act, the director shall state his findings of fact and conclusions of law and shall issue and cause to be served on such respondent an order

requiring such respondent to cease and desist from such unlawful employment practice or unlawful discrimination and to take such affirmative action, including, but not limited to, hiring, reinstatement or upgrading of employees, with or without back pay, or restoration to membership, in any respondent labor organization, or extending full and equal accommodations, advantages, facilities, and privileges to all persons, as, in the judgment of the director, will effectuate the purpose of this act, and including a requirement for report of the manner of compliance. If the conduct violative of this act constitutes any form of unlawful economic discrimination prohibited in section 11, subsections l., m., and n. of this act, the affirmative action taken by the director may include the award of three-fold damages to the person or persons aggrieved by the violation. The director shall have the power to use reasonably certain bases, including but not limited to list, catalogue or market prices or values, or contract or advertised terms and conditions, in order to determine particulars or performance in giving appropriate remedy. In any case in which the director, Attorney General, or appropriate organization is a complainant, on behalf of unnamed individuals or a class of individuals, any of the remedies or relief allowed by this act may be awarded or applied to the unnamed individual victims of discrimination. If, upon all evidence, the director shall find that the respondent has not engaged in any such unlawful practice or unlawful discrimination, the director shall state his findings of fact and conclusions of law and shall issue and cause to be served on the complainant an order dismissing the said complaint as to such respondent.

4. Section 17 of P. L. 1945, c. 169 (C. 10:5–18) is amended to read as follows:

C. 10:5-18 Establishment of rules of practice.

17. The Attorney General shall establish rules of practice to govern, expedite and effectuate the foregoing procedure and his own actions thereunder. Any complaint filed in the division or in any municipal office pursuant to this act must be so filed within 180 days after the alleged act of discrimination.

5. Section 23 of P. L. 1945, c. 169 (C. 10:5–24) is amended to read as follows:

C. 10:5-24 Transcript of hearing; cost.

23. Any party may require that a transcript of a hearing be prepared at his cost.

C. 10:5-27.1 Attorney's fee.

6. In any action or proceeding brought under this act, the prevailing party may be awarded a reasonable attorney's fee as part of the cost, provided however, that no attorney's fee shall be awarded to the respondent unless there is a determination that the charge was brought in bad faith.

7. This act shall take effect immediately.

Approved February 8, 1980.

CHAPTER 405

AN ACT concerning education and supplementing chapter 46 of Title 18A of the New Jersey Statutes and making an appropriation.

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

1. By September 30, 1982 the State Department of Education shall have provided sufficient in-service training to enable the child study teams to evaluate properly hearing handicapped children and to develop appropriate individual educational prescriptions for each handicapped child with significant hearing loss.

2. There is appropriated to the Department of Education to carry out the provisions of this act the sum of $50,000.00.*

3. This act shall take effect immediately and shall expire on September 30, 1982.

Approved February 8, 1980.

* This item was eliminated by line item veto of the Governor. See Statement following.

STATEMENT TO SENATE BILL NO. 3154 (2nd OCR)

Pursuant to Article V, Section I, Paragraph 15 of the Constitution, I am appending to Senate Bill No. 3154 (2nd OCR) at the time of signing it, this statement of the items, or parts thereof, to which I object so that each item, or part thereof, so objected to shall not take effect.

Senate Bill No. 3154 (2nd OCR) would require the Department of Education to provide in-service training for child-study teams in the proper evaluation and programming of handicapped children with severe hearing loss. The bill includes a $50,000 appropriation for this purpose.

I am signing this bill because I believe that the proper evaluation and programming of children with severe hearing handicaps are very important. I am eliminating the fiscal year 1980 appropriation in this bill because sufficient funds have been included in my fiscal year 1981 budget request for the Department of Education.

On page 1, section 2: Eliminate the appropriation to the Department of Education in its entirety.

Respectfully,

/s/ BRENDAN BYRNE,
Governor.

[SEAL]
Attest:
/s/ HAROLD L. HODES,
Chief of Staff, Secretary.

CHAPTER 406

AN ACT providing for the form, filing and effect of notices of real estate settlements and supplementing Title 46 of the Revised Statutes.

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

C. 46:16A-1 Notice of settlement.

1. Any party, or his legal representative, to a settlement which will convey legal or equitable title to real estate or any interest therein or create any lien thereon by way of a mortgage, may file

an instrument to be designated a "notice of settlement" with the county recording officer of the county in which the real estate is situate. The notice shall be filed in a book to be kept for that purpose entitled "Notices of Settlement," and shall immediately be indexed in an index book entitled "Index of Notices of Settlement," which index shall indicate the date of filing, the place of record and the names of the parties thereto. The county recording officer may charge a fee not to exceed the fee charged for the filing and recording of notices of Federal tax liens.

C. 46:16A-2 Signature; acknowledgement of execution.

2. The notice of settlement shall be signed by said party or legal representative and shall set forth the names of the parties to the settlement and a description of the real estate. If the notice is executed by anyone other than an attorney at law of this State, the execution shall be acknowledged or proved in the manner provided by law for the acknowledgement or proof of deeds.

C. 46:16A-3 Form of notice.

3. The form of the notice of settlement shall be as follows:

Name .....
Address .....
(Seller or Mortgagor)
and
Name .....
Address .....
(Purchaser or Mortgagee)

NOTICE OF SETTLEMENT

NOTICE is hereby given of a ..... (contract, agreement or mortgage commitment) between the parties hereto.

THE lands to be affected are described as follows:

ALL that certain tract or parcel of land and premises situate, lying and being in the ..... of .....,
(municipality)
County of ..... and State of New Jersey, commonly known as ..... and more particularly
(street address)
described as follows:
(legal description)

Name of party or legal representative .....
Address .....
(acknowledgement)

C. 46:16A-4 Acquisition of title.

4. After the filing of a notice of settlement, any person claiming title to, an interest in or a lien upon the real estate described in the notice through any party in the notice, shall be deemed to have acquired said title, interest or lien with knowledge of the anticipated settlement and shall be subject to the terms, conditions and provisions of the deed or mortgage between the parties filed within the period provided by section 5 of this act.

C. 46:16A-5 Effective date of notice.

5. The notice of settlement shall be effective for 20 days from the date of filing. Any lien filed during said 20 days shall attach to the premises described in the notice immediately upon the expiration of the 20 days, provided the premises have not been conveyed and notwithstanding the filing of a subsequent notice of settlement.

6. This act shall take effect 90 days after enactment.

Approved February 8, 1980.

CHAPTER 407

AN ACT to amend "An act for the establishment of a police and firemen's retirement system for police, firemen and certain other law enforcement officers," approved May 23, 1944 (P. L. 1944, c. 255) as said title was amended by P. L. 1976, c. 139.

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

1. Section 1 of P. L. 1944, c. 255 (C. 43:16A–1) is amended to read as follows:

C. 43:16A-1 Definitions.

1. As used in this act:

(1) "Retirement system" shall mean the Police and Firemen's Retirement System of New Jersey as defined in section 2 of this act.

(2) "Policeman or fireman" shall mean any permanent and full-time active uniformed employee, and any active permanent and full-time employee who is a detective, lineman, fire alarm operator or inspector of combustibles of any police or fire department. It

shall also mean any permanent, active, and full-time officer employee of the State of New Jersey, or any political subdivision thereof, with police powers and holding one of the following titles: motor vehicles officer, motor vehicles sergeant, motor vehicles lieutenant, motor vehicles captain, assistant chief, bureau of enforcement, and chief, bureau of enforcement in the Division of Motor Vehicles, alcoholic beverage control investigators, alcoholic beverage control inspectors, assistant deputy director, bureau of enforcement, and deputy director, bureau of enforcement in the Division of Alcoholic Beverage Control, conservation officer, assistant district conservation officer, district conservation officer, and chief conservation officer, in the Division of Fish, Game, and Shell Fisheries, rangers, and chief ranger in the Bureau of Parks, marine patrolman, senior marine patrolman, principal marine patrolman, and chief, bureau of marine law enforcement, correction officer, senior correction officer, correction officer sergeant, correction officer lieutenant, correction officer captain, and deputy keepers in the Department of Corrections, medical security officer, assistant supervising medical security officer, and supervising medical security officer in the Department of Human Services, county detective, lieutenant of county detectives, captain of county detectives, deputy chief of county detectives, chief of county detectives, and county investigator in the office of the county prosecutors, sheriff's officer, sergeant sheriff's officer, lieutenant sheriff's officer, captain sheriff's officer, chief sheriff's officer, and sheriff's investigator in the office of the county sheriffs, county correction officer, county correction sergeant, county correction lieutenant, county correction captain, and county deputy warden in the several county jails, industrial trade instructor and identification officer in a county of the first class having a population of more than 925,000 inhabitants, cottage officer, head cottage officer, interstate escort officer, juvenile officer, head juvenile officer, assistant supervising juvenile officer, supervising juvenile officer, patrolman capitol police, patrolman institutions, sergeant patrolman institutions, and supervising patrolman institutions and patrolman or other police officer of the Board of Commissioners of the Palisades Interstate Park appointed pursuant to R. S. 32:14–21.

(3) "Member" shall mean any policeman or fireman included in the membership of the retirement system as provided in section 3 of this act.

(4) "Board of trustees" or "board" shall mean the board provided for in section 13 of this act.

(5) "Medical board" shall mean the board of physicians provided for in section 13 of this act.

(6) "Employer" shall mean the State of New Jersey, the county, municipality or political subdivision thereof which pays the particular policeman or fireman.

(7) "Service" shall mean service as a policeman or fireman paid for by an employer.

(8) "Creditable service" shall mean service rendered for which credit is allowed as provided under section 4 of this act.

(9) "Regular interest" shall mean interest as determined annually by the State Treasurer after consultation with the Directors of the Divisions of Investment and Pensions and the actuary of the system. It shall bear a reasonable relationship to the percentage rate of earnings on investments but shall not exceed 105% of such percentage rate.

(10) "Aggregate contributions" shall mean the sum of all the amounts, deducted from the compensation of a member or contributed by him or on his behalf, standing to the credit of his individual account in the annuity savings fund.

(11) "Annuity" shall mean payments for life derived from the aggregate contributions of a member.

(12) "Pension" shall mean payments for life derived from contributions by the employer.

(13) "Retirement allowance" shall mean the pension plus the annuity.

(14) "Earnable compensation" shall mean the full rate of the salary that would be payable to an employee if he worked the full normal working time for his position. In cases where salary includes maintenance, the retirement system shall fix the value of that part of the salary not paid in money which shall be considered under this act.

(15) "Average final compensation" shall mean the average annual salary upon which contributions are made for the 3 years of creditable service immediately preceding his retirement or death, or it shall mean the average annual salary for which contributions are made during any 3 fiscal years of his or her membership providing the largest possible benefit to the member or his beneficiary.

(16) "Retirement" shall mean the termination of the member's active service with a retirement allowance granted and paid under the provisions of this act.

(17) "Annuity reserve" shall mean the present value of all payments to be made on account of any annuity or benefit in lieu of any annuity computed upon the basis of such mortality tables recommended by the actuary as shall be adopted by the board of trustees, and regular interest.

(18) "Pension reserve" shall mean the present value of all payments to be made on account of any pension or benefit in lieu of any pension computed upon the basis of such mortality tables recommended by the actuary as shall be adopted by the board of trustees, and regular interest.

(19) "Actuarial equivalent" shall mean a benefit of equal value when computed upon the basis of such mortality tables recommended by the actuary as shall be adopted by the board of trustees, and regular interest.

(20) "Beneficiary" shall mean any person receiving a retirement allowance or other benefit as provided by this act.

(21) "Child" shall mean a deceased member's or retirant's unmarried child either (a) under the age of 18 or (b) of any age who, at the time of the member's or retirant's death, is disabled because of mental retardation or physical incapacity, is unable to do any substantial, gainful work because of the impairment and his impairment has lasted or can be expected to last for a continuous period of not less than 12 months, as affirmed by the medical board.

(22) "Parent" shall mean the parent of a member who was receiving at least one-half of his support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a parent will be considered terminated by marriage of the parent subsequent to the death of the member.

(23) "Widower" shall mean the man to whom a member or retirant was married at least 2 years before the date of her death and to whom she continued to be married until the date of her death and who was receiving at least one-half of his support from the member or retirant in the 12-month period immediately preceding the member's or retirant's death or the accident which was the direct cause of the member's death. The dependency of such a widower will be considered terminated by marriage of the widower subsequent to the death of the member or retirant. In the event of the payment of an accidental death benefit, the 2-year qualification shall be waived.

(24) "Widow" shall mean the woman to whom a member or retirant was married at least 2 years before the date of his

death and to whom he continued to be married until the date of his death and who has not remarried. In the event of the payment of an accidental death benefit, the 2-year qualification shall be waived.

(25) "Fiscal year" shall mean any year commencing with July 1, and ending with June 30, next following.

(26) "Compensation" shall mean the base salary, for services as a member as defined in this act, which is in accordance with established salary policies of the member's employer for all employees in the same position but shall not include individual salary adjustments which are granted primarily in anticipation of the member's retirement or additional remuneration for performing temporary duties beyond the regular work day.

(27) "Department" shall mean any police or fire department of a municipality or a fire department of a fire district located in a township or a county police or park police department or the appropriate department of the State or instrumentality thereof.

2. This act shall take effect immediately.

Approved February 8, 1980.

CHAPTER 408

AN ACT concerning bonds of contractors on public works and improvements, and amending N. J. S. 2A:44–143.

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

1. N. J. S. 2A:44–143 is amended to read as follows:

Bond required; waiver.

2A:44–143. When public buildings or other public works or improvements are about to be constructed, erected, altered or repaired under contract, at the expense of the State or any county, municipality or school district thereof, the board, officer or agent contracting on behalf of the State, county, municipality or school district, shall require the usual bond, as provided for by law, with good and sufficient sureties, with an additional obligation for the payment by the contractor, and by all subcontractors, for all labor performed or materials, provisions, provender or other supplies,

teams, fuels, oils, implements or machinery used or consumed in, upon, for or about the construction, erection, alteration or repair of such buildings, works or improvements.

When such contract is to be performed at the expense of the State and is entered into by the Director of the Division of Building and Construction or State departments designated by the Director of the Division of Building and Construction, and such contract is for a sum not exceeding $20,000.00, the director or the State departments may at their discretion waive the bond requirement of this section.

2. This act shall take effect immediately.

Approved February 8, 1980.

CHAPTER 409

AN ACT concerning weights and measures and repealing R. S. 51:1–19 to 51:1–24.1 inclusive.

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

Repealer.

1. R. S. 51:1–19 to 51:1–24.1 inclusive are repealed.

2. This act shall take effect immediately.

Approved February 8, 1980.

CHAPTER 410

AN ACT authorizing the sale of surplus real property owned by the Department of Law and Public Safety.

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

1. The Department of Law and Public Safety is authorized to sell and convey all of the State's interest in 1.485 acres of surplus real property in the borough of Paramus, Bergen county. The

property is designated as Block 1802, Lot 1, on the borough of Paramus tax map.

2. The sale shall be upon terms and conditions as approved by the State House Commission.

3. This act shall take effect immediately.

Approved February 8, 1980.

CHAPTER 411

AN ACT concerning the membership of the Local Finance Board, and amending and supplementing P. L. 1974, c. 35.

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

1. Section 1 of P. L. 1974, c. 35 (C. 52:27D–18.1) is amended to read as follows:

C. 52:27D-18.1 Local Finance Board; membership; appointment; terms; vacancies.

1. The Local Finance Board in the Division of Local Government Services in the Department of Community Affairs shall consist hereafter of the Director of the Division of Local Government Services as chairman and seven members appointed by the Governor by and with the advice and consent of the Senate. Except as otherwise provided by law, all appointments shall be for 5 years. In case of a vacancy by reason of expiration of term or otherwise the appointment shall be for the remainder of the unexpired term.

2. (New section) Of the two additional members first appointed under this amendatory and supplementary act, one shall be appointed for a term of 3 years, and one for a term of 4 years.

3. (New section) This act shall not affect the terms of office of the present members of the board who shall continue to serve in office for the remainder of their terms.

4. This act shall take effect immediately.

Approved February 8, 1980.

CHAPTER 412

AN ACT concerning police reports of motor vehicle accidents, amending R. S. 39:4–131 and supplementing Title 39 of the Revised Statutes.

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

1. R. S. 39:4–131 is amended to read as follows:

Forms for accident reports; written report.

39:4–131. The division shall prepare and supply to police departments and other suitable agencies, forms for accident reports calling for sufficiently detailed information with reference to a motor vehicle accident, including the cause, the conditions then existing, the persons and vehicles involved and such information as the director may require.

Every law enforcement officer who investigates a vehicle accident of which report must be made as required in this Title, or who otherwise prepares a written report as a result of an accident or thereafter by interviewing the participants or witnesses, shall forward a written report of such accident to the division, on forms furnished by it, within 5 days after his investigation of the accident.

Such written reports required to be forwarded by law enforcement officers and the information contained therein shall not be privileged or held confidential. Every citizen of this State shall have the right, during regular business hours and under supervision, to inspect and copy such reports and shall also have the right to purchase copies of the reports at the fee established by section 2 of P. L. 1963, c. 73 (C. 47:1A–2).

C. 39:4-131.1 Inconsistent rules and acts superseded.

2. (New section) Any rule, regulation, resolution or ordinance inconsistent with this act or establishing a fee in excess of the fee permitted by section 2 of P. L. 1963, c. 73 (C. 47:1A–2) is superseded insofar as it is inconsistent or to the extent that it exceeds the fee so established.

3. This act shall take effect immediately.

Approved February 8, 1980.

CHAPTER 413

AN ACT concerning the transfer inheritance tax and amending R. S. 54:34–1.

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

1. R. S. 54:34–1 is amended to read as follows:

Imposition of tax on transfers.

54:34–1. Except as provided in section 54:34–4 of this Title, a tax shall be and is hereby imposed at the rates set forth in section 54:34–2 of this Title upon the transfer of property, real or personal, of the value of $500.00 or over, or of any interest therein or income therefrom, in trust or otherwise, to or for the use of any transferee, distributee or beneficiary in the following cases:

a. Where real or tangible personal property situated in this State or intangible personal property wherever situated is transferred by will or by the intestate laws of this State from a resident of this State dying seized or possessed thereof.

b. Where real or tangible personal property within this State of a decedent not a resident of this State at the time of his death is transferred by will or intestate law.

c. Where real or tangible personal property within this State of a resident of this State or intangible personal property wherever situate of a resident of this State or real or tangible personal property within this State of a nonresident, is transferred by deed, grant, bargain, sale or gift made in contemplation of the death of the grantor, vendor or donor, or intended to take effect in possession or enjoyment at or after such death.

A transfer by deed, grant, bargain, sale or gift made without adequate valuable consideration and within 3 years prior to the death of the grantor, vendor or donor of a material part of his estate or in the nature of a final disposition or distribution thereof, shall, in the absence of proof to the contrary, be deemed to have been made in contemplation of death within the meaning of paragraph "c" of this section; but no such transfer made prior to such 3-year period shall be deemed or held to have been made in contemplation of death.

d. Where by transfer of a resident decedent of real or tangible personal property within this State or intangible property wherever situate, or by transfer of a nonresident decedent of real or tangible personal property within this State, a transferee, distributee or beneficiary comes into the possession or enjoyment therein of:

(1) An estate in expectancy of any kind or character which is contingent or defeasible, transferred by an instrument taking effect on or after July 4, 1909; or

(2) Property transferred pursuant to a power of appointment contained in an instrument taking effect on or after July 4, 1909.

e. When a decedent appoints or names one or more executors or trustees and bequeaths or devises property to him or them in lieu of commissions or allowances, the transfer of which property would otherwise be taxable, or appoints him or them his residuary legatee or legatees, and the bequest, devise or residuary legacy exceeds what would be reasonable compensation for his or their services, such excess shall be deemed a transfer liable to tax. The Superior Court or County Court, having jurisdiction in the case, shall determine what is a reasonable compensation.

f. The right of the surviving joint tenant or joint tenants, person or persons, to the immediate ownership or possession and enjoyment of real or personal property held in the joint names of two or more persons, or deposited in banks or other institutions or depositories in the joint names of two or more persons and payable to either or the survivor, excluding, however, the right of a spouse, as a surviving joint tenant with his or her deceased spouse, to the immediate ownership or possession and enjoyment of a membership certificate or stock in a cooperative housing corporation, the ownership of which entitles such member or stockholder to occupy real estate for dwelling purposes as the principal residence of the decedent and spouse, shall upon the death of one of such persons, be deemed a transfer taxable in the same manner as though such property had belonged absolutely to the deceased joint tenant or joint depositor and had been devised or bequeathed by his will to the surviving joint tenant or joint tenants, person or persons, excepting therefrom such part of the property as such survivor or survivors may prove to the satisfaction of the Director of the Division of Taxation to have originally belonged to him or them and never to have belonged to the decedent.

In the case of a nonresident decedent, paragraph "f" of this section shall apply only to real or tangible personal property within this State.

2. This act shall take effect immediately.

Approved February 8, 1980.

CHAPTER 414

AN ACT to amend the "In Rem Tax Foreclosure Act (1948)", approved May 28, 1948 (P. L. 1948, c. 96).

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

1. Section 14 of P. L. 1948, c. 96 (C. 54:5–104.42) is amended to read as follows:

C. 54:5-104.42 Notice.

14. The copy of the complaint filed in the office of the county recording officer and the publication, service and posting of the notice as provided by the Rules Governing the Courts of the State of New Jersey shall be notice to the world including all persons claiming any right, title, interest in or lien upon the land sought to be affected by said complaint, whether or not the names of said persons appear in said complaint, of the institution of said foreclosure proceedings in rem, and that unless said lands be redeemed in the cause as hereinafter provided, the right, title, interest or lien of any such persons and the claim of any or all other persons, whether such right, title, interest, lien or claim has or shall have become vested or shall have arisen or may arise prior to or subsequent to the filing of said complaint, shall be foreclosed and forever debarred and that an indefeasible estate in fee simple in said lands shall be vested in the plaintiff, by the judgment of the said court, as provided in this act.

2. Section 20 of P. L. 1948, c. 96 (C. 54:5–104.48) is amended to read as follows:

C. 54:5-104.48 Notice; filing; notice of foreclosure.

20. At any time after the enactment of this act, any person owning land or holding a mortgage thereon, or any person having a lien or

claim thereon, or interest therein, may file with the tax collector of the taxing district wherein such land is located, a notice stating his name, residence and post-office address and a description, as shown in the last tax duplicate of the municipality, of the parcel of land in which such person has an interest, which notice shall continue in effect for a period of five years, unless earlier canceled by such person. A notice of foreclosure shall be served upon such persons and all others, as provided by Rules Governing the Courts of the State of New Jersey.

3. This act shall take effect immediately.

Approved February 8, 1980.

CHAPTER 415

AN ACT concerning old age and permanent disability assistance liens and amending R. S. 44:7–15.

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

1. R. S. 44:7–15 is amended to read as follows:

Certificate of assistance; filing; proceedings; voluntary conveyance of real or personal property.

44:7–15. At any time the county welfare agency may execute and file with the county clerk or register of deeds and mortgages, as the case may be, a certificate, in form to be prescribed by the State division, showing the amount of assistance advanced to said person, and when so filed each certificate shall be a legal claim against both the recipient and his spouse with the same force and effect for 20 years as a judgment of the Superior Court, with priority over all unsecured claims except burial and funeral expenses not to exceed $255.00.

Where the above-mentioned certificates are filed with the county clerk, subsequent proceedings for the collection and satisfaction of the judgment, including issuance of execution, shall conform to the practice prevailing in the Superior Court. In counties where the above-mentioned certificates are filed with the register of deeds and mortgages, the register, upon request of the county welfare agency, shall execute and file with the said county clerk certified

copies of the certificates herein described, which shall be filed in the judgment records of the Superior Court, and shall have the same force and effect for 20 years as a judgment in that court.

No levy shall be made upon the real estate while it is occupied by the widow or widower, as the case may be. If the proceeds of the sale of any personalty or real estate, under the terms of this chapter, exceed the total amount paid as assistance under this chapter, such excess shall be returned to said person, and in the event of his death such excess shall be considered as the property of the deceased for proper administration proceedings. All funds reclaimed under these provisions shall be reimbursed to the county, State and Federal Government, in the same proportion as it was contributed.

The county welfare agency shall be empowered to accept voluntary conveyance of real or personal property in lieu of issuance of execution. All real property acquired by execution sale or voluntary conveyance may be disposed of at public sale, or by sale on sealed bids in the discretion of the county welfare agency; after public advertisement at least once a week for 2 weeks prior to the sale, in a newspaper published in the county; provided, however, that the terms, conditions and consideration for such sale shall be first approved by the State Division of Public Welfare of the Department of Human Services. The county welfare agency is hereby authorized and empowered to execute and deliver any and all documents necessary to convey title to a purchaser of such real or personal property, in exactly the same manner as any other corporate entity.

2. This act shall take effect immediately.

Approved February 8, 1980.

CHAPTER 416

AN ACT concerning the jurisdiction of county district court with respect to judgments of such court docketed in the County Court or Superior Court, and amending N. J. S. 2A:18–41.

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

1. N. J. S. 2A:18–41 is amended to read as follows:

Jurisdiction of county district court over judgments docketed in certain other courts.

2A:18–41. After a judgment has been docketed as herein provided, no execution shall issue in the county district court. The county district court shall have original jurisdiction with respect to the granting of a new trial, the taking of an appeal or any other matter affecting the validity of the original judgment. Any order in connection with the validity of a judgment shall be filed in both the Superior and the county district court.

2. This act shall take effect immediately.

Approved February 8, 1980.

CHAPTER 417

AN ACT relating to transfer inheritance taxes and amending R. S. 54:35–5 and P. L. 1947, c. 369.

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

1. R. S. 54:35–5 is amended to read as follows:

Lien of tax; duration.

54:35–5. Notwithstanding the provisions of any other law, taxes heretofore or hereafter imposed, whether levied and assessed or not, under chapters 33 to 36 of this Title (§ 54:33–1 et seq.), shall be and remain a lien on all property owned by the decedent as of the date of his death for a period of 15 years after the date of such death, and no longer, unless sooner paid or secured by bond as provided by said chapters 33 to 36.

2. Section 1 of P. L. 1947, c. 369 (C. 54:35–5.1) is amended to read as follows:

C. 54:35-5.1 Expiration of time to collect tax.

1. On the expiration of a period of 15 years after the date when any transfer inheritance tax assessed or assessable under chapters 33 to 36 of Title 54, or any amendment thereof or supplement thereto, or under P. L. 1909, c. 228, as amended and supplemented, became or shall become due and payable, (1) no proceeding shall thereafter be instituted to assess or collect said tax, interest

or penalties chargeable thereunder; (2) no notice to, or written consent of, the Director of the Division of Taxation, relative to the transfer of real or personal property, as required by sections 54:35–19 and 54:35–21 of the Revised Statutes, shall be necessary; (3) the personal liability of executors, administrators, trustees, grantees, donees, vendees, devisees, legatees, heirs, next-of-kin and beneficiaries for said tax, interest and penalties shall cease; and (4) the director is hereby authorized to cancel all assessments of taxes, interest and penalties, the collection of which is barred by the limitations herein provided and to destroy returns and records relating thereto which are rendered useless by the provisions of this act. Nothing herein contained, however, shall affect the rights of the State (a) under any certificate of debt, decree or judgment for taxes, interest and penalties duly recorded with the Clerk of the Superior Court, or with any county clerk; or (b) to assess and enforce collection of any tax, interest and penalties pursuant to the terms of any bond or other agreement securing the payment of such tax, interest and penalties.

3. This act shall take effect immediately.

Approved February 8, 1980.

CHAPTER 418

AN ACT to amend the "municipal and county utilities authority law," P. L. 1957, c. 183, as the short title thereof was amended by P. L. 1977, c. 384, s. 2.

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

1. Section 61 of P. L. 1957, c. 183 (C. 40:14B–61) is amended to read as follows:

C. 40:14B-61 Approval of plans and specifications for sewage disposal plants within district.

61. No sewage disposal plant or other facilities for the collection, treatment or disposal of sewage arising within a district shall be constructed unless the municipal authority shall give its consent thereto and approve the plans and specifications therefor. No facilities for the distribution of water within a district shall be constructed unless the municipal authority shall give its consent

thereto and approve the plans and specifications therefor. Each municipal authority is hereby empowered to give any such consent and approval, subject, however, to the terms and provisions of any agreement with the holders of bonds. Upon submission to the authority of a complete application for approval of such a plant or facilities, the authority shall approve or disapprove the application within 90 days of the date of its submission, but the authority may extend the time for a period not to exceed 30 days by adoption of a resolution therefor. As used in this section, "complete application" means an application form completed as specified by resolution and the rules and regulations of the authority, and the accompanying documents, plans and specifications required by resolution for approval of the plant or facilities. An application shall be certified as complete, for the purposes of the comencement of the time for action by the authority, immediately upon the meeting of the requirements specified in the resolution and the rules and regulations of the authority. Failure of a municipal authority to approve or disapprove plans and specifications submitted pursuant to this section within such time, shall constitute approval thereof and consent of the authority to construction of the plant or facilities.

2. This act shall take effect immediately.

Approved February 8, 1980.

CHAPTER 419

A SUPPLEMENT to the "Hotel and Multiple Dwelling Law," approved May 31, 1967 (P. L. 1967, c. 76; C. 55:13A–1 et seq.) as said short title was amended by P. L. 1970, c. 138.

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

C. 55:13A-7.1 Smoke detectors or alarms in hotels and multiple dwellings.

1. Every hotel and multiple dwelling shall be equipped with smoke detectors or smoke alarms or both in conformance with rules and regulations promulgated by the Commissioner of the Department of Community Affairs. Such rules and regulations shall specify the number, location, specifications, maintenance and periodic testing of smoke detectors and smoke alarms based upon the

construction, size and design of such building, and any other rules and regulations which the commissioner considers necessary for the administration of this supplemental act.

C. 55:13A-7.2 Standards.

2. Nothing in this supplemental act shall permit the adoption of any code or standard which exceeds the standards adopted under the "State Uniform Construction Code Act," (P. L. 1975, c. 217; C. 52:27D–119 et seq.).

3. This act shall take effect immediately, but shall remain inoperative until 60 days after the promulgation by the commissioner of the rules and regulations required pursuant to this act.

Approved February 8, 1980.

CHAPTER 420

AN ACT to amend the "Local Public Contracts Law," approved June 9, 1971 (P. L. 1971, c. 198).

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

1. Section 11 of P. L. 1971, c. 198 (C. 40A:11–11) is amended to read as follows:

C. 40A:11-11 Additional matters regarding agreements for the purchases of work, materials and supplies.

11. Additional matters regarding agreements for the purchases of work, materials and supplies.

(1) The contracting units entering into a joint agreement pursuant to section 10 of this act may designate a joint purchasing agent, department or board pursuant to section 9 of this act. Any such agent, board or department already designated pursuant to section 9 may serve as the joint agent, department or board designated pursuant to this section.

(2) Purchases, contracts or agreements made pursuant to a joint purchasing agreement shall be subject to all of the terms and conditions of this act.

(3) Any county or municipality serving as a purchasing agent, board or department pursuant to this section 11, may make an appropriation to enable it to perform any such contract and may

anticipate as revenue payments to be made and received by it from any other party to the agreement. Any items so included in a local budget shall be subject to the approval of the Director, Division of Local Government Services, who shall consider the matter in conjunction with the requirements of chapter 4 of Title 40A of the New Jersey Statutes. The agreement and any subsequent amendment or revisions thereto shall be filed with the Director of the Division of Local Government Services in the Department of Community Affairs.

(4) Any agent, department or board so designated pursuant to a joint purchasing agreement shall have the sole responsibility to comply with the provisions of section 23 of this act.

(5) The governing bodies of two or more contracting units or boards of education within the same county, or adjoining counties, may by ordinance or resolution, as appropriate, establish a cooperative pricing system as hereinafter provided. Any such ordinance or resolution shall establish procedures whereby one participating contracting unit in the cooperative pricing system shall be empowered to advertise and receive bids to provide prices for all other participating contracting units in such system for the purchase of work, materials and supplies; provided, however, that no purchase or contract shall be made by any participating contracting unit for a price which exceeds any other price available to the participating contracting unit, or for a purchase in deviation from the specifications, price or quality set forth by the participating contracting unit.

No vendor shall be required or permitted to extend his bid prices to participating contracting units in a cooperative pricing system unless so specified in the bids.

No cooperative pricing system and agreements entered into pursuant to such system, or joint purchase agreements established pursuant to this act, the "Interlocal Services Act," (P. L. 1973, c. 208; C. 40:8A–1 et seq.) or any other provision of law, shall become effective without prior approval of the Director of the Division of Local Government Services and said approval shall be valid for a period not to exceed 5 years.

The director's approval shall be based on the following:

(a) Provision for maintaining adequate records and orderly procedures to facilitate audit and efficient administration, and

(b) Adequacy of public disclosure of such actions as are taken by the participants, and

(c) Adequacy of procedures to facilitate compliance with all provisions of the "Local Public Contracts Law" and corresponding regulations, and

(d) Clarity of provisions to assure that the responsibilities of the respective parties are understood.

Failure of the Director of the Division of Local Government Services to approve or disapprove a properly executed and completed application to establish a cooperative pricing system and agreements entered into pursuant to such system or other joint purchase agreement within 45 days from the date of receipt of said application by the director shall constitute approval of said application which shall be valid for a period of 5 years commencing from the date of receipt of said application by the director.

The Director of the Division of Local Government Services is hereby authorized to promulgate rules and regulations specifying procedures pertaining to cooperative pricing systems and joint purchase agreements entered into pursuant to this act, the "Interlocal Services Act," (P. L. 1973, c. 208; C. 40:8A–1 et seq.) and any other provision of law.

2. This act shall take effect immediately.

Approved February 8, 1980.

CHAPTER 421

AN ACT concerning certain fees collected by the Division of Weights and Measures and amending R. S. 51:8–5 and 51:8–13.

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

1. R. S. 51:8–5 is amended to read as follows:

License requirement.

51:8–5. It shall be unlawful for any person to engage in the business of selling, delivering or selling and delivering solid fuel in this State unless he shall have obtained from the Division of Weights and Measures a license to engage in said business and a license plate for each vehicle owned, rented, leased or hired in any manner and used by him for the delivery of solid fuel; provided,

however, where any person engages in the business of selling, delivering, or selling and delivering solid fuel in this State at more than one place of business or establishment, it shall be necessary for said person to obtain a separate license for each such place of business or establishment where said solid fuel is so sold, delivered, or sold and delivered; provided, further, that it shall not be necessary for any person who sells or delivers solid fuel at retail in quantities of not more than 100 pounds, and does not sell or deliver more than 100 pounds to the same person on the same day, to obtain such license. Application for said license and license plate or plates shall be made upon a form to be supplied by the superintendent and it shall be the duty of said superintendent to issue such license to such applicant for each calendar year or fraction thereof in which said business is conducted, upon the payment of a fee of $25.00 for any 1 year or fraction thereof, and to issue, for such calendar year or fraction thereof, a license plate for each vehicle so owned and used by the applicant, together with a certificate of the issuance of such license plate, upon the payment of $5.00 for each vehicle so owned, rented, leased or hired in any manner and used, and said certificate shall contain the name and address of the owner of the vehicle and of any person renting, leasing or hiring the vehicle in any manner, together with a description of the character of the vehicle and the motor number. The holder of such certificate or the operator of such vehicle, when requested to do so by any weights and measures officer, shall exhibit such certificate, in order that such weights and measures officer may determine the correctness of said certificate.

It shall be unlawful for any person to engage in the business aforesaid without having on display in his place of business a certificate of such license, which shall be issued by said superintendent, and no person shall use any vehicle to deliver solid fuel without such license plate being securely and conspicuously attached to said vehicle and such license plate shall be transferable or interchangeable.

Liens or encumbrances on any vehicle shall not be deemed to deprive the owner or a legally authorized user of such vehicle of a right to a license plate for such vehicle; provided, however, that in emergencies growing out of extreme weather conditions, upon application to the division by any person regularly licensed under the provisions of this section, additional vehicle plates shall be issued forthwith upon the payment of $5.00 for each plate, and any such plate may be attached to any vehicle leased or otherwise em-

ployed by any licensee. Such emergency plates must be removed and returned to the division when the emergency has passed.

Every license and license plate issued under the provisions of this section shall expire, and the certificates thereof become void on December 31 of each year, and the superintendent shall issue licenses, license plates and certificates for the following year on and after November 1 of each year, such licenses, license plates and certificates so issued not to be used until December 15 of the year preceding the year for which they are issued.

The superintendent may revoke the license of or refuse to issue a license to any person, after a hearing, upon due notice, which may be served personally upon or sent by registered mail to such person, for any dishonest, deceptive or fraudulent practice.

No motor vehicle shall be used for transportation of solid fuel in this State unless the name of the licensee and the municipality in which his place of business is located is conspicuously displayed on the vehicle in letters at least 6 inches high. Any person violating this provision shall be liable to a penalty of not less than $50.00 nor more than $100.00.

2. R. S. 51:8–13 is amended to read as follows:

License fees; disposition.

51:8–13. All license fees required to be collected by the superintendent of the division under the provisions of this chapter shall be turned over to the treasurer of the State of New Jersey who shall itemize and report separately in his annual report all income so received.

3. This act shall take effect immediately.

Approved February 8, 1980.

CHAPTER 422

AN ACT concerning public contracts, and amending P. L. 1954, c. 48.

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

1. Section 2 of P. L. 1954, c. 48 (C. 52:34–7) is amended to read as follows:

C. 52:34-7 Purchases, contracts or agreements; when advertising not necessary.

2. Any such purchase, contract or agreement may be made, negotiated, or awarded by the Director of the Division of Purchase and Property or the Director of the Division of Building and Construction, as the case may be, without advertising, in any manner which he may deem effective to promote full and free competition whenever competition is practicable, if: (1) the aggregate amount involved does not exceed $2,500.00; or (2) the aggregate amount involved does not exceed $7,500.00 in the case of the purchase of construction materials and supplies when such materials and supplies are not available from contract vendors and are necessary to the State departments or agencies in the erection, construction, alteration, or repair of State buildings and facilities; or (3) the aggregate amount involved does not exceed $10,000.00 in the case of contracts or agreements for the erection, construction, alteration, or repair of any public building or facility.

When the aggregate amount involved does not exceed $10,000.00 in the case of contracts or agreements for the erection, construction, alteration, or repair of any public building or facility, the Director of the Division of Building and Construction may, at his discretion, delegate to the appropriate State department or using agency his authority to make, negotiate, or award a contract or agreement without advertising.

The Director of the Division of Purchase and Property or the Director of the Division of Building and Construction, as the case may be, shall establish, in accordance with the "Administrative Procedure Act," (P. L. 1968, c. 410; C. 52:14B–1 et seq.), rules and regulations concerning procedural requirements for the making, negotiating or awarding of purchases, contracts or agreements pursuant to this section.

2. Section 3 of P. L. 1954, c. 48 (C. 52:34–8) is amended to read as follows:

C. 52:34-8 Purchases, contracts or agreements; when advertising not necessary.

3. Any such purchase, contract or agreement where the cost or contract price exceeds the amounts specified in section 2 of this act may, with the written approval of the State Treasurer, be made, negotiated or awarded by the Director of the Division of Purchase and Property or the Director of the Division of Building and Construction, as the case may be, without advertising, when the subject matter thereof is that described in section 4 of this act or when the purchase, contract or agreement is made or awarded under the

circumstances described in section 5 of this act, in any manner which the director may deem effective to promote full and free competition whenever competition is practicable.

3. This act shall take effect immediately.

Approved February 8, 1980.

CHAPTER 423

AN ACT concerning State conventions and amending R. S. 19:5–6.

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

1. R. S. 19:5–6 is amended to read as follows:

Annual convention; membership; time and place of holding; platforms; resolutions committee; adjournments.

19:5–6. There shall be held in each year in which all members of the General Assembly are to be elected, a State convention of each of the political parties.

Such State convention of each party shall consist of the following members:

(1) The party candidates for the following offices:

(a) Members of the Senate or House of Representatives of the United States from this State, nominated at the party primaries held for the nomination of candidates for any of said offices immediately preceding the convention.

(b) State Senator nominated, in each county, at the party primaries, held for the nomination of a candidate for said office, immediately preceding the convention, and

(c) Members of the General Assembly, nominated in each county, at the party primaries immediately preceding the convention, if the convention is to be held in a year in which all of the members of the General Assembly are to be elected; or all of the party candidates for said offices, in each county, who were voted upon and were not elected at the general election held in the year immediately preceding the convention, if the convention is to be held in a year other than one in which all of the members of the General Assembly are to be elected, except that any candidates nominated for the filling of vacan-

cies, in said offices, at the party primaries held in the year in which the convention is held, shall replace, to an equal number, the candidates so voted upon and not elected at the general election held in the preceding year, who received the least number of votes in said general election;

(2) The candidate of the party for Governor nominated at the primaries in said year;

(3) Members of the State Senate and of the General Assembly belonging to the party who are holding office at the time of the State convention and whose successors are not to be chosen at the ensuing general election;

(4) Members of the State Committee chosen as herein provided;

(5) Members of the Senate and House of Representatives of the United States from this State, belonging to such party, who are holding office at the time of the holding of the State convention and whose successors are not to be chosen at the ensuing general election;

(6) Members of the National Committee from this State; and

(7) The county chairperson and vice chairperson of the several county committees.

The convention of each party shall be held at the city of Trenton on the second Thursday after the primary election for the general election in each year in which all members of the General Assembly are to be elected. When the day prescribed by law for holding State conventions of political parties, or any adjournment thereof, falls on a legal holiday, the convention or adjournment thereof, as the case may be, shall be held on the day preceding such legal holiday. The place and the hour at which the convention shall meet shall be fixed by call of the existing State Committee to be issued at least 5 days prior to the date of meeting. If no call is issued by the State Committee, any person qualified to sit in the convention may issue a call.

The convention of each party shall have power to adopt and promulgate a party platform for its party, and to transact such other business as may properly come before it. The convention of each political party, in this Title authorized, upon convening, shall appoint a committee on resolutions consisting of five members. The convention shall then be open for the reception of all proposed planks for the party platform, which planks shall be referred to the committee on resolutions, whose duty it shall be to prepare a tentative party platform and furnish it to each member of the con-

vention within 75 days. The committee on resolutions of each political party shall hold a minimum of three public hearings throughout the State. A number of such public hearings shall be held in the evenings, if feasible, to give the largest possible number of people an opportunity to express their views. The State convention of each political party shall adjourn to meet again at its originally set meeting place not later than 90 days after the initial adjournment of such convention. The State chairman of each political party shall set the date of the adjourned meeting of his party. A notice of the date of the adjourned meeting of each political party shall be furnished to each member of each respective convention not later than 15 days prior to such adjourned meeting. At such meeting the respective conventions shall consider and may adopt the draft of the platform so prepared by the committee on resolutions with such amendments as shall be suggested and adopted in the conventions as a whole. The voting on the adoption of the party platform shall be on the entire platform as reported by the committee on resolutions, unless there be an objection to any separate plank or planks or to any amendment thereto, in which case the voting on such plank or planks or amendment shall be by the "ayes" and "nays" of the members of the convention present and voting.

The provisions of this section shall not preclude the holding of additional State conventions of the political parties at such times as the State Committees of the parties shall determine.

2. This act shall take effect immediately and shall be retroactive to July 1, 1979.

Approved February 8, 1980.

CHAPTER 424

AN ACT to repeal P. L. 1978, c. 129 and supplementing Title 18A of the New Jersey Statutes.

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

C. 18A:13-24.3 Application of funds received from federal assistance; payments; credits.

1. a. Any funds received for the school years 1975-76 through 1979-80, inclusive, by a regional school district pursuant to section 2

of the Federal Impact Financial Assistance Act (P. L. 81-874) shall be applied in the proportions set forth hereinafter as a tax credit to offset any amounts due to that regional school district from the municipality in which is located the Federal land for which such payments are made:

(1) For the 1975-76 school year—100%;
(2) For the 1976-77 school year—80%;
(3) For the 1977-78 school year—60%;
(4) For the 1978-79 school year—40%; and
(5) For the 1979-80 school year—20%.

b. Any such funds received by any regional school district for which credit has not been granted to a municipality shall be applied as a tax credit against the municipality's portion of the regional school cost equally over a 4-year period beginning with the 1980-81 school year.

c. Any credit not applied in any given school year shall be carried forward and applied as a credit toward any moneys due in the next ensuing year or years.

d. The balance of the moneys so received and any moneys so received for the school year 1980-81 and all succeeding school years shall be retained by the regional school district and applied to its current expenses consistent with the applicable Federal regulations.

Repealer.

2. P. L. 1978, c. 129 (C. 18A:13–24.1 et seq.) is repealed.

3. This act shall take effect immediately.

Approved February 8, 1980.

CHAPTER 425

AN ACT to amend the "Practicing Marriage Counseling Act," approved January 10, 1969 (P. L. 1968, c. 401).

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

1. Section 18 of P. L. 1968, c. 401 (C. 45:8B–18) is amended to read as follows:

C. 45:8B-18 Application for admittance to examination; requirements.

18. Any person applying to the board, after January 1, 1970, may be admitted to an examination if he meets the qualifications set forth in section 14 (a), (b) and (c) and provides evidence satisfactory to the board that he has met educational and experiential qualifications as follows:

(a) Educational Requirement: At least a master's degree in social work, or a post-master's degree in marriage and family-counseling, or a doctorate in marriage or pastoral counseling, psychology, sociology of the family, family life education, or a closely allied field of study or a doctor of medicine in which it is established by the applicant's transcripts that an equivalent course of study has been successfully completed; the degree to have been obtained from an accredited institution so recognized at the time of granting of such degrees.

(b) Experience Requirements: Five years of full-time counseling experience, or its equivalent, of a character approved by the board, 2 years of which must have been in marriage counseling; 2 of the 5 required years must have been under the supervision of a person holding a degree specified in paragraph (a) of this section and who has himself had no less than 5 full-time years of professional experience or the equivalent.

2. This act shall take effect immediately.

Approved February 11, 1980.

CHAPTER 426

AN ACT concerning the boundaries of the Passaic Valley Sewerage District, and amending R. S. 58:14–1.

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

1. R. S. 58:14–1 is amended to read as follows:

Boundaries of Passaic Valley Sewerage District.

58:14–1. All that portion of Essex, Passaic, Bergen and Hudson counties, beginning in the center of Newark bay where the boundary line between the cities of Newark and Elizabeth meets the boundary line between the counties of Essex and Hudson; thence running

westerly along the boundary line between the city of Newark and the city of Elizabeth, running up Bound creek to the boundary line between the township of Clinton and the city of Newark; thence running westerly between the boundary line of the city of Newark and the township of Clinton to the intersection of Clinton place and Hawthorne avenue; thence running southerly still along said boundary line to the center of Nye avenue; thence running westerly along said center of Nye avenue to a point one hundred feet easterly from Hobson street; thence running southerly parallel to Hobson street and one hundred feet easterly therefrom to a point two hundred feet northerly of Bragaw avenue; thence running westerly parallel with Bragaw avenue, and two hundred feet northerly therefrom, to a point half way between Hobson street and Leslie street; thence running southerly half way between said streets to the center of Bragaw avenue; thence running westerly along the center of Bragaw avenue to a point half way between Wainwright street and Schley street; thence running northerly half way between said streets to a point three hundred feet northerly from Bragaw avenue; thence running westerly parallel to Bragaw avenue, and three hundred feet northerly therefrom, and in a westerly prolongation of said line, to a point half way between Schley street and Fabyan place; thence running northerly half way between Schley street and Fabyan place to the center of Nye avenue; thence running westerly along the center of Nye avenue to the boundary line between the city of Newark and the town of Irvington; thence running northerly along said boundary line between Newark and Irvington to a point one hundred feet south of Avon avenue; thence running easterly parallel to Avon avenue, and one hundred feet southerly therefrom, to a point half way between South Twentieth street and South Nineteenth street; thence running northerly half way between said streets to a point one hundred feet northerly of Woodland avenue; thence running easterly parallel to Woodland avenue and one hundred feet northerly therefrom, to a point half way between South Nineteenth street and South Eighteenth street; thence running northerly half way between said streets to a point one hundred feet southerly of Eighteenth avenue; thence running easterly parallel with said Eighteenth avenue, and one hundred feet southerly therefrom to a point half way between Eighteenth street and Seventeenth street; thence running northerly half way between said streets to a point two hundred feet northerly from Eighteenth avenue; thence running easterly parallel to said Eighteenth avenue, and two hundred feet northerly therefrom, to a

point one hundred feet easterly from Seventeenth street; thence running northerly parallel to Seventeenth street, and one hundred feet easterly therefrom, to a point two hundred feet southerly from Fifteenth avenue; thence running parallel to Fifteenth avenue, and two hundred feet southerly therefrom, to a point half way between Sixteenth street and Fifteenth street; thence running northerly half way between Sixteenth street and Fifteenth street to a point on the northerly side of Fourteenth avenue; thence, running westerly to the boundary line between the town of Irvington and the city of Newark; thence, running northerly along said boundary line to a point where the boundary line turns westerly; thence westerly, then southerly, thence westerly, then southerly, following the boundary line between the town of Irvington and the city of Newark, until in line with the easterly side of Gladstone avenue; thence northerly following the easterly side of Gladstone avenue, until the center of South Orange avenue; thence westerly following the center line of South Orange avenue until the boundary line between the city of Newark and the city of East Orange; thence, running westerly still along said boundary line and South Orange avenue to an angle; thence running northerly still along said boundary line to another angle; thence running westerly still along said boundary line between the city of East Orange and the city of Newark and the boundary line between the city of East Orange and the village of South Orange to a point in the boundary line between the city of Orange and the village of South Orange; thence running westerly along said boundary line between the city of Orange and the village of South Orange to the boundary line of the town of West Orange; thence running northerly along the boundary line between the town of West Orange and the city of Orange to the boundary line of the town of Montclair; thence westerly along the boundary line between the town of West Orange and the town of Montclair to an angle; thence running northerly further along said boundary line between West Orange and Montclair to the boundary line of the borough of Verona; thence running northerly along the boundary line between Verona and Montclair to the boundary line of the township of Little Falls; thence running easterly along the boundary line between the township of Little Falls and the town of Montclair to the boundary line of the city of Clifton; thence running northerly along the boundary line between the township of Little Falls and the city of Clifton to the southerly boundary line of the city of Paterson; thence northwesterly along the same to a point in the Passaic river where the

said southerly boundary line of the city of Paterson would intersect the dividing line between the city of Paterson and Totowa borough; thence northwesterly along said dividing line to the northwesterly boundary line of the city of Paterson; thence running along the northwesterly boundary line of the city of Paterson to the boundary line between the borough of Haledon and the borough of Totowa; thence running along the southwesterly and westerly boundary line of the borough of Haledon to the boundary line between the borough of Haledon and the borough of North Haledon; thence running along the westerly, northerly and easterly boundaries of the property of the Missionary Society of the Salesian Sisters located in the borough of North Haledon to the northerly boundary line of the borough of Haledon; thence running along the northerly boundary line of the boroughs of Haledon and Prospect Park, to the boundary line between the borough of Prospect Park and the borough of Hawthorne; thence running southerly and southwesterly along the boundary line between the borough of Prospect Park and the borough of Hawthorne to the center of the Passaic river; thence along the center of said river to the northerly boundary line of the city of Garfield; thence easterly and southerly along the several courses of the boundary line of the city of Garfield to a point where said boundary line is intercepted by the northeasterly corner of the boundary line of the borough of Wallington; thence southerly along the easterly boundary line of the borough of Wallington to Hoboken street on the boundary line between the boroughs of Wallington and East Rutherford; thence southeasterly along said line to a point where Hoboken street is intersected by Montross avenue; then southwesterly along the center of Montross avenue to the boundary line between the boroughs of East Rutherford and Rutherford; thence southwesterly along the center of Montross avenue to the center of Washington avenue; thence northwesterly along the center of Washington avenue to Prospect place; thence southwesterly along the center of Prospect place to Union avenue; thence southwesterly in prolongation of the line of the center of Prospect place and parallel to Carmita avenue to a point where said line would be intersected by the center line of Fairview avenue if prolonged northwesterly; thence southeasterly to the southeasterly side of Montross avenue; thence southeasterly along the center of Fairview avenue three hundred and fifty feet; thence southwesterly parallel to the center line of Montross avenue to the center line of Passaic avenue; thence southerly in a straight line to a point two hundred and fifty feet

westerly from Mortimer avenue midway between Donaldson and Woodward avenues; thence southeasterly parallel to Donaldson avenue to the center of Mortimer avenue; thence southerly along the center of Mortimer avenue to the center of Park place; thence easterly along the center of Park place to the intersection of Park place and Wheaton place; thence southwesterly along the center of Wheaton avenue to the center line of Pierrepont avenue; thence southeasterly along the center of Pierrepont avenue to its intersection with the center line of Ridge avenue; thence southwesterly along said Ridge avenue to the center line of Woodland avenue; thence southeasterly along the center of Woodland avenue to the center line of Sylvan street; thence southwesterly along the center of Sylvan street to the center line of VanRiper avenue; thence southerly in a straight line to the intersection of the center lines of Summit and Rutherford avenues in the boundary line between the borough of Rutherford and the township of Union; thence southwesterly in a straight line to the intersection of the center line of Cromwell and Kingsland avenues; thence southwesterly along the center line of Cromwell avenue to Jauncey avenue in the borough of North Arlington; thence still southwesterly along the center of Cromwell avenue to a point one hundred feet northerly of the Jersey City and Belleville turnpike; thence running southeasterly parallel with said turnpike, and one hundred feet northeasterly therefrom, to a point measuring southeasterly along said line five thousand feet southeasterly from its intersection with the center line of the New York and Greenwood Lake railroad; thence running northerly along the center line of the New York and Greenwood Lake railroad to its intersection with the northerly boundary line of the town of Kearny, Hudson county; easterly along said boundary line of the town of Secaucus, Hudson county, said point being the center of the Hackensack river; thence southerly along the center line of the Hackensack river and its extension until same intersects the easterly boundary line of the city of Newark, Essex county, said point being in the center of Newark bay; southerly along the boundary line of the city of Newark to the point or place of beginning, constituted a sewerage district under the name and title of Passaic Valley Sewerage District by the act entitled "An act to create a sewerage district to be called Passaic Valley Sewerage District," approved March 27, 1902 (L. 1902, c. 48, p. 190), as supplemented by the act approved April 14, 1914 (L. 1914, c. 160, p. 294), and by the act approved March 8, 1924 (L. 1924, c. 94, p. 184), hereinafter in this chapter designated as the "district" and the

commission appointed thereunder, are continued, and it shall be entitled to all the authority and be subject to all the laws of this State concerning sewerage districts so created.

2. This act shall take effect immediately.

Approved February 11, 1980.

CHAPTER 427

AN ACT concerning the examination of pupils and amending N. J. S. 18A:40–4.

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

1. N. J. S. 18A:40–4 is amended to read as follows:

Examination of pupils.

18A:40–4. The medical inspector, or the nurse or licensed medical and health care personnel under the immediate direction of the medical inspector, shall examine every pupil to learn whether any physical defect exists, or in lieu thereof the medical inspector may accept the report of such an examination by a physician licensed to practice medicine and surgery within the State, and the frequency and procedure of and selection of pupils for such examinations shall comply with the rules of the State board. Additionally a screening of hearing examination shall be conducted on each pupil during the school year pursuant to rules, regulations and standards established by the State Department of Education in consultation with the State Department of Health.

A pupil who presents a statement signed by his parents or guardian that such required examinations interfere with the free exercise of his religious beliefs shall be examined only to the extent necessary to determine whether he is ill or infected with a communicable disease or to determine his fitness to participate in any health, safety and physical education course required by law.

A health record of each pupil shall be kept, in which shall be entered the findings of each examination, and such record shall be the property of the board of education and shall be forwarded to any public school to which the pupil is transferred, if such school is known.

2. This act shall take effect immediately.

Approved February 11, 1980.

CHAPTER 428

AN ACT concerning education and supplementing Title 18A of the New Jersey Statutes.

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

C. 18A:35-4.6 Short title.

1. This act shall be known as the "Parents Rights to Conscience Act of 1979."

C. 18A:35-4.7 Exclusion from course based on conflict with conscience.

2. Any child whose parent or guardian presents to the school principal a signed statement that any part of the instructions in health, family life education or sex education is in conflict with his conscience, or sincerely held moral or religious beliefs shall be excused from that portion of the course where such instruction is being given and no penalties as to credit or graduation shall result therefrom.

C. 18A:35-4.8 Exclusion from medical examination because of parental objection.

3. No pupil whose parent or guardian objects to such pupil receiving medical treatment or medical examination or physical examination shall be compelled to receive such treatment or examination; provided, however, that no objection shall be made to a physical or medical examination of any physically handicapped child for the purpose of determining whether such child shall be admitted to any class or school for handicapped children or of any pupil to determine whether he is ill or infected with a communicable disease or of any person who appears to be under the influence of a drug pursuant to P. L. 1971, c. 390 (C. 18A:40-4.1).

4. This act shall take effect immediately.

Approved February 11, 1980.

CHAPTER 429

AN ACT concerning the transportation of handicapped pupils and amending N. J. S. 18A:46–23.

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

1. N. J. S. 18A:46–23 is amended to read as follows:

Transportation of handicapped pupils; State aid.

18A:46–23. The board of education shall furnish transportation to all children found under this chapter to be handicapped who shall qualify therefor pursuant to law and it shall furnish such transportation for a lesser distance also to any handicapped child, if it finds upon the advice of the examiner, his handicap to be such as to make transportation necessary or advisable.

The board of education shall furnish transportation to all children being sent by local boards of education to an approved 12-month program pursuant to N. J. S. 18A:46–14, or any other program approved pursuant to N. J. S. 18A:46–14 and who qualify therefor pursuant to law, during the entire time the child is attending such a program. The board shall furnish such transportation for a lesser distance also to such handicapped child, if it finds upon the advice of the examiner, his handicap to be such as to make such transportation necessary or advisable.

The school district shall be entitled to State aid for such transportation in the amount of 90% of the cost to the district of furnishing such transportation to a program approved under this chapter in New Jersey when the necessity for such transportation and the cost and method thereof have been approved by the county superintendent of the county in which the district paying the cost of such transportation is situated.

2. This act shall take effect July 1 next following its enactment.

Approved February 11, 1980.

CHAPTER 430

AN ACT to amend the "Public Employees' Retirement System Act," approved June 28, 1954 (P. L. 1954, c. 84, C. 43:15A-1 et seq.), as said short title was amended by P. L. 1971, c. 213.

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

1. Section 7 of P. L. 1954, c. 84 (C. 43:15A-7) is amended to read as follows:

C. 43:15A-7 Division of Pensions; establishment; membership.

7. There is hereby established the Public Employees' Retirement System of New Jersey in the Division of Pensions of the Department of the Treasury. The membership of the retirement system shall include:

a. The members of the former "State Employees' Retirement System of New Jersey" enrolled as such as of December 30, 1954 who shall not have claimed for refund their accumulated deductions in said system as provided in this section;

b. Any person becoming an employee of the State or other employer after January 2, 1955 and every veteran, other than those whose appointments are temporary or seasonal, becoming an employee of the State or other employer after such date; and

c. Every employee veteran in the employ of the State or other employer on January 2, 1955 who is not a member of any retirement system supported wholly or partly by the State.

d. Membership in the retirement system shall be optional for elected officials other than veterans, and for school crossing guards, who having become eligible for benefits under other pension systems are so employed on a part-time basis. Any such part-time school crossing guard who is eligible for benefits under any other pension system and who was hired as a part-time school crossing guard prior to March 4, 1976, may at any time terminate his membership in the retirement system by making an application in writing to the board of trustees of the retirement system. Upon receiving such application, the board of trustees shall terminate his enrollment in the system and direct the employer to cease accepting contributions from the member or deducting from the compensation paid to the member. State employees who become members of any other retirement system supported wholly or partly by the State as a condition

of employment shall not be eligible to membership in this retirement system. Notwithstanding any other law to the contrary all other persons accepting employment in the service of the State shall be required to enroll in the retirement system as a condition of their employment, regardless of age. No person in employment, office or position, for which the annual salary or remuneration is fixed at less than $500.00, shall be eligible to become a member of the retirement system.

e. Membership of any person in the retirement system shall cease if he shall discontinue his service for more than 2 consecutive years.

f. The accumulated deductions of the members of the former "State Employees' Retirement System" which have been set aside in a trust fund designated as Fund A as provided in section 5 of this act and which have not been claimed for refund prior to February 1, 1955 shall be transferred from said Fund A to the Annuity Savings Fund of the Retirement System, provided for in section 25 of this act. Each member whose accumulated deductions are so transferred shall receive the same prior service credit, pension credit, and membership credit in the retirement system as he previously had in the former "State Employees' Retirement System" and shall have such accumulated deductions credited to his individual account in the Annuity Savings Fund. Any outstanding obligation of such member shall be continued.

g. Any school crossing guard electing to terminate his membership in the retirement system pursuant to subsection d. of this section shall, upon his request, receive a refund of his accumulated deductions as of the date of his appointment to the position of school crossing guard. Such refund of contributions shall serve as a waiver of all benefits payable to the employee, to his dependent or dependents, or to any of his beneficiaries under the retirement system.

2. This act shall take effect immediately.

Approved February 14, 1980.

CHAPTER 431

AN ACT to repeal "The Interim Legislative District and Apportionment Act of 1965," approved April 12, 1965 (P. L. 1965, c. 19).

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

Repealer.

1. "The Interim Legislative District and Apportionment Act of 1965," approved April 12, 1965 (C. 52:10B-1 et seq.) is repealed.

2. This act shall take effect immediately.

Approved February 14, 1980.

CHAPTER 432

AN ACT concerning professional and occupational boards and repealing certain statutes.

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

Repealer.

1. The following sections, acts and parts of acts, together with all amendments and supplements thereto, are hereby repealed:

R. S. 45:3-8, 45:3-11 and 45:3-12;
R. S. 45:4A-15, 45:4A-19 and 45:4A-24;
R. S. 45:5-12 and 45:5-15;
R. S. 45:6-8 and 45:6-25;
R. S. 45:9-23, 45:9-26 and 45:9-27:1;
R. S. 45:10-9, 45:10-10, 45:10-11 and 45:10-14;
R. S. 45:12-12, 45:12-14, 45:12-20 and 45:12-21;
R. S. 45:14-37, 45:14-38 and 45:14-39;
R. S. 45:16-6;
P. L. 1977, c. 144, ss. 18, 20, 21, 25 and 26 (C. 45:2B-18, C. 45:2B-20, C. 45:2B-21, C. 45:2B-25 and C. 45:2B-26);
P. L. 1967, c. 289, s. 5 (C. 45:3-12.1);

P. L. 1938, c. 197, ss. 14, 15 and 29 (C. 45:4–40, C. 45:4–41 and C. 45:4–55);

P. L. 1946, c. 133, s. 9 (C. 45:4–50.9);

P. L. 1950, c. 155, s. 3 (C. 45:4A–34.1);

P. L. 1962, c. 162, ss. 7, 16 and 20 (C. 45:5A–7, C. 45:5A–16 and C. 45:5A–20);

P. L. 1968, c. 17, s. 6 (C. 45:5A–22);

P. L. 1951, c. 199, ss. 9, 10, 11 and 14 (C. 45:6–15.9, C. 45:6–15.10, C. 45:6–15.11 and C. 45:6–15.14);

P. L. 1942, c. 78 (C. 45:6–29.1);

P. L. 1948, c. 34, s. 8 (C. 45:6–40);

P. L. 1952, c. 340, ss. 31, 35, 36, 38, 39 and 40 (C. 45:7–62, C. 45:7–66, C. 45:7–67, C. 45:7–69, C. 45:7–70 and C. 45:7–71);

P. L. 1938, c. 342, s. 12 (C. 45:8–38);

P. L. 1968, c. 401, ss. 25, 27 and 28 (C. 45:8B–25, C. 45:8B–27 and C. 45:8B–28);

P. L. 1963, c. 169, ss. 8 and 11 (C. 45:9–37.7 and C. 45:9–37.10);

P. L. 1953, c. 420, ss. 13 and 14 (C. 45:9–42.13 and C. 45:9–42.14);

P. L. 1973, c. 19, ss. 19, 20, 21 and 28 (C. 45:9A–19, C. 45:9A–20, C. 45:9A–21 and C. 45:9A–28);

P. L. 1975, c. 358, ss. 12 and 14 (C. 45:9B–12 and C. 45:9B–14);

P. L. 1947, c. 262, ss. 10, 14, 16, 17 and 21 (C. 45:11–32, C. 45:11–36, C. 45:11–38, C. 45:11–39 and C. 45:11–43);

P. L. 1968, c. 114, ss. 7 and 10 (C. 45:12A–7 and C. 45:12A–10);

P. L. 1949, c. 93, s. 3 (C. 45:14–26.3);

P. L. 1962, c. 109, ss. 15 and 16 (C. 45:14A–15 and C. 45:14A–16);

P. L. 1966, c. 282, ss. 26 and 27 (C. 45:14B–26 and C. 45:14B–27);

P. L. 1968, c. 362, ss. 22 and 25 (C. 45:14C–22 and C. 45:14C–25);

P. L. 1940, c. 175, ss. 6 and 12 (C. 45:15B–6 and C. 45:15B–12);

P. L. 1952, c. 336, ss. 19, 20 and 22 (C. 52:17B–41.19, C. 52:17B–41.20 and C. 52:17B–41.22).

Repealer.

2. The following sections, acts and parts of acts, together with all amendments and supplements thereto, are hereby repealed:

P. L. 1968, c. 401, ss. 22 and 23 (C. 45:8B–22 and C. 45:8B–23);

P. L. 1947, c. 262, ss. 6, 7 and 8 (C. 45:11–28, C. 45:11–29 and C. 45:11–30);

P. L. 1966, c. 282, s. 21 (C. 45:14B–21);

P. L. 1940, c. 175, s. 7 (C. 45:15B–7);

P. L. 1952, c. 336, s. 10 (C. 52:17B–41.10).

3. The following sections, acts and parts of acts, together with all amendments and supplements thereto, are hereby repealed:

Repealer.

R. S. 45:4A–20;
R. S. 45:9–3;
R. S. 45:14–5;
P. L. 1952, c. 340, s. 11 (C. 45:7–42).

4. The following sections, acts and parts of acts, together with all amendments and supplements thereto, are hereby repealed:

Repealer.

P. L. 1968, c. 144, ss. 1 and 2 (C. 45:1–5 and C. 45:1–6);
P. L. 1967, c. 289, s. 2 (C. 45:3–6.1).

5. The following sections, acts and parts of acts, together with all amendments and supplements thereto, are hereby repealed:

Repealer.

P. L. 1962, c. 162, s. 10 (C. 45:5A–10);
P. L. 1952, c. 340, ss. 5, 46 and 47 (C. 45:7–36, C. 45:7–77 and C. 45:7–78);
P. L. 1968, c. 401, ss. 17 and 32 (C. 45:8B–17 and C. 45:8B–32);
P. L. 1953, c. 233, ss. 4, 5 and 6 (C. 45:9–41.1, C. 45:9–41.2 and C. 45:9–41.3);
P. L. 1954, c. 190, ss. 2 and 3 (C. 45:9–41.14 and C. 45:9–41.15);
P. L. 1955, c. 248, s. 1 (C. 45:9–41.16);
P. L. 1953, c. 420, s. 5 (C. 45:9–42.5);
P. L. 1962, c. 109, ss. 19 and 20 (C. 45:14A–19 and C. 45:14A–20);
P. L. 1966, c. 282, ss. 15 and 16 (C. 45:14B–15 and C. 45:14B–16);
P. L. 1940, c. 175, s. 5 (C. 45:15B–5).

6. The following sections, acts and parts of acts, together with all amendments and supplements thereto, are hereby repealed:

Repealer.

R. S. 45:3–9;
R. S. 45:4A–17 and 45:4A–26.1;
R. S. 45:6–30, 45:6–31 and 45:6–32;
R. S. 45:9–9, 45:9–10 and 45:9–11;
R. S. 45:12–13;
R. S. 45:14–28;
P. L. 1948, c. 434, s. 6 (C. 45:5–16.1);
P. L. 1951, c. 199, s. 13 (C. 45:6–15.13);
P. L. 1945, c. 193, s. 2 (C. 45:6–29.2);
P. L. 1952, c. 340, ss. 13, 37, 44 and 45 (C. 45:7–44, C. 45:7-68, C. 45:7–75 and C. 45:7–76);
P. L. 1944, c. 166, s. 3 (C. 45:9–27.4);

P. L. 1947, c. 262, s. 9 (C. 45:11–31);
P. L. 1966, c. 282, s. 22 (C. 45:14B–22);
P. L. 1968, c. 362, ss. 5 and 23 (C. 45:14C–5 and C. 45:14C–23).

7. This act shall take effect immediately.

Approved February 14, 1980.

CHAPTER 433

AN ACT concerning county superintendents of public works and amending N. J. S. 40A:9–32.

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

1. N. J. S. 40A:9–32 is amended to read as follows:

Superintendent of buildings and grounds; appointment; term of office; bond.

40A:9–32. In any county the governing body, by resolution or ordinance, as appropriate, may provide for the appointment of a county superintendent of buildings and grounds. Upon any such appointment the governing body shall fix the compensation and prescribe the powers, duties and functions of said county superintendent. The term of office of the county superintendent of buildings and grounds shall be 5 years from the date of his appointment and until his successor is chosen and qualified. The said superintendent shall be required to furnish a bond in such amount as the governing body shall fix. The bond shall be subject to approval as to form by the governing body or the county counsel.

2. This act shall take effect immediately.

Approved February 14, 1980.

CHAPTER 434

AN ACT to amend "An act concerning the operation and inspection of motorcycles, requiring certain equipment for motorcycles and motorcycle operators and passengers, and amending section 39:8–1 and supplementing chapter 3 of Title 39, of the Revised Statutes," approved December 5, 1967 (P. L. 1967, c. 237).

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

1. Section 2 of P. L. 1967, c. 237 (C. 39:3–76.3) is amended to read as follows:

C. 39:3-76.3 Operation of certain motorcycles on public highways.

2. No person shall operate on a public highway a motorcycle on which the handle bar grips are higher than the shoulder height of the operator when seated.

2. This act shall take effect immediately.

Approved February 14, 1980.

CHAPTER 435

AN ACT concerning the collection of taxes and assessments, and amending R. S. 54:4–67, R. S. 54:5–32 and R. S. 54:5–34.

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

1. R. S. 54:4–67 is amended to read as follows:

Rate of discount; interest for delinquent payments.

54:4–67. The governing body of each municipality may by resolution fix the rate of discount to be allowed for the payment of taxes or assessments previous to the date on which they would become delinquent. The rate so fixed shall not exceed 6% per annum, shall be allowed only in case of payment on or before the thirtieth day previous to the date on which the taxes or assessments would become delinquent. The governing body may also fix the rate of interest

to be charged for the nonpayment of taxes or assessments on or before the date when they would become delinquent, and may provide that no interest shall be charged if payment of any installment is made within the tenth calendar day following the date upon which the same became payable. The rate so fixed shall not exceed 8% per annum on the first $1,500.00 of the delinquency and 18% per annum on any amount in excess of $1,500.00, to be calculated from the date the tax was payable until the date of actual payment.

2. R. S. 54:5–32 is amended to read as follows:

Sale made in fee subject to redemption.

54:5–32. The sale shall be made in fee to such person as will purchase the property, subject to redemption at the lowest rate of interest, but in no case in excess of 18% per annum. If at the sale a person shall offer to purchase subject to redemption at a rate of interest less than 1%, he may, in lieu of any rate of interest to redeem, offer a premium over and above the amount of taxes, assessments or other charges, as in this chapter specified, due the municipality, and the property shall be struck off and sold to the bidder who offers to pay the amount of such taxes, assessments or charges, plus the highest amount of premium.

3. R. S. 54:5–34 is amended to read as follows:

Sale to municipality; rights and remedies.

54:5–34. The officer making sale shall strike off and sell to the municipality in fee for redemption any parcel of real property purchased in accordance with a successful bid made pursuant to a resolution of the governing body or at 18% any parcel of real property for which there shall be no other purchaser, and the municipality shall have the same remedies and rights as other purchasers, including the right to bar or foreclose the right of redemption.

4. This act shall take effect immediately.

Approved February 14, 1980.

CHAPTER 436

AN ACT concerning the statute of limitations for certain actions at law based upon instruments under seal, and amending N. J. S. 2A:14–4.

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

1. N. J. S. 2A:14–4 is amended to read as follows:

Commencement of action on certain instruments under seal; exceptions.

2A:14–4. Every action at law for rent or arrears of rent, founded upon a lease under seal, every action at law upon a single or penal bill under seal for the payment of money only, upon an obligation under seal conditioned for the payment of money only, upon a recognizance or upon an award under the hands and seals of arbitrators for the payment of money only shall be commenced within 16 years next after the cause of any such action shall have accrued. If, however, any payment is made on any such lease, specialty, recognizance or award within or after such period of 16 years, an action thereon may be commenced within 16 years next after such payment, and not thereafter.

This section shall not apply to any action for breach of any contract for sale governed by N. J. S. 12A:2–725.

This section shall also not apply to any action founded upon an instrument under seal brought by a merchant or bank, finance company, or other financial institution. Any such action shall be commenced within 6 years next after the cause of any such action shall have accrued.

2. This act shall take effect immediately.

Approved February 14, 1980.

CHAPTER 437

AN ACT to amend the "emergency transportation tax act," approved May 29, 1961 (P. L. 1961, c. 32), amending P. L. 1978, c. 131 and repealing section 11 of P. L. 1970, c. 304.

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

1. Section 6 of P. L. 1978, c. 131 (C. 54:8A–6.4) is amended to read as follows:

C. 54:8A-6.4 Maximum tax rate on personal service income.

6. Maximum tax rate on personal service income. (a) If for any taxable year beginning in 1978 and thereafter an individual has personal service entire net income which exceeds the amount of entire net income specified in paragraph (1) of this subsection, the tax determined pursuant to subsection 6(c) of P. L. 1961, c. 32 (C. 54:8A–6(c)) for such year shall be the sum of:

(1) The tax determined by subsection 6(c) of P. L. 1961, c. 32 (C. 54:8A–6(c)) on the highest amount of entire net income on which the rate of tax does not exceed 10%, provided, however, that for taxable years beginning on or after January 1, 1978 and before January 1, 1980, it shall be the tax determined by subsection 6(c) of P. L. 1961, c. 32 (C. 54:8A–6(c)) on the highest amount of entire net income on which the rate of tax does not exceed 12%, and provided further that for taxable years beginning on or after January 1, 1980 and on or before January 1, 1981, it shall be the tax determined on the highest amount of entire net income on which the rate of tax does not exceed 11%.

(2) 10% of the amount by which his personal service entire net income exceeds the amount of entire net income specified in paragraph (1) of this subsection, provided, however, that for taxable years beginning on or after January 1, 1978 and before January 1, 1980, the rate in this paragraph shall be 12% and that for taxable years beginning on or after January 1, 1980 and before January 1, 1981, the rate in this paragraph shall be 11%, and

(3) The excess of the tax determined under section 6(c)of P. L. 1961, c. 32 (C. 54:8A–6(c)), without regard to this section, over the tax so determined with reference solely to his personal service entire net income.

(b) For purposes of this section the term "personal service income" means items of income includible as personal service income for purposes of section 1348 of the Internal Revenue Code; provided, however, that notwithstanding the provisions of such section of the Internal Revenue Code to the contrary with respect to the filing of returns by married individuals, the provisions of this section of this act shall be applicable in the case of a husband and wife who file separate New Jersey tax returns (whether or not on a single form).

(c) The personal service entire net income of an individual is the excess of:

(1) The amount which bears the same ratio (but not in excess of 100%) to his entire net income as his personal service gross income bears to his entire gross income, over

(2) The sum of his items of tax preference, as defined in this act, for the taxable year.

For purposes of paragraph (1) of this subsection, the term "personal service gross income" means personal service income reduced by any deductions allowable under section 62 of the Internal Revenue Code which are properly allocable to or chargeable against such personal service income.

Repealer.

2. Section 11 of P. L. 1970, c. 304 (C. 54:8A–37.1) is repealed with respect to tax years beginning on and after January 1, 1979.

3. Section 39 of P. L. 1961, c. 32 (C. 54:8A–39) is amended to read as follows:

C. 54:8A-39 Computation of net capital gain or loss; deductions.

39. (a) The net capital gain or loss of a taxpayer shall be computed by totaling the gains from sales or other dispositions during the taxable year of capital assets having an actual situs within the source state and subtracting therefrom the losses from sales or other dispositions of capital assets having an actual situs in the source state.

(b) (1) In any taxable year in which a taxpayer has a net capital loss such loss shall be allowed as a deduction from gross income only to the extent of $1,000.00 or the taxpayer's net income whichever is lower; provided, however, that with respect to taxable years beginning after 1978 a loss shall be allowed as a deduction from gross income only to the extent of $3,000.00 or the taxpayer's net income, whichever is lower.

(2) Subject to the limitation of paragraph (1) hereof, if for any taxable year the taxpayer has a net capital loss, the amount thereof shall be treated as a capital loss and deductible from gross income in each of the succeeding taxable years to the extent that such amount exceeds the total of any net capital gains of any taxable years intervening between the taxable year in which the net capital loss arose and such succeeding taxable year. For purposes of this section, a net capital gain shall be computed without regard to such net capital loss or to any net capital losses arising in any such intervening taxable years.

(c) In any taxable year in which net capital gain exceeds the net capital loss, 40% of the amount of such excess shall be a deduction from gross income.

4. This act shall take effect immediately.

Approved February 14, 1980.

CHAPTER 438

AN ACT concerning the safety of customers while purchasing frozen desserts and related products from a vendor in a motor vehicle.

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

C. 39:4-128.3 Definitions.

1. For the purposes of this act:

a. "Division" means the Division of Motor Vehicles.

b. "Frozen dessert truck" means every motor vehicle in which frozen desserts are carried for purposes of retail sale on the streets of the State.

c. "Vend" or "vending" means offering frozen desserts for sale from a motor vehicle on the streets of the State.

d. "Frozen desserts" means ice cream, frozen custard, French ice cream, French custard ice cream, sherbet, fruit sherbet, ice milk, ice, water ice, nonfruit sherbets, nonfruit water ices, freezer made milk shakes, quiescently frozen confection, quiescently frozen dairy confection, whipped cream confection, bisque tortoni, artificially sweetened ice cream, or artificially sweetened ice milk, special frozen dietary foods, frozen yogurt, mellorine frozen desserts, as all such products are commonly known, together with any such mix used in frozen desserts and any products which are similar in appearance, odor or taste to such products or are prepared or frozen as such products are customarily prepared or frozen whether made with dairy or non-dairy products and ice flavored with syrup.

C. 39:4-128.4 Stopped frozen dessert truck; approaching or overtaking.

2. a. The driver of a vehicle approaching or overtaking from either direction a frozen dessert truck stopped on the highway shall stop before reaching the truck when the flashing red lights

and stop signal arm described in section 3 are in use. After stopping, a driver may proceed past such truck at a reasonable and prudent speed, not exceeding 15 miles per hour, and shall yield the right of way to any pedestrian who crosses the roadway to or from the frozen dessert truck.

b. The driver of a vehicle on a highway having dual or multiple roadways separated by safety islands or physical traffic separation installations need not stop upon meeting or passing a frozen dessert truck on another roadway.

C. 39:4-128.5 Equipment required.

3. In addition to other equipment required by law, every frozen dessert truck shall be equipped with:

a. Signal lamps mounted at the same level and as high and as widely spaced laterally as practicable. These lamps shall be 5 to 7 inches in diameter and shall display two alternately flashing red lights visible at 500 feet to the front and rear in normal sunlight upon a straight level highway.

b. A stop signal arm that can be extended horizontally from the left side of the truck. When such arm is extended, the side of the stop signal arm nearest the truck shall be 7¼ inches long and parallel to the side of the truck. The side furthest from the truck shall be 18 inches long and parallel to the side nearest the truck. The two sides shall be 18 inches apart creating a symmetrical, trapezoidal shape. Two alternately flashing red lights shall be located in the outside corners of the extended signal arm and such corners shall be rounded to conform with the shape of the lights. Each red light shall be 3 to 5 inches in diameter and visible at 300 feet to the front and rear in normal sunlight upon a straight and level street. Both sides of the signal arm shall have a red reflectorized background and the following legend: The word "STOP" shall appear in 6-inch high, 1 inch wide white letters in the middle of the signal arm; above the word "STOP," the phrase "IF SAFE" shall appear in 2 inch high, one-quarter inch wide white letters; below the word "STOP," the phrase "THEN GO" shall appear in 2 inch high, one-quarter inch wide white letters. All colors shall meet specifications in the most recently published Federal Highway Administration Standard Color Charts. The bottom of the extended signal arm shall be 42 inches above the street.

c. A convex mirror mounted on the front so the driver in his normal seating position can see the area in front of the truck obscured by the hood.

C. 39:4-128.6 Responsibilities of driver of stopped frozen dessert truck.

4. a. The driver of a frozen dessert truck stopped on the highway for the purpose of vending shall actuate the special red flashing lights and extend the stop signal arm required by section 3.

b. These lights and the stop signal arm shall not be used when the truck is in motion nor at any time the truck is stopped for a purpose other than vending.

C. 39:4-128.7 Vending conditions.

5. a. A person shall not vend on streets where the speed limit exceeds 30 miles per hour.

b. A person shall not vend within 500 feet of any property used as a grade or junior high or middle school from 1 hour before the regular school day to 1 hour after the regular school day; provided, this subsection shall not apply on days when school is not attended by children nor on school property when vending has been approved in writing by the board of education.

c. A person shall vend only when the frozen dessert truck is lawfully parked or stopped.

d. A person shall vend only from the side of the truck away from moving traffic and as near as possible to the curb or edge of the highway.

e. A person shall not vend to a person standing in the roadway.

f. A person shall not stop on the left side of a one-way highway to vend.

C. 39:4-128.8 Making a sale by backing up truck.

6. The driver of a frozen dessert truck shall not back up the same to make or attempt a sale.

C. 39:4-128.9 Riding in or on vehicle.

7. a. The driver of a frozen dessert truck shall not permit any unauthorized person to ride in or on the vehicle.

b. A person shall not ride in or on a frozen dessert truck unless employed by its owner or unless authorized in writing to do so by the owner or police department.

C. 39:4-128.10 Violation of act; penalty.

8. Any person violating any provision of this act shall be liable for a penalty of not more than $100.00 for each offense, which may be enforced by summary proceedings.

9. This act shall take effect 365 days after its enactment.

Approved February 15, 1980.

CHAPTER 439

AN ACT to provide for the issuance of food stamps by certain financial institutions and other coupon issuers and establishing fees.

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

1. Definitions.

a. "Participating coupon issuer" means a financial institution, municipality or other governmental or nongovernmental entity which contracts with a county welfare agency with the approval of the Commissioner of the Department of Human Services to issue food stamps to the public under the food stamp program.

b. "Food stamp program" means the food stamp allocation program established pursuant to the Food Stamp Act of 1977 (P. L. 95–113).

c. "Financial institution" means a banking institution, as defined in P. L. 1948, c. 67 (C. 17:9A–1 et seq.), and an insured State or Federally chartered savings and loan association.

d. "Transaction" means receipt by the participating coupon issuer of the authorization to participate form and the issuance of food stamps to the public.

2. It is hereby declared to be in the public interest that financial institutions, municipalities and other governmental and nongovernmental entities be encouraged to participate in the issuance of food stamps as a service to the citizens of this State. It is the purpose and object of this act to assure that food stamps will be issued at a sufficient number of locations throughout the State to provide accessibility and convenience for the public.

3. The Commissioner of the Department of Human Services shall institute an outreach program to enlist the voluntary participation of financial institutions, municipalities and other governmental and nongovernmental entities as food stamp issuers at a sufficient number of locations throughout the State to provide accessibility and convenience for the public. If the Commissioner of the Department of Human Services is unable to enlist the voluntary participation of a sufficient number of participating coupon

issuers in any geographical area of the State of New Jersey, he shall inform the Governor, the Legislature, the board of chosen freeholders of the county in which the insufficiency exists, and the Commissioner of Banking of the location, nature and extent of the insufficiency, including the hours and days of need. If the board of chosen freeholders confirms by resolution the existence of any such insufficiency it shall request the Commissioner of Banking to satisfy such need. The Commissioner of Banking shall designate an appropriate number of financial institutions within such area as participating coupon issuers and shall determine the number of hours and days that such financial institutions shall be open to issue food stamps to the public. The Commissioner of Banking shall determine the suitability of a financial institution for such designation based upon a consideration of its assets, location of home office or branches, number of personnel employed by the financial institution, adequacy of the facilities, including vault space, or such other factors as he may deem appropriate.

4. Any financial institution subject to the jurisdiction of the Commissioner of Banking and designated as a participating coupon issuer by him shall be required to become a participating coupon issuer.

5. Notwithstanding any other law to the contrary, no financial institution which refuses designation by the Commissioner of Banking as a participating coupon issuer shall qualify as a depository for public funds, whether State, county, municipal, or belonging to any other instrumentality or agency thereof.

6. No participating financial institution shall deny any person having a duly signed authorization to participate form, the right to receive food stamps by reason of his failure to have an account in said financial institution.

7. Each participating coupon issuer shall receive a fee for each transaction from the county welfare agency of the county in which said coupon issuer is located.

The amount of such fee shall be negotiated by the coupon issuer and the county welfare agency, in accordance with rules and regulations to be issued by the Department of Human Services. In the case of a designated financial institution, the Commissioner of Human Services shall set a reasonable fee.

8. If any provision, section, clause or word of this act or the application thereof to any person or circumstances shall be

held invalid, such invalidity shall not affect the validity of other provisions or applications, and to this end the provisions, sections, clauses or words of this act are declared severable.

9. This act shall take effect immediately and shall expire on June 30 following the second anniversary of the effective date.

Approved February 21, 1980.

CHAPTER 440

AN ACT to provide for the preservation and exhibition of the battleship U.S.S. New Jersey as a permanent historical monument, creating the U.S.S. New Jersey Battleship Commission and prescribing the functions, powers and duties thereof.

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

C. 13:15A-1 Short Title.

1. This act shall be known and may be cited as the "U.S.S. New Jersey Battleship Commission Act."

C. 13:15A-2 Declaration of policy.

2. It is hereby determined and declared:

a. In order to perpetuate the memory of the U.S.S. New Jersey in the minds of the people of this State and the Nation, this State should create and appoint a U.S.S. New Jersey Battleship Commission which should be charged with assisting in the location and creation of a permanent historical monument.

b. The preservation of this battleship as a monument would be of great educational interest and value to the people of New Jersey and of the nation and would perpetuate the proud tradition of this ship named in honor of the State of New Jersey.

C. 13:15A-3 U.S.S. New Jersey Battleship Commission; membership; terms; vacancies; meetings and organization.

3. a. There is hereby established in the Department of Environmental Protection a U.S.S. New Jersey Battleship Commission consisting of 15 members as follows:

(1) The State Treasurer and the Commissioner of Environmental Protection, ex officio, or their designees;

(2) Thirteen citizens of the State to be appointed by the Governor with the advice and consent of the Senate.

b. The Governor shall designate five of the initial 13 citizen members to serve for terms of 1 year, five to serve for 3 years, and three to serve for 5 years. The terms of all members thereafter appointed, except those appointed to fill unexpired terms, shall run for 5 years from the date of expiry of the terms of their predecessors. Members may be appointed to succeed themselves.

c. A vacancy in the membership of the commission occurring otherwise than by expiration of term shall be filled in the same manner as the original appointment, but for the unexpired term only.

d. Members of the commission shall not receive compensation for their services as members but shall be entitled to reimbursement by the commission for expenses necessarily incurred in the performance of their duties.

e. A member of the commission may be removed from office by the Governor for cause after a public hearing.

f. As soon as may be after the appointment of its members the commission shall meet and organize by the election of a chairman and vice chairman and shall elect such other officers as it shall determine, all from among its membership.

C. 13:15A-4 Authorization to acquire U.S.S. New Jersey.

4. The commission is authorized to submit an application to the Navy Department for the acquisition by donation of the U.S.S. New Jersey pursuant to Title 10, U. S. C. 7308.

C. 13:15A-5 Duties of commission.

5. The duties of the commission shall include:

a. To plan, promote and coordinate fund-raising drives and to solicit contributions for the purpose of providing funds for the acquisition of the U.S.S. New Jersey from the United States Navy.

b. To act as liaison agency between the Navy Department and the State of New Jersey and to keep the Governor and Legislature informed on the status and availability of the battleship.

c. To collect and maintain a file of information on the costs of acquiring and transporting the U.S.S. New Jersey to a berth on the New Jersey coast.

d. To provide assistance and advice in planning an appropriate berth for the U.S.S. New Jersey.

e. To recommend any additional legislation or action by the Governor and the Legislature to further the acquisition of the U.S.S. New Jersey by the State of New Jersey.

C. 13:15A-6 Donations or grants; acceptance.

6. The commission is authorized to accept donations or grants of money, property or personal services from any source.

C. 13:15A-7 Meetings and reports.

7. The commission shall establish a regular schedule of meetings and report periodically to the Governor, to the President of the Senate and to the Speaker of the General Assembly on its activities and recommendations. An initial report to the Governor, to the President of the Senate and the Speaker of the General Assembly shall be made within 6 months of the organization of the commission and on each November 15 thereafter.

C. 13:15A-8 Acquisition of needed services from other agencies.

8. The commission shall be entitled to call to its assistance and avail itself of the services of such 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 its purposes. The commission shall be entitled to call upon any department, agency or office of the State of New Jersey for such documents, materials and information as it may deem necessary.

C. 13:15A-9 Official seal.

9. The commission is authorized to designate a design or mark as the official seal of the U.S.S. New Jersey Battleship Commission and may file for public informational purposes a true copy of said emblem with the Secretary of State.

10. This act shall take effect immediately.

Approved February 21, 1980.

CHAPTER 441

AN ACT concerning parole, establishing a consolidated State Parole Board, revising procedures for granting parole, amending P. L. 1971, c. 384, amending R. S. 30:4–148, supplementing P. L. 1972, c. 58 and repealing sections 30:4–106, 30:4–108 to 30:4–113, 30:4–155 and 30:8–28 of the Revised Statutes and P. L. 1948, c. 84, P. L. 1950, c. 30 and P. L. 1952, c. 32.

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

C. 30:4-123.45 Short title.

1. a. This act shall be known and may be cited as the "Parole Act of 1979."

b. In this act, unless a different meaning is plainly required:

(1) "Adult inmate" means any person sentenced as an adult to a term of incarceration.

(2) "Juvenile inmate" means any person under commitment by a juvenile court pursuant to subsection h. of section 2D of P. L. 1973, c. 306 (C. 2A:4-61(h)).

(3) "Parole release date" means that date certified by a member of the board for release of an inmate after a review of the inmate's case pursuant to section 11, 13 or 14 of this act.

(4) "Primary parole eligibility date" means that date established for parole eligibility for adult inmates pursuant to section 7 or 20 of this act.

(5) "Public notice" shall consist of lists including names of all inmates being considered for parole, the county from which he was committed and the crime for which he was incarcerated. At least 30 days prior to parole consideration such lists shall be forwarded to the appropriate prosecutor's office, the sentencing court, the office of the Attorney General, any other Criminal Justice agencies whose information and comment may be relevant, and news organizations.

(6) Removal for "cause" means such substantial cause as is plainly sufficient under the law and sound public policy touching upon qualifications appropriate to a member of the parole board or the administration of said board such that the public interest precludes the member's continuance in office. Such cause includes, but is not limited to, misconduct in office, incapacity, inefficiency and nonfeasance.

C. 30:4-123.46 Application of act.

2. a. Except as otherwise provided by this act, this act shall apply to all persons now serving or hereafter sentenced or committed to State correctional facilities and to all persons now serving or hereafter sentenced to county jails, workhouses or penitentiaries.

b. In the case of persons now serving sentences or committed, the board hereinafter established may postpone for a reasonable period of time not to exceed 6 months from the effective date of

this act the application of this act in order to permit an orderly conversion to the system hereinafter established.

C. 30:4-123.47 State Parole Board; establishment; membership; appointment; terms; vacancies; removal; compensation; appointment to panels.

3. a. There is hereby created and established within the Department of Corrections a State Parole Board which shall consist of a chairman and six associate members. The chairman and associate members shall be appointed by the Governor with the advice and consent of the Senate from qualified persons with training or experience in law, sociology, criminal justice, juvenile justice or related branches of the social sciences. Members of the board shall be appointed for terms of 6 years, but of the associate members first appointed, one shall be appointed for a term of 1 year, one for a term of 2 years, one for a term of 3 years, one for a term of 4 years, one for a term of 5 years and one for a term of 6 years. Members' terms shall commence on the effective date of this act and the terms of their successors shall be calculated from the expiration of the incumbent's term. Members shall serve until their successors are appointed and have qualified.

b. Any vacancy occurring in the membership of the board, otherwise than by expiration of term, shall be filled in the same manner as one occurring by expiration of term, but for the unexpired term only. In the event that any member of the board shall be rendered incapable of performing his duties, the Governor shall appoint a qualified person to act in his stead during the period of his incapacity. Any member of the board may be removed from office by the Governor for cause.

c. The members of the board shall devote their full time to the performance of their duties and be compensated pursuant to section 2 of P. L. 1974, c. 55.

d. At the time of appointment, the Governor shall designate two associate members of the board to serve on a panel on juvenile commitments. The remaining four associate members of the board shall be appointed by the Governor to panels on adult sentences. The chairman of the board shall assign two of the associate members so appointed to a panel on prison sentences and the remaining two associate members so appointed to a panel on young adult sentences. The chairman of the board shall be a member of each panel.

C. 30:4-123.48 Majority vote; chairman; employees; promulgation of rules and regulations; uniform information system; report; public notice.

4. a. All policies and determinations of the Parole Board shall be made by the majority vote of the members.

b. Except where otherwise noted, parole determinations on individual cases pursuant to this act shall be made by the majority vote of a quorum of the appropriate board panel established pursuant to this section.

c. The chairman of the board shall be the chief executive officer of the board and, after consulting with the board, shall be responsible for designating the time and place of all board meetings, for appointing the board's employees, for organizing, controlling and directing the work of the board and its employees, and for preparation and justification of the board's budget. The non-secretarial professional and supervisory employees of the board such as, but not limited to, hearing officers, shall serve at the pleasure of the chairman and shall not be subject to the provisions of Title 11 of the Revised Statutes. Nothing contained herein shall be deemed to affect the employees of the Department of Corrections, such as parole officers assigned to supervise parolees.

d. The board shall promulgate such reasonable rules and regulations, consistent with this act, as may be necessary for the proper discharge of its responsibilities. The chairman shall file such rules and regulations with the Secretary of State. The provisions of the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.) shall apply to the promulgation of rules and regulations concerning policy and administration, but not to other actions taken under this act, such as parole hearings, parole revocation hearings and review of parole cases. In determination of its rules and regulations concerning policy and administration, the board shall consult the Governor and the Commissioner of Corrections.

e. The board, in conjunction with the Department of Corrections, shall develop a uniform information system in order to closely monitor the parole process. Such system shall include participation in the Uniform Parole Reports of the National Council on Crime and Delinquency.

f. The board shall transmit a report of its work for the preceding fiscal year, including information on the causes and extent of parole recidivism, to the Governor, the Legislature and the Criminal Disposition Commission annually.

g. The board shall give public notice prior to considering any adult inmate for release.

h. The board shall give notice to the appropriate prosecutor's office and to the committing court prior to the initial consideration of any juvenile inmate for release.

C. 30:4-123.49 Assignment of cases by chairman; hearings; representatives of board.

5. a. The chairman of the board, after consulting with the board, shall assign any case not otherwise assigned, such as county jail, workhouse, or penitentiary cases, to a board panel as necessary for the efficient functioning of the board.

b. Nothing contained in this act shall be deemed to preclude a member of any board panel from exercising all the functions, powers, and duties of a hearing officer upon designation by the chairman; provided, however, that no member so designated shall participate in the disposition of a panel or board review of his initial decision.

c. No hearing officer assigned to review adult cases shall be assigned to review juvenile cases pursuant to sections 13 and 19 of this act, nor shall any hearing officer assigned to review juvenile cases be assigned to review adult cases.

d. Representatives of the board or the chairman designated pursuant to this act may include employees of the board and employees of other agencies such as the Department of Corrections, provided that no employee of the Department of Corrections shall be so designated without the approval of the Commissioner of Corrections. Such representatives shall not participate in the disposition of parole cases.

C. 30:4-123.50 Assistance by department; powers.

6. a. The Department of Corrections shall provide such office facilities and clerical assistance as may be necessary to enable the board to perform properly its duties and to keep and maintain the records required herein.

b. The Department of Corrections, the chief executive officers and staffs of those facilities assigned to the Department of Corrections, the chief executive officers and staffs of the county jails, workhouses, and penitentiaries and the chief executive officers and staffs of those facilities assigned to the Department of Human Services where inmates or parolees are housed shall render full and complete cooperation to the board in the matter of furnishing the board all pertinent data and information relating to particular inmates.

It shall also be the duty of the clerk of the court from which the inmate was committed, and of county probation officers and other officials, to forward to the board any commitment order, any presentence report, and the sentencing court's written reasons for any sentence imposed. The board shall in addition have the power to compel the appearance of witnesses and the production of documentary evidence relevant to any proceedings before it. Failure to respond to any subpena shall carry the penalty prescribed by law for failure to so respond in the Superior Court.

C. 30:4-123.51 Eligibility for parole.

7. a. Each adult inmate sentenced to a specific term of years at the State Prison or the correctional institution for women shall become primarily eligible for parole after having served any judicial or statutory mandatory minimum term, or one third of the sentence imposed where no mandatory minimum term has been imposed less commutation time for good behavior pursuant to R. S. 30:4–140 and credits for diligent application to work and other institutional assignments pursuant to R. S. 30:4–92. Consistent with the provisions of the New Jersey Code of Criminal Justice (N. J. S. 2C:11–3, 2C:14–6, 2C:43–6, 2C:43–7), commutation and work credits shall not in any way reduce any judicial or statutory mandatory minimum term and such credits accrued shall only be awarded subsequent to the expiration of the term.

b. Each adult inmate sentenced to a term of life imprisonment shall become primarily eligible for parole after having served any judicial or statutory mandatory minimum term, or 25 years where no mandatory minimum term has been imposed less commutation time for good behavior and credits for diligent application to work and other institutional assignments. If an inmate sentenced to a specific term or terms of years is eligible for parole on a date later than the date upon which he would be eligible if a life sentence had been imposed, then in such case the inmate shall be eligible for parole after having served 25 years, less commutation time for good behavior and credits for diligent application to work and other institutional assignments. Consistent with the provisions of the New Jersey Code of Criminal Justice (N. J. S. 2C:11–3, 2C:14–6, 2C:43–6, 2C:43–7), commutation and work credits shall not in any way reduce any judicial or statutory mandatory minimum term and such credits accrued shall only be awarded subsequent to the expiration of the term.

c. Each inmate sentenced to a specific term of years pursuant to the "Controlled Dangerous Substances Act" P. L. 1970, c. 226

(C. 24:21–1 through 45) shall become primarily eligible for parole after having served one third of the sentence imposed less commutation time for good behavior and credits for diligent application to work and other institutional assignments.

d. Each adult inmate sentenced to an indeterminate term of years as a young adult offender pursuant to N. J. S. 2C:43–5 shall become primarily eligible for parole consideration pursuant to a schedule of primary eligibility dates developed by the board, less adjustment for program participation. In no case shall the board schedule require that the primary parole eligibility date for a young adult offender be greater than primary parole eligibility date required pursuant to this section for the presumptive term for the crime authorized pursuant to N. J. S. 2C:44–1(f).

e. Each adult inmate sentenced to the Adult Diagnostic and Treatment Center, Avenel, shall become primarily eligible for parole upon recommendation by the special classification review board pursuant to N. J. S. 2C:47–5, except that no such inmate shall become primarily eligible prior to the expiration of any mandatory or fixed minimum term imposed pursuant to N. J. S. 2C:14–6.

f. Each juvenile inmate committed to an indeterminate term shall be immediately eligible for parole.

g. Each adult inmate of a county jail, workhouse or penitentiary shall become primarily eligible for parole upon service of a full 9 months of his aggregate sentence. No inmate sentenced to a specific term of years at the State Prison or the correctional institution for women shall become primarily eligible for parole until service of a full 9 months of his aggregate sentence.

h. When an inmate is sentenced to more than one term of imprisonment, the primary parole eligibility terms calculated pursuant to this section shall be aggregated by the board for the purpose of determining the primary parole eligibility date, except that no juvenile commitment shall be aggregated with any adult sentence. The board shall promulgate rules and regulations to govern aggregation under this subsection.

i. The primary eligibility date shall be computed by a designated representative of the board and made known to the inmate in writing not later than 90 days following the commencement of the sentence. Each inmate shall be given the opportunity to acknowledge in writing the receipt of such computation. Failure or refusal by the inmate to acknowledge the receipt of such computation shall

be recorded by the board but shall not constitute a violation of this subsection.

j. Except as provided in this subsection, each inmate sentenced pursuant to N. J. S. 2A:113–4 for a term of life imprisonment, N. J. S. 2A:164–17 for a fixed minimum and maximum term or N. J. S. 2C:1–1(b) shall not be primarily eligible for parole on a date computed pursuant to this section, but shall be primarily eligible on a date computed pursuant to P. L. 1948, c. 84 (C. 30:4–123.1 et seq.), which is continued in effect for this purpose. Inmates classified as second, third or fourth offenders pursuant to section 12 of P. L. 1948, c. 84 (C. 30:4–123.12) shall become primarily eligible for parole after serving one-third, one-half or two-thirds of the maximum sentence imposed, respectively, less in each instance commutation time for good behavior and credits for diligent application to work and other institutional assignments; provided, however, that if the prosecuting attorney or the sentencing court advises the board that the punitive aspects of the sentence imposed on such inmates will not have been fulfilled by the time of parole eligibility calculated pursuant to this subsection, then the inmate shall not become primarily eligible for parole until serving an additional period which shall be one half of the difference between the primary parole eligibility date calculated pursuant to this subsection and the parole eligibility date calculated pursuant to section 12 of P. L. 1948, c. 84 (C. 30:4–123.12). If the prosecuting attorney or the sentencing court advises the board that the punitive aspects of the sentence have not been fulfilled, such advice need not be supported by reasons and will be deemed conclusive and final. Any such decision shall not be subject to judicial review except to the extent mandated by the New Jersey and United States Constitutions. The board shall, reasonably prior to considering any such case, advise the prosecuting attorney and the sentencing court of all information relevant to such inmates' parole eligibility.

C. 30:4-123.52 Increase or decrease of parole eligibility date; written statement to inmate.

8. a. If the appropriate board panel determines that an adult inmate has seriously or persistently violated specifically defined institutional rules or has engaged in conduct indictable in nature while incarcerated, the inmate's parole eligibility date may be increased pursuant to a schedule developed by the board. In developing such schedule, particular emphasis shall be placed on the severity of the inmate's conduct. The board shall deduct from the

scheduled penalty any loss of commutation time imposed by the Department of Corrections pursuant to R. S. 30:4–140.

b. If the appropriate board panel determines that an adult inmate has made exceptional progress, as evidenced by documented participation and progress in institutional or community educational, training or other programs, the inmate's parole eligibility date may be decreased, except that no parole eligibility date shall be set below the primary parole eligibility date without the consent of the sentencing court, which need not conduct a hearing and in no case shall a parole eligibility date be set below any judicial or statutory mandatory minimum term, including any parole eligibility date set pursuant to section 23 of this act.

c. The appropriate board panel shall annually monitor the progress of each adult inmate and provide the inmate with a written statement of any changes in his parole eligibility.

C. 30:4-123.53 Release of inmate.

9. a. An adult inmate shall be released on parole at the time of parole eligibility, unless information supplied in the report filed pursuant to section 10 of this act or developed or produced at a hearing held pursuant to section 11 of this act indicates by a preponderance of the evidence that there is a substantial likelihood that the inmate will commit a crime under the laws of this State if released on parole at such time. In reaching such determination, the board panel or board shall state on the record the reasons therefor.

b. A juvenile inmate shall be released on parole when it shall appear that the juvenile, if released, will not cause injury to persons or substantial injury to property.

C. 30:4-123.54 Report prior to parole eligibility date.

10. a. At least 120 days but not more than 180 days prior to the parole eligibility date of each adult inmate, a report concerning the inmate shall be filed with the appropriate board panel, by the staff members designated by the superintendent or other chief executive officer of the institution in which the inmate is held.

b. The report filed pursuant to subsection a. shall contain preincarceration records of the inmate, state the conduct of the inmate during the current period of confinement, include a complete report on the inmate's social, physical and mental condition, include an investigation by the Bureau of Parole of the inmate's parole plans, and present information bearing upon the likelihood that the inmate will commit a crime under the laws of this State if released on parole.

c. A copy of the report filed pursuant to subsection b. of this section, excepting those documents which have been classified as confidential pursuant to rules and regulations of the board or the Department of Corrections, shall be served on the inmate at the time it is filed with the board panel. The inmate may file with the board panel a written statement regarding the report, but shall do so within 105 days prior to the primary parole eligibility date.

C. 30:4-123.55 Review of reports; certification of parole release; denial; time limitations; waiver.

11. a. Prior to the parole eligibility date of each adult inmate, a designated hearing officer shall review the reports required by section 10 of this act, and shall determine whether there is a basis for denial of parole in the preparole report or the inmate's statement, or an indication, reduced to writing, that additional information providing a basis for denial of parole would be developed or produced at a hearing. If the hearing officer determines that there is no basis in the preparole report or the inmate's statement for denial of parole and that there is no additional relevant information to be developed or produced at a hearing, he shall at least 60 days prior to the inmate's parole eligibility date recommend in writing to the assigned member of the board panel that parole release be granted.

b. If the assigned member of the board panel concurs in the hearing officer's recommendation, he shall certify parole release pursuant to section 15 of this act as soon as practicable after the eligibility date and so notify the inmate and the board.

c. If the hearing officer or the assigned member determines that there is a basis for denial of parole, or that a hearing is otherwise necessary, the hearing officer or assigned member shall notify the appropriate board panel and the inmate in writing of his determination, and of a date for a parole consideration hearing. Said hearing shall be conducted by the appropriate board panel at least 30 days prior to the eligibility date. At the hearing, which shall be informal, the board panel shall receive as evidence any relevant and reliable documents or testimony. All such evidence not classified as confidential pursuant to rules and regulations of the board or the Department of Corrections shall be disclosed to the inmate and the inmate shall be permitted to rebut such evidence and to present evidence on his own behalf. The decision of the board panel shall be based solely on the evidence presented at the hearing.

d. At the conclusion of the parole consideration hearing, the board panel shall either (1) certify the parole release of the

inmate pursuant to section 15 of this act as soon as practicable after the eligibility date and so notify the inmate and the board, or (2) deny parole and file with the board within 30 days of the hearing a statement setting forth the decision, the particular reasons therefor, except information classified as confidential pursuant to rules and regulations of the board or the Department of Corrections, a copy of which statement shall be served upon the inmate together with notice of his right to appeal to the board.

e. Upon request by the hearing officer or the inmate, the time limitations contained in sections 10 and 11 may be waived by the appropriate board panel for good cause.

C. 30:4-123.56 Schedule of future parole eligibility dates; denial of release; new preparole report; redetermination.

12. a. The board shall develop a schedule of future parole eligibility dates for adult inmates denied release at their eligibility date. In developing such schedule, particular emphasis shall be placed on the severity of the offense for which he was denied parole and on the characteristics of the offender, such as, but not limited to, the prior criminal record of the inmate and the need for continued incapacitation of the inmate.

b. If release on the eligibility date is denied, the board panel which conducted the hearing shall refer to the schedule published pursuant to subsection a., and include in its statement denying parole notice of the date of future parole consideration. If such date differs from the date otherwise established by the schedule, the board panel shall include particular reasons therefor. Such future parole eligibility date shall take into account usual remissions of sentence for good behavior and diligent application to work and other assignments. Such future parole eligibility date may also be altered pursuant to section 8 of this act.

c. An inmate shall be released on parole on the new parole eligibility date unless new information filed pursuant to a procedure identical to that set forth in section 10 indicates by a preponderance of the evidence that there is a substantial likelihood that the inmate will commit a crime under the laws of this State if released on parole at such time. The determination of whether there is such an indication in the new preparole report or whether there is additional relevant information to be developed or produced at a hearing, and the determination of whether the inmate shall be released on the new parole eligibility date shall be made pursuant to the procedure set forth in sections 11 and 12.

C. 30:4-123.57 Review of juvenile cases.

13. a. An assigned member of the board panel on juvenile commitments or a designated hearing officer shall periodically, but not less than quarterly, review the case of each juvenile inmate committed to determine whether release should be granted pursuant to subsection b. or section 9.

b. Such review shall include a personal interview of the inmate by the assigned member or the designated hearing officer, and prior to such review a designated representative of the board panel shall discuss with and explain to the juvenile inmate all documents relevant to the case, excepting those documents which have been classified as confidential pursuant to rules and regulations of the board or the Department of Corrections.

c. If such review is conducted by a hearing officer, the hearing officer shall, at the conclusion of the review, recommend in writing any appropriate action to the assigned member of the panel on juvenile commitments.

d. At the conclusion of the review, the assigned member of the board panel shall either (1) certify parole release of the juvenile as soon as practicable, or (2) file with the board a statement setting forth the decision of the member, a copy of which statement shall be served upon the juvenile, the juvenile's parents or guardians, and the court.

e. The board panel on juvenile commitments shall at least yearly review the case of each juvenile confined to determine the reasons for the continued confinement of the juvenile. A report of such review shall be forwarded to the board, the Commissioner of Corrections and the committing court.

C. 30:4-123.58 Denial of parole; appeal; review of decisions; suspension of release; hearing.

14. a. Any denial of parole by a board panel shall, in accordance with criteria established by the board, be appealable to the full board by the inmate or one acting on the inmate's behalf. If appealed, the full board shall decide the appeal except that any board member who participated in the decision from which the appeal is taken may not participate in the disposition of that appeal. The board shall serve written notice on all parties setting forth the decision, the particular reasons therefor, and the facts relied on.

b. The board may upon its own initiative and for good cause, in a timely manner, review the decision of any hearing officer, board member or board panel and take appropriate action pursuant to sections 9 and 16 of this act.

c. If information comes to the attention of the appropriate board panel which bears upon the likelihood that the inmate will commit a crime but which was not considered pursuant to sections 11, 12 and 13 of this act, the board panel may suspend any parole release date certified pursuant to section 11 or 13 for a period of not more than 60 days in order to conduct a rescission hearing to determine whether parole release on the original parole release date should be denied or delayed.

C. 30:4-123.59 Legal custody and supervision over parolees; rules.

15. a. Each parolee shall at all times remain in the legal custody of the Commissioner of Corrections, and shall remain under the supervision of the Bureau of Parole of the Department of Corrections in accordance with the rules of the board.

b. Each parolee shall agree, as evidenced by his signature to abide by specific conditions of parole established by the appropriate board panel which shall be enumerated in writing in a certificate of parole and shall be given to the parolee upon release. Such conditions shall include, among other things, a requirement that the parolee conduct himself in society in compliance with all laws and refrain from committing any crime, a requirement that the parolee obtain permission from his parole officer for any change in his residence, and a requirement that the parolee report at reasonable intervals to an assigned parole officer. In addition, based on prior history of the parolee, the member or board panel certifying parole release pursuant to section 11 may impose any other specific conditions of parole deemed reasonable in order to reduce the likelihood of recurrence of criminal behavior. Such special conditions may include, among other things, a requirement that the parolee make full or partial restitution, the amount of which restitution shall be set by the sentencing court upon request of the board.

c. The appropriate board panel may in writing relieve a parolee of any parole conditions, and may permit a parolee to reside outside the State pursuant to the provisions of the Uniform Act for Out-of-State Parolee Supervision (N. J. S. 2A:168–14 et seq.) and the Interstate Compact on Juveniles, P. L. 1955, c. 55 (C. 9:23–1 to 9:23–4) if satisfied that such change will not result in a substantial likelihood that the parolee will commit an offense which would be a crime under the laws of this State. The appropriate board panel may revoke such permission or reinstate relieved parole conditions for any period of time during which a parolee is under its jurisdiction.

d. The appropriate board panel may parole an inmate to any residential facility funded in whole or in part by the State if the inmate would not otherwise be released pursuant to section 9 without such placement. Such facility shall receive the parolee and shall not discharge or otherwise release the parolee without the consent of the board panel.

e. The assigned parole officer shall provide assistance to the parolee in obtaining employment, education or vocational training or in meeting other obligations.

f. The board panel on juvenile commitments and the assigned parole officer shall insure that the least restrictive available alternative is used for any juvenile parolee.

g. If the board has granted parole to any inmate from a State correctional facility and the court has imposed a fine on such inmate, the appropriate board panel shall release such inmate on condition that he make specified fine payments to the Bureau of Parole. For violation of such conditions, or for violation of a special condition requiring restitution, parole may be revoked only for refusal or failure to make a good faith effort to make such payment.

h. Upon collection of the fine the same shall be paid over by the Department of Corrections to the State Treasury.

C. 30:4-123.60 Violation of parole conditions.

16. a. Any parolee who violates a condition of parole may be subject to an order pursuant to section 17 of this act providing for one or more of the following: (1) That he be required to conform to one or more additional conditions of parole; (2) That he forfeit all or a part of commutation time credits granted pursuant to R. S. 30:4–140.

b. Any parolee who has seriously or persistently violated the conditions of his parole, may have his parole revoked and may be returned to custody pursuant to sections 18 and 19 of this act. The board shall be notified immediately upon the arrest or indictment of a parolee. The board shall not revoke parole on the basis of new criminal charges which have not resulted in a disposition at the trial level except that upon application by the prosecuting authority, the chairman of the board or his designee may at any time detain the parolee and commence revocation proceedings pursuant to sections 18 and 19 of this act when he determines that the new charges against the parolee are of a serious nature and it appears that the parolee otherwise poses a danger to the public

safety. In such case, a parolee shall be informed that, if he testifies at the revocation proceedings, his testimony and the evidence derived therefrom shall not be used against him in a subsequent criminal prosecution.

c. Any parolee who is convicted of a crime committed while on parole shall have his parole revoked and shall be returned to custody unless the parolee demonstrates, by clear and convincing evidence at a hearing pursuant to section 19 of this act, that good cause exists why he should not be returned to confinement.

C. 30:4-123.61 Review of parolee's adjustment due to violations; modification of parole conditions.

17. a. If the parole officer assigned to supervise a parolee has probable cause to believe that the parolee has violated a condition of his parole, such violation not being a basis for return to custody pursuant to subsection b. or c. of section 16, the parole officer may require that the parolee appear before a designated representative of the board for a review of the parolee's adjustment.

b. If the board's designated representative finds that a parolee has violated a condition of his parole, such violation not being a basis for return to custody pursuant to subsection b. or c. of section 16, the designated representative may subject the parolee to one or both of the actions set forth in subsection a. of section 16.

c. A parolee or the parolee's assigned parole officer may apply to the board's designated representative for modification of the conditions of parole.

d. Any action to modify the conditions of parole and any forfeiture of commutation time credits shall be appealable to the appropriate board panel, which may take appropriate action pursuant to subsection 16a. of this act, but need not conduct a hearing.

C. 30:4-123.62 Warrant for arrest due to violations; hearing; purposes; summary of record; evidence; action by panel.

18. a. If a parole officer assigned to supervise a parolee has probable cause to believe that the parolee has violated a condition of his parole, such violation being a basis for return to custody pursuant to subsection b. of section 16, a designated representative of the chairman of the board may issue a warrant for the arrest of the parolee if evidence indicates that the parolee may not appear at the preliminary hearing or if the parolee poses a danger to the public safety. With the parole warrant, a law enforcement officer may apprehend the delinquent parolee and cause his return to a facility designated by the Department of Corrections or cause the

parolee's confinement in an appropriate institution pending return to a facility designated by the Department of Corrections. Upon enforcement of the warrant, the appropriate board panel shall be promptly notified. No parolee held in custody on a parole warrant shall be entitled to release on bail.

b. A parolee retaken under this section shall within 14 days be granted a preliminary hearing to be conducted by a hearing officer not previously involved in the case, unless the parolee or the hearing officer requests postponement of the preliminary hearing, which may be granted by the appropriate board panel for good cause, but in no event shall such postponement, if requested by the hearing officer, exceed 14 days.

c. The preliminary hearing shall be for the purpose of determining:

(1) Whether there is probable cause to believe that the parolee violated a condition of his parole being the basis for return to custody pursuant to subsection b. of section 16, and

(2) Whether revocation and return to custody is desirable in the instant matter.

d. Prior to the preliminary hearing the parolee shall be provided with written notice of:

(1) The conditions of parole alleged to have been violated;

(2) The time, date, place and circumstances of the alleged violation;

(3) The possible action which may be taken by the board after a parole revocation hearing;

(4) The time, date and place of the preliminary hearing;

(5) The right pursuant to P. L. 1974, c. 33 (C. 2A:158A–5.1 et seq.), to representation by an attorney or such other qualified person as the parolee may retain; and

(6) The right to confront and cross-examine witnesses.

e. The hearing officer who conducts the hearing shall make a summary or other record of said hearing.

f. If the evidence presented at the preliminary hearing does not support a finding of probable cause to believe that the parolee has violated a condition of his parole, such violation being a basis for return to custody pursuant to subsection b. of section 16, or if it is otherwise determined that revocation is not desirable, the hearing officer may, in accordance with the provisions of subsection a. of section 16 and section 17 of this act, issue an order modifying

parole and releasing the offender, or continuing parole and releasing the offender.

g. If the evidence presented at the preliminary hearing supports a finding of probable cause to believe that the parolee has violated a condition of his parole, the hearing officer shall determine whether the parolee shall be retained in custody or released on specific conditions pending action by the appropriate board panel.

h. Conviction of a crime committed while on parole shall be deemed to constitute probable cause to believe that the parolee has violated a condition of parole.

C. 30:4-123.63 Revocation hearing; notice to parolee; decision.

19. a. If the hearing officer finds probable cause pursuant to subsection c. (1) of section 18 and finds that revocation is desirable pursuant to subsection c. (2) of section 18, or if the parolee is convicted of a criminal offense committed while on parole, the board shall cause a revocation hearing to be conducted by a hearing officer, other than the hearing officer previously designated pursuant to section 18 of this act, within 60 days after the date a parolee is taken into custody as a parole violator unless the parolee or the hearing officer requests postponement of the revocation hearing, which may be granted by appropriate board panel for good cause, but in no event shall such postponement, if requested by the hearing officer, exceed 120 days.

b. Prior to the revocation hearing, the parolee shall be given written notice of:

(1) The time, date and place of the parole revocation hearing;

(2) The right pursuant to P. L. 1974, c. 33 (C. 2A:158A–5.1 et seq.), to representation by an attorney or such other qualified person as the parolee chooses;

(3) The right to confront and cross-examine witnesses, and to rebut documentary evidence against him; and

(4) The right to testify, to present evidence and to subpena witnesses in his own behalf, provided a prima facie showing is made that the prospective witnesses will provide material testimony.

c. The hearing officer shall maintain a full and complete record of the parole revocation hearing.

d. After consideration of all evidence presented, if there is clear and convincing evidence that a parolee has violated the conditions of his parole, such violation being a basis for return to custody pursuant to subsection b. or c. of section 16, and if revocation and

return to custody is desirable in the instant matter, the appropriate board panel may revoke parole and return such parolee to custody, for a specified length of time, or in accordance with the provisions of sections 16 and 17 of this act, or the appropriate board panel may issue an order modifying parole and releasing the offender or continuing parole and releasing the offender.

e. Not more than 21 days following the hearing conducted pursuant to this section, the parolee and his representative shall be informed in writing of the decision, the particular reasons therefor, and the facts relied on.

C. 30:4-123.64 Schedule of future parole eligibility dates.

20. a. The board shall develop a schedule of future parole eligibility dates for parole violators whose parole has been revoked pursuant to section 19 of this act. In developing such schedule particular emphasis shall be placed on the severity and circumstances of a parole violation and on the characteristics of the parole violator. The board shall establish special provisions for release of the parole violator to begin serving any new sentence, which emphasize the length of time remaining to be served on the prior sentence and the length of any new sentence.

b. No future parole eligibility date for a parole violator returned to custody for reasons other than new criminal charges shall be set more than 1 full year from the date of the parolee's return to custody.

c. Any parole violator ordered confined for commission of a crime while on parole shall serve at least 6 months or that portion of the custodial term remaining, whichever is less, before parole release.

d. Any period of confinement for parole violation shall be deemed to be a parole eligibility term for purposes of aggregation pursuant to subsection h. of section 7.

C. 30:4-123.65 Duration of time served.

21. The duration of time served prior to parole, plus the duration of any time served on parole, less any time after warrant for retaking of a parolee was issued pursuant to section 18 but before the parolee is arrested, plus the duration of any time served after revocation of parole, shall not exceed the term specified in the original sentence.

C. 30:4-123.66 Discharge from parole prior to expiration of term.

22. The appropriate board panel may give any parolee a complete discharge from parole prior to the expiration of the full maximum

term for which he was sentenced, provided that such parolee has made a satisfactory adjustment while on parole, provided that continued supervision is not required, and provided the parolee has made full payment of any fine or restitution.

C. 30:4-123.67 Written agreements with certain officials; application by parolee or inmate; approval; termination of agreement.

23. a. The appropriate board panel and the Department of Corrections may enter into formal agreements with officials of the board, officials of the Department of Corrections and individual parolees or inmates reduced to writing and signed by all parties, which agreements stipulate individual programs of education, training, or other activity which shall result in a specified reduction of the parolee's parole term pursuant to section 22 of this act or the inmate's primary parole eligibility date pursuant to section 8 of this act, upon such successful completion of the program.

b. Any parolee or inmate shall be permitted to apply to the board for such an agreement. The board panel shall review all such applications and may approve any application consistent with eligibility requirements promulgated by the board pursuant to section 4 of this act.

c. Upon approval of the parolee or inmate's application, the board panel shall be responsible for specifying the components necessary for any such agreement. Upon acceptance of the agreement by the Department of Corrections, by the board panel and by the parolee or the inmate, the board panel shall reduce the agreement to writing. The parolee or inmate and the Department of Corrections shall be given a copy of any such agreement.

d. Any such agreement shall be terminated by the board panel in the event the parolee or inmate fails or refuses to satisfactorily complete each component of the agreement. The inmate or parolee shall be notified in writing of any such termination and the reasons therefor. Any such termination may be appealed to the full board pursuant to section 14 of this act.

C. 30:4-123.68 Records, files and documents transferred; rules, regulations and functions of board continued.

24. All records, files and documents of the State Parole Board created pursuant to P. L. 1948, c. 84 (C. 30:4–123.1 et seq.) shall be transferred to the board, and all rules, regulations and functions of the State Parole Board, and the Boards of Trustees relating to parole, shall continue in force until duly modified or repealed by the board.

25. Section 18 of P. L. 1971, c. 384 (C. 30:4–1.1) is amended to read as follows:

C. 30:4-1.1 Powers and duties of board.

18. It shall be the duty of the local boards of trustees to advance long-range planning for the medical care, correctional and training programs at their respective institutions; and maintain general oversight of the institution. The board shall not administer the individual institutions.

The board of trustees shall have power to:

a. Review institutional needs;

b. Exercise visitorial supervision over the institution under the supervision or control of the department. Its visitorial general powers of supervision are hereby defined as visiting such institution to examine into its manner of conducting its affairs and to advise the commissioner on the observance and enforcement of the laws of the State;

c. Develop with the commissioner and his staff and jointly promulgate and maintain a comprehensive master plan which shall be long-range in nature and be regularly revised and updated, including priorities for the construction of new institutions and the development of new programs;

d. Recommend and advise the commissioner on building programs of the institution as required by the master plan, provided that provision is made therefor in the annual or a supplemental or special appropriation act of the Legislature or otherwise;

e. Review and comment upon budget requests from the institution;

f. Encourage harmonious and cooperative relationships with other similar institutions in the area, public and private;

g. Review periodically existing programs of care, training, rehabilitation, research and public service in the institution, and in similar institutions of other states, and advise the State board and the commissioner as to any desirable change;

h. Make to the commissioner such recommendations as it deems necessary with regard to services, lands, buildings, and equipment to be furnished by the institution;

i. Authorize such studies and require such reports from the chief executive officer of the institution as it may deem necessary from time to time;

j. Advise the institutional head;

k. Control and determine the use of patient or inmate welfare funds within the general regulation of the State board;

l. Interpret the mandate and work of the institution to the public;

m. Carry out such other duties as the commissioner or the State board may assign to the board or to its individual members;

n. Periodically review existing rules, regulations and policies of the State parole board and advise the parole board as to any desirable or necessary changes;

o. Review the cases of such inmates as may be eligible for parole consideration and provide the appropriate parole board panel with a written recommendation regarding the case. The State parole board shall, prior to considering any inmate for release, provide the boards of trustees with a written notice of all such inmates to be considered. The boards of trustees may, in addition, review the cases of such inmates as may appeal decisions pursuant to section 14 of this amendatory act and provide the parole board with a written recommendation regarding the case, which shall be considered by the board. The State parole board shall state on the record its reasons for rejecting any recommendation made pursuant to this section.

26. Section 25 of P. L. 1971, c. 384 (C. 30:4–4a) is amended to read as follows:

C. 30:4-4a References to board of managers to mean references to chief executive officer.

25. Whenever in any law, rule, regulation, contract, document, judicial or administrative proceeding or otherwise, reference is made to the board of managers of any institution, the same shall mean and refer to the chief executive officer of the institution.

26A. R. S. 30:4–148 is amended to read as follows:

Imposition of sentences.

30:4–148. The courts in sentencing pursuant to N. J. S. 2C:43–5 shall not fix or limit the duration of sentence, but the time which any person shall serve in confinement or on parole shall not in any case exceed 5 years or the maximum term provided by law for the crime for which the prisoner was convicted and sentenced, if such maximum be less than 5 years; provided, however, that the court, in its discretion, for good cause shown, may impose a sentence greater than 5 years, but in no case greater than the maximum provided by law, and the commitment shall specify in every case the maximum of the sentence so imposed.

Repealer.

27. The following are repealed:
R. S. 30:4–106;
R. S. 30:4–108 to 30:4–113;
P. L. 1948, c. 84 (C. 30:4–123.1 et seq.);
P. L. 1950, c. 30 (C. 30:4–123.40 et seq.);
P. L. 1952, c. 32 (C. 30:4–123.43 et seq.);
R. S. 30:4–155;
R. S. 30:8–28.

The repeal of any of the foregoing acts or parts thereof shall not revive or be construed to reenact any acts repealed thereby.

C. 30:4-123.69 Acts superseded.

28. All acts and parts of acts which are inconsistent with the provisions of this act are, to the extent of such inconsistency, superseded, provided however, that no provisions of the New Jersey Code of Criminal Justice shall be superseded hereby.

29. Board schedules required pursuant to sections 7, 8, 12 and 20 of this act shall, notwithstanding subsection c. of section 4, be promulgated within 30 days of the effective date of this act. Schedules so promulgated shall expire on a date established by the board which shall be not more than 2 years after the date of adoption.

30. There is hereby appropriated for the purposes of this act the sum of $70,000.00.*

31. This act shall take effect 60 days following enactment.

Approved February 21, 1980.

* This $335,000.00 item was reduced to $70,000.00 by line item veto of the Governor. See Statement following.

STATEMENT TO ASSEMBLY BILL NO. 3093 (OCR)

Pursuant to Article V, Section 1, paragraph 15 of the Constitution, I am appending to Assembly Bill 3093 (OCR) at the time of signing it, this statement of the items or parts thereof, to which I object so that each item, or part thereof, so objected, shall not take effect.

On page 21, section 30, line 2: The appropriation of $335,000.00 for the purposes of this Act is reduced to $70,000.00.

This bill represents a major revision of our Parole legislation; it was introduced with my support and effects changes in our parole system which I believe are desirable and important. The need for a $335,000.00 appropriation was calculated based on an effective date of September 1, 1979; it had been hoped at the time of introduction that this bill would become effective at the same time as the new Penal Code. Since the effective date will be April 21, 1980, the appropriation must be reduced accordingly.

Respectfully,

[SEAL] /s/ BRENDAN BYRNE,
Attest: *Governor.*
/s/ JOHN J. DEGNAN,
Executive Secretary to the Governor.

CHAPTER 442

AN ACT concerning the registration and licensing of dogs and amending P. L. 1941, c. 151.

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

1. Section 15 of P. L. 1941, c. 151 (C. 4:19–15.15) is amended to read as follows:

C. 4:19-15.15 Annual dog census in municipalities.

15. Any person appointed for the purpose by the governing body of the municipality, shall annually cause a canvass to be made of all dogs owned, kept or harbored within the limits of their respective municipalities and shall report, on or before September 1 of each year, to the clerk or other person designated to license dogs in the municipality and to the local board of health, and to the State Department of Health the result thereof, setting forth in separate columns the names and addresses of persons owning, keeping or harboring unlicensed dogs, the number of unlicensed dogs owned, kept or harbored by each of said persons, together with a complete description of each of said unlicensed dogs.

2. This act shall take effect immediately.

Approved February 21, 1980.

CHAPTER 443

AN ACT establishing a commission to study the effects of Agent Orange defoliant on Vietnam era veterans, to provide for the coordination of certain assistance, and making an appropriation therefor.

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

1. This act shall be known and may be cited as the "Agent Orange Act."

2. The Legislature finds and determines that a large number of Vietnam era veterans were exposed to Agent Orange and other debilitating defoliants during their service in Vietnam and that it is a legitimate concern and responsibility of the State to determine the extent of their injuries and to provide support and counseling services to these veterans. As used in this act "Agent Orange" means the herbicide composed of tri-chlorphenoxy acidic acid and di-chlorphenoxy acidic acid.

3. There is established an Agent Orange Commission which shall be composed of seven members to be appointed by the Governor of whom at least four shall be Vietnam era veterans. The members of the commission shall serve without compensation but shall be entitled to reimbursement by the commission for expenses necessarily incurred in the performance of their duties. The commission shall employ an executive director and such clerical support as is necessary to effectuate the purposes of this act.

4. It shall be the duty of the commission a. to study the effects of Agent Orange and other defoliants on Vietnam era veterans, b. to serve as a central data bank for compiling all appropriate data relating to such poisonings and their aftereffects, and c. to provide for the coordination of legal, medical, administrative and social assistance to these veterans.

5. The Division of Veterans Programs and Special Services in the Department of Human Services shall render all assistance requested by the commission to effectuate the purposes of this act.

6. This act shall be effective for 18 months. At the end of that period the commission shall report to the Legislature on its findings with recommendations for further legislation.

7. There is hereby appropriated $25,000.00* for the purposes of this act.

8. This act shall take effect immediately.

Approved February 21, 1980.

* This $50,000.00 item was reduced to $25,000.00 by line item veto of the Governor. See Statement following.

STATEMENT TO ASSEMBLY BILL NO. 3401 (2nd OCR)

Pursuant to Article V, Section I, Paragraph 15 of the Constitution, I am appending to Assembly Bill No. 3401 (2nd OCR) at the time of signing it, this statement of the items, or parts thereof, to which I object so that each item, or part thereof, so objected to shall not take effect.

Assembly Bill No. 3401 (2nd OCR) would establish an "Agent Orange Commission," to serve as a central data bank for compiling data relating to the aftereffects of such poisons and to provide for the coordination of legal, medical, administrative and social assistance to Vietnam era veterans. The seven-member Commission is to be appointed by the Governor and composed of at least four Vietnam era veterans. The Commission members are to serve without compensation but may be reimbursed for expenses. The Division of Veterans Programs within the Department of Human Services is directed to assist the Commission. The bill includes a $50,000.00 appropriation and an 18 month sunset clause.

I am signing this bill because I believe that the State of New Jersey has an obligation to help veterans who have been exposed to debilitating herbicides. However, I am concerned that the State not attempt to duplicate studies already undertaken by the federal government and federal law suits already instituted. In light of both the desire to avoid duplication and the constraints on the State budget, I have reduced the appropriation for the "Agent Orange Commission" to $25,000.00 with the hope that the Commission will focus on the coordination of legal, medical, administrative and

social assistance available to Vietnam veterans and rely upon the staff of the Division of Veterans Programs.

On page 2, section 7, line 1: The $50,000.00 appropriation for the establishment of an "Agent Orange Commission" is reduced to $25,000.00.

Respectfully,

[SEAL] /s/ BRENDAN BYRNE,
Attest: *Governor.*

/s/ JOHN J. DEGNAN,
Executive Secretary to the Governor.

CHAPTER 444

AN ACT appropriating $52,000,000.00 from the State Land Acquisition and Development Fund to enable the State to acquire and develop lands for recreation and conservation purposes and to provide for State grants to assist local units of government to acquire and develop lands for recreation and conservation purposes.

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

1. There is hereby appropriated to the Department of Environmental Protection from the State Land Acquisition and Development Fund established pursuant to the "New Jersey Green Acres Bond Act of 1978" (P. L. 1978, c. 118) the sum of $52,000,000.00 for the purpose of acquisition and development of lands by the State, and for State grants to local units for acquisition and development of lands, for recreation and conservation purposes. Such sum shall include administrative costs and shall be allocated as follows:

a. The sum of $27,000,000.00 for State acquisition and development, and for State grants to local units for the acquisition and development of lands located in urban areas;

b. The sum of $12,000,000.00 for State acquisition and development of lands located in non-urban areas;

c. The sum of $13,000,000.00 for State grants to local units for acquisition and development of lands located in non-urban areas.

2. Such sums shall be made available by the sale of bonds authorized by the "New Jersey Green Acres Bond Act of 1978" (P. L. 1978, c. 118).

3. This act shall take effect immediately.

Approved February 21, 1980.

CHAPTER 445

AN ACT to validate certain conveyances by executors, administrators, administrators, c.t.a., guardians and trustees.

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

Validating act.

1. Every deed of lands, tenements and hereditaments heretofore made by any executor, administrator, administrator, c.t.a., guardian or trustee, or the survivors of them, shall be held to have vested in the grantee or grantees thereof as full and ample an estate in said lands as was thereby intended to be conveyed notwithstanding the true or actual consideration for said deed shall not have been stated therein, and the record of every such deed shall be admissible in evidence as fully and completely for all purposes as if such deed had the true or actual consideration stated therein; provided, however, that all such deeds have been recorded for a period of at least 5 years prior to the effective date of this act and are good and valid in all other respects.

2. This act shall take effect immediately.

Approved February 22, 1980.

CHAPTER 446

AN ACT to amend "An act providing for the periodic reexamination of licensed drivers of motor vehicles and supplementing chapter 3 of Title 39 of the Revised Statutes," approved February 24, 1977 (P. L. 1977, c. 28).

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

1. Section 1 of P. L. 1977, c. 28 (C. 39:3–10c) is amended to read as follows:

C. 39:3-10c Certification of motor vehicle vision examination by doctor.

1. The division shall require every licensed driver to take and successfully pass an examination of his vision at least once every 10 years as a condition for the renewal of his driver's license and of any endorsement thereon.

The vision examination may be certified by the division or by any licensed optometrist or ophthalmologist or by any person licensed to practice medicine and surgery. If the examination shows a need for corrective eyeglasses or any other corrective action, the renewal of the applicant's license shall be conditioned upon his compliance with such need. The division may require a road test of any applicant to determine the adequacy of, or the applicant's adaptation to the required corrective action.

2. This act shall take effect immediately.

Approved February 22, 1980.

CHAPTER 447

AN ACT concerning motor vehicles and amending P. L. 1977, c. 369.

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

1. Section 1 of P. L. 1977, c. 369 (C. 39:3–27.8) is amended to read as follows:

C. 39:3-27.8 Special license plates for firemen, first aid or rescue squad members.

1. Upon the application of any person who is a compensated, partially compensated or volunteer member of any fire department in this State, the director may issue for a motor vehicle owned or leased by such person or owned by the spouse or parent thereof or owned by a business firm of which such person is the principal owner or stockholder a license plate bearing a Maltese Cross and the letters "F.D." The design for such plate shall be approved by the director.

Upon the application of any person who is a compensated, partially compensated or volunteer member of any first aid or rescue squad in this State, the director may issue for a motor vehicle owned or leased by such person or owned by the spouse or parent thereof or owned by a business firm of which such person is the principal owner or stockholder a special license plate. The design for such plate shall be approved by the director.

2. Section 2 of P. L. 1977, c. 369 (C. 39:3–27.9) is amended to read as follows:

C. 39:3-27.9 Issuance of plates; proof of membership; fees.

2. The special plate authorized by this act may be issued upon proof, satisfactory to the director, that the applicant is presently a bona fide member of a firefighting department or first aid or rescue squad in this State. The fee for such plate shall be $15.00 in addition to the fees otherwise prescribed by law for the registration of such motor vehicle.

3. Section 3 of P. L. 1977, c. 369 (C. 39:3–27.10) is amended to read as follows:

C. 39:3-27.10 Termination of duties; return of plates.

3. Any person lawfully in possession of such special plate who resigns, is removed or otherwise terminates or is terminated from his association with such fire department or first aid or rescue squad, shall return such special plate to the division within 15 days.

4. For the fiscal year ending June 1981, the fees established hereinabove are appropriated to the Division of Motor Vehicles to fund the additional costs incurred in making such plates available.

5. This act shall take effect on July 1, 1980.

Approved February 22, 1980.

CHAPTER 448

AN ACT to amend and supplement "New Jersey Property-Liability Insurance Guaranty Association Act," approved April 11, 1974 (P. L. 1974, c. 17).

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

1. Section 2 of P. L. 1974, c. 17 (C. 17:30A–2) is amended to read as follows:

C. 17:30A-2 Purpose of act.

2. a. The purpose of this act is to provide a mechanism for the payment of covered claims under certain insurance policies, to avoid excessive delay in payment, to avoid financial loss to claimants or policyholders because of the insolvency of an insurer, to assist in the detection and prevention of insurer insolvencies, and to provide an association to assess the cost of such protection among insurers.

b. This act shall apply to all kinds of direct insurance, except life insurance, accident and health insurance, workmen's compensation insurance, title insurance, annuities, surety bonds, credit insurance, mortgage guaranty insurance, municipal bond coverage, fidelity insurance, mutual fund guaranties, ocean marine insurance, and insurance provided by the Motor Vehicle Liability Security Fund, established pursuant to P. L. 1952, c. 175 (C. 39:6–92 et seq.), until funds comprising said fund are declared exhausted by the commissioner.

2. Section 5 of P. L. 1974, c. 17 (C. 17:30A–5) is amended to read as follows:

C. 17:30A-5 Definitions.

5. As used in this act:

a. (Deleted by amendment.)

b. "Association" means the New Jersey Property-Liability Insurance Guaranty Association created under section 6;

c. "Commissioner" means the Commissioner of Insurance of this State;

d. "Covered claim" means an unpaid claim, including one of unearned premiums, which arises out of and is within the coverage, and not in excess of the applicable limits of an insurance policy to which this act applies, issued by an insurer, if such insurer becomes an insolvent insurer after January 1, 1974, and (1) the claimant or insured is a resident of this State at the time of the insured event; or (2) the property from which the claim arises is permanently located in this State. "Covered claim" shall not include any amount due any reinsurer, insurer, insurance pool, or underwriting association, as subrogation recoveries or otherwise; provided, that a claim for any such amount, asserted against a person insured under a policy issued by an insurer which has become an

insolvent insurer, which, if it were not a claim by or for the benefit of a reinsurer, insurer, insurance pool, or underwriting association, would be a "covered claim," may be filed directly with the receiver of the insolvent insurer, but in no event may any such claim be asserted in any legal action against the insured of such insolvent insurer.

A "covered claim" shall not include amounts for interest on unliquidated claims, punitive damages unless covered by the policy, counsel fees for prosecuting suits for claims against the association, and assessments or charges for failure of such insolvent insurer to have expeditiously settled claims;

e. "Insolvent insurer" means (1) a licensed insurer admitted pursuant to R. S. 17:32–1 et seq. or authorized pursuant to R. S. 17:17–1 et seq., or P. L. 1945, c. 161 (C. 17:50–1 et seq.) to transact the business of insurance in this State either at the time the policy was issued or when the insured event occurred, and (2) which is determined to be insolvent by the court of competent jurisdiction.

f. "Member insurer" means any person who (1) writes any kind of insurance to which this act applies under section 2 b. including the exchange of reciprocal or interinsurance contracts and (2) is a licensed insurer admitted or authorized to transact the business of insurance in this State;

g. "Net direct written premiums" means direct gross premiums written in this State on insurance policies to which this act applies, less return premiums thereon and dividends paid or credited to policyholders on such direct business. "Net direct written premiums" does not include premiums on contracts between insurers or reinsurers, and does not include premiums on policies issued by an insurer as a member of the New Jersey Insurance Underwriting Association pursuant to P. L. 1968, c. 129 (C. 17:37A–1 et seq.).

3. Section 6 of P. L. 1974, c. 17 (C. 17:30A–6) is amended to read as follows:

C. 17:30A-6 New Jersey Property-Liability Insurance Association; membership; functions.

6. There is created a private nonprofit unincorporated legal entity to be known as the New Jersey Property-Liability Insurance Guaranty Association. All insurers defined as member insurers in section 5 f. shall be and remain members of the association as a condition of their authority to transact insurance in this State. The association shall perform its functions under a plan of opera-

tion established and approved under section 9 and shall exercise its powers through a board of directors established under section 7.

4. Section 8 of P. L. 1974, c. 17 (C. 17:30A–8) is amended to read as follows:

C. 17:30A-8 Powers and duties.

8. a. The association shall:

(1) Be obligated to the extent of the covered claims against an insolvent insurer incurred, in the case of private passenger automobile insurance, after the determination of insolvency, or before the policy expiration date, or in the case of insurance other than automobile insurance, covered claims against such insolvent insurer incurred prior to or 90 days after the determination of insolvency, or before the policy expiration date if less than 90 days after said determination, or before the insured replaces the policy or causes its cancellation, if he does so within 90 days of the determination, but such obligation shall include only that amount of each covered claim and is less than $300,000.00 and subject to any applicable deductible contained in the policy, except that the $300,000.00 limitation shall not apply to a covered claim arising out of insurance coverage mandated by section 4 of P. L. 1972, c. 70 (C. 39:6A–4). In the case of benefits payable under section 4 of P. L. 1972, c. 70, the association shall be liable for payment of benefits in an amount not to exceed $75,000.00. Benefits payable in excess of such amount shall be recoverable by the association from the Unsatisfied Claim and Judgment Fund pursuant to the provisions of P. L. 1977, c. 310. In no event shall the association be obligated to a policyholder or claimant in an amount in excess of the obligation of the insolvent insurer under the policy from which the claim arises;

(2) Be deemed the insurer to the extent of its obligation on the covered claims and to such extent shall have all rights, duties, and obligations of the insolvent insurer as if the insurer had not become insolvent.

(3) Assess member insurers in amounts necessary to pay:

(a) The obligation of the association under paragraph a. (1) of this section;

(b) The expenses of handling covered claims;

(c) The cost of examinations under section 13; and

(d) Other expenses authorized by this act.

The assessments of each member insurer shall be in the proportion that the net direct written premiums of the member insurer

for the calendar year preceding the assessment bears to the net direct written premiums of all member insurers for the calendar year preceding the assessment. Each member insurer shall be notified of the assessment not later than 30 days before it is due. No member insurer may be assessed in any year an amount greater than 2% of that member insurer's net direct written premiums for the calendar year preceding the assessment.

The association may, subject to the approval of the commissioner, exempt, abate or defer, in whole or in part the assessment of any member insurer, if the assessment would cause the member insurer's financial statement to reflect amounts of capital or surplus less than the minimum amounts required for a certificate of authority by any jurisdiction in which the member insurer is authorized to transact insurance. In the event an assessment against a member insurer is exempted, abated, or deferred, in whole or in part, because of the limitations set forth in this section, the amount by which such assessment is exempted, abated, or deferred, shall be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in this section. If the maximum assessment, together with the other assets of the association, does not provide in any 1 year an amount sufficient to carry out the responsibilities of the association, the necessary additional funds shall be assessed as soon thereafter as it is permitted by this act. Each member insurer serving as a servicing facility may set off against any assessment, authorized payments made on covered claims and expenses incurred in the payment of such claims by such member insurer;

(4) Investigate claims brought against the association and adjust, compromise, settle, and pay covered claims to the extent of the association's obligation and deny all other claims and may review settlements, releases and judgments to which the insolvent insurer or its insureds were parties to determine the extent to which such settlements, releases and judgments may be properly contested;

(5) Notify such persons as the commissioner directs under section 10 b. (1);

(6) Handle claims through its employees or through one or more insurers or other persons designated as servicing facilities. Designation of a servicing facility is subject to the approval of the commissioner, but such designation may be declined by a member insurer;

(7) Reimburse each servicing facility for obligations of the association paid by the facility and for expenses incurred by the facility while handling claims on behalf of the association and shall pay the other expenses of the association authorized by this act.

b. The association may:

(1) Employ or retain such persons as are necessary to handle claims and perform other duties of the association;

(2) Borrow funds necessary to effect the purposes of this act in accord with the plan of operation;

(3) Sue or be sued;

(4) Negotiate and become a party to such contracts as are necessary to carry out the purpose of this act;

(5) Perform such other acts as are necessary or proper to effectuate the purpose of this act;

(6) Refund to the member insurers in proportion of the contribution of each member insurer that amount by which the assets exceed the liabilities if, at the end of any calendar year, the board of directors finds that the assets of the association exceed the liabilities as estimated by the board of directors for the coming year.

5. Section 10 of P. L. 1974, c. 17 (C. 17:30A–10) is amended to read as follows:

C. 17:30A-10 Powers and duties of commissioner.

10. a. The commissioner shall:

(1) Notify the association of the existence of an insolvent insurer not later than 3 days after he receives notice of the determination of the insolvency. The association shall be entitled to a copy of any complaint seeking an order of liquidation with a finding of insolvency against a member insurer at the same time that such complaint is filed with a court of competent jurisdiction;

(2) Upon request of the board of directors, provide the association with a statement of the net direct written premiums of each member insurer.

b. The commissioner may:

(1) Require that the association notify the insureds of the insolvent insurer and any other interested parties of the determination of insolvency and of their rights under this act. Such notification may be by mail at their last known address, where available, but if sufficient information for notification by mail is not available, notice by publication in a newspaper of general circulation shall be sufficient;

(2) Suspend or revoke, after notice and hearing, the certificate or authority to transact insurance in this State of any member insurer which fails to pay an assessment when due or fails to comply with the plan of operation. As an alternative, the commissioner may levy a fine on any member insurer which fails to pay an assessment when due. Such fine shall not exceed 5% of the unpaid assessment per month, except that no fine shall be less than $100.00 per month;

(3) Revoke the designation of any servicing facility if he finds claims are being handled unsatisfactorily.

6. Section 11 of P. L. 1974, c. 17 (C. 17:30A–11) is amended to read as follows:

C. 17:30A-11 Rights and protection under act; settlement of covered claims; filing.

11. a. Any person recovering under this act shall be deemed to have assigned his rights under the policy to the association to the extent of his recovery from the association. Every insured or claimant seeking the protection of this act shall cooperate with the association to the same extent as such person would have been required to cooperate with the insolvent insurer. The association shall have no cause of action against the insured of the insolvent insurer for any sums it has paid out except such causes of action as the insolvent insurer would have had if such sums had been paid by the insolvent insurer. In the case of an insolvent insurer operating on a plan with an assessment liability, payments of claims of the association shall not operate to reduce the liability of insureds to the receiver, liquidator, or statutory successor for unpaid assessments;

b. The receiver, liquidator, or statutory successor of an insolvent insurer shall be bound by settlements of covered claims by the association or its representatives. The court having jurisdiction shall grant such claims priority equal to that which the claimant would have been entitled in the absence of this act against the assets of the insolvent insurer. The expenses of the association or similar organization in handling claims shall be accorded the same priority as the liquidator's expenses;

c. The association shall periodically file with the receiver or liquidator of the insolvent insurer statements of the covered claims paid by the association and estimates of anticipated claims on the association which shall preserve the rights of the association against the assets of the insolvent insurer;

d. The liquidator, receiver, or statutory successor of an insolvent insurer covered by this act shall permit access by the board or its representative to all of the insolvent insurer's records which would assist the board in carrying out its functions under this act with regard to covered claims. In addition, the liquidator, receiver, or statutory successor shall provide the board or its representative with copies or permit it to make copies of such records upon the request of the board and at the expense of the board.

7. Section 16 of P. L. 1974, c. 17 (C. 17:30A–16) is amended to read as follows:

C. 17:30A-16 Surcharge on premiums to recoup assessments; rules; amount.

16. a. The commissioner shall adopt rules permitting member insurers to recoup over a reasonable length of time a sum reasonably calculated to recoup assessments paid by the member insurer under this act by way of a surcharge on premiums charged for insurance policies to which this act applies; b. the amount of any surcharge shall be determined by the commissioner; c. the commissioner may permit an insurer to omit collection of the surcharge from its insureds when the expense of collecting the surcharge would exceed the amount of the surcharge, provided that nothing in this section shall relieve the insurer of its obligation to remit the amount of surcharge otherwise collectible.

8. Section 18 of P. L. 1974, c. 17 (C. 17:30A–18) is amended to read as follows:

C. 17:30A-18 Defense of insolvent insurer.

18. Upon application and notice all proceedings in which the insolvent insurer is a party or is obligated to defend a party in any court in this State shall be stayed for 120 days and such additional time thereafter as may be determined by the court from the date the insolvency is determined or any ancillary proceeding is initiated in the State, whichever is later, to permit proper defense by the association of all pending causes of action. With respect to any covered claims arising from a judgment under any decision, verdict or finding based on the default of the insolvent insurer or its failure to defend an insured, the association either on its own behalf or on behalf of such insured may apply to have such judgment, order, decision, verdict or finding set aside by the court in which such judgment, order, decision, verdict or finding is entered and shall be permitted to defend against such claim on the merits.

C. 17:30A-20 Advertisement using association's name; prohibition.

9. (New section) No person, including an insurer, agent, or affiliate of an insurer shall make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in any newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio station or television station, or in any other way, any advertisement, announcement or statement which uses the existence of the New Jersey Property-Liability Insurance Guaranty Association for the purpose of sales, solicitation, or inducement to purchase any form of insurance covered by the New Jersey Property-Liability Insurance Guaranty Association Act; provided, however, this section shall not apply to the New Jersey Property-Liability Insurance Guaranty Association or to any other entity which does not sell or solicit insurance.

10. This act shall take effect immediately.

Approved February 22, 1980.

CHAPTER 449

AN ACT to amend "An act authorizing the Commissioner of Insurance to establish Special Joint Underwriting Associations, prescribing the powers, duties, and functions thereof and supplementing Title 17 of the Revised Statutes," approved September 19, 1974 (P. L. 1974, c. 106).

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

1. Section 4 of P. L. 1974, c. 106 (C. 17:30B–4) is amended to read as follows:

C. 17:30B-4 Establishment of associations; membership; liability.

4. The commissioner shall have authority to establish, as he shall deem necessary, one or more associations to assume the unexpired policy obligations of insolvent insurance companies from the date of assumption established by regulation of the commissioner. The membership of each association shall consist of all insurers authorized to write, within this State, on a direct

basis, the same kind of direct insurance in which the commissioner has authorized participation by the association. Every such insurer shall be a member of the association and shall remain a member so long as the association is in existence as a condition of its authority to continue to transact such kinds of insurance in this State. The provision of any other law of this State notwithstanding, there shall be no liability on the part of and no cause of action of any nature shall arise against any member insurer, the association or its agents or its employees, the board of directors or the commissioner or his representatives for any action taken by them in the performance of their powers and duties under this act; provided, however, that such immunity from liability shall not extend to such individuals with respect to fraudulent or criminal acts.

2. This act shall take effect immediately.

Approved February 22, 1980.

CHAPTER 450

AN ACT concerning preparation for retirement by senior citizens and supplementing Title 52 of the Revised Statutes.

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

C. 52:27D-29.10 Purpose of act and intent of Legislature.

1. It is the purpose of this act to encourage the establishment of pre-retirement education programs to educate pre-retirees on such significant aspects of life after retirement as financial management, employment prospects, transportation means, community involvement, family relations, use of leisure time and the maintenance of mental and physical health and well-being. It is the intent of the Legislature that the systematic dissemination of information on retirement planning shall help to eliminate unnecessary economic, social, and psychological hardship experienced by many of the senior citizens of this State.

C. 52:27D-29.11 Pre-retirement education demonstration programs.

2. The Commissioner of the Department of Community Affairs through the Division on Aging shall establish a pre-retirement education demonstration program. Such a demonstration program shall be utilized to make available to public and private agencies,

institutions and organizations including but not limited to religious, civic or social groups, schools, businesses, industries, labor or trade unions, and governmental agencies, the guidance and assistance that they may require in conducting seminars, workshops or other educational programs for the purpose of providing education and information on retirement planning.

Further, the commissioner shall recruit public and private agencies, institutions and organizations to conduct pre-retirement education programs and shall encourage and support these programs by providing information and instruction on the conducting of pre-retirement education programs and the utilization of resource materials and financial assistance.

C. 52:27D-29.12 Rules and regulations.

3. The commissioner shall promulgate rules and regulations as needed to implement the provisions of this act.

C. 52:27D-29.13 Report.

4. The commissioner shall report to the Legislature each year on the progress and effectiveness of the implementation of the provisions of this act.

5. This act shall take effect immediately.

Approved February 22, 1980.

CHAPTER 451

AN ACT permitting counties to finance, construct, acquire and operate water supply facilities either separately or jointly with municipalities, other counties, private water companies or the State; supplementing Title 40 of the Revised Statutes; and repealing sections 40:36–1 through 40:36–10 of the Revised Statutes.

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

C. 40:14C-1 Short title.

1. This act shall be known and may be cited as the "County Water Supply Financing Law."

C. 40:14C-2 Declaration of policy.

2. It is hereby declared to be in the public interest and to be the policy of this State to foster and promote by all reasonable means the provision and distribution of an adequate supply of water for the inhabitants and businesses of the counties and municipalities of this State. It is the purpose and object of this act to further implement such policy by authorizing counties, either separately or in combination with municipalities, other counties, private water companies, or the State, to acquire, construct, maintain, operate or improve facilities for the accumulation, supply or distribution of water and to provide for the financing of such facilities.

C. 40:14C-3 Definitions.

3. As used in this act, unless a different meaning clearly appears from the context:

a. "Cost" as applied to water supply facilities or extensions or additions thereto, means and includes the cost of construction, reconstruction or improvement, the cost of all labor, materials, machinery and equipment, the cost of all lands, property, rights and easements acquired, financing charges, interest on bonds issued to finance such facilities prior to and during construction, cost of plans and specifications, surveys or estimates of costs and of revenues, cost of engineering and legal services, and all other expenses necessary or incident to determining the feasibility or practicability of such construction, reconstruction or improvement, administrative expenses and such other expenses as may be necessary or incident to the construction or acquisition of such facilities, and the financing herein authorized. Any obligation or expense incurred by any county in connection with any of the foregoing items of cost prior to the issuance of bonds or notes as authorized herein may be regarded as part of such cost and reimbursed to the county out of the proceeds of bonds issued under the provisions of this act;

b. "Water supply facilities" means the plants, structures and other real and personal property acquired, constructed or operated by a county for the purpose of water supply, including reservoirs, basins, dams, canals, aqueducts, standpipes, conduits, pipelines, mains, pumping stations, water distribution systems, compensating reservoirs, waterworks or sources of water supply, wells, purification or filtration plants or other plants or works, connections, right of flowage or diversion, and other plants, structures, boats, conveyances and other real and personal property,

and rights therein and appurtenances necessary or useful and convenient for the accumulation, supply or distribution of water.

c. "General obligation bonds" means general obligations of the county which are payable from unlimited ad valorem taxes or from such taxes and additionally secured by a pledge of the revenues derived from the assessment of such local improvement charges as may be assessed.

C. 40:14C-4 Acquisition, construction or operation of water supply facility; determination by resolution or ordinance.

4. a. Any county may acquire, construct or operate a water supply facility upon a determination by the board of chosen freeholders that the public health, safety and welfare can best be assured by the acquisition, construction or operation of such a facility by the county, either separately or in combination with a municipality, another county, a private water company or the State. Such determination shall be by resolution or ordinance, as appropriate, by the county governing body.

b. No water supply facilities may be acquired, constructed or operated by any county, until the county has received all necessary permits and approvals from the appropriate State agency.

C. 40:14C-5 Powers of county.

5. Any county which may hereafter come under the provisions of this act as provided herein is hereby authorized and empowered:

a. To purchase, construct, improve, extend, enlarge or reconstruct water supply facilities within or adjacent to such county either alone or jointly with municipalities, other counties or the State and to operate, manage and control all or part of such facilities so purchased or constructed and all properties pertaining thereto;

b. To issue general obligation bonds of the county to pay all or part of the cost of such purchase, construction, improvement, extension, enlargement or reconstruction of such facilities;

c. To receive and accept from the Federal or State Government or any agency or instrumentality of either thereof grants for or in aid of the planning, purchase, construction, extension, enlargement or reconstruction, or financing of any of such facilities and to receive and accept contributions from any source of either money, property, labor, or other things of value to be held, used and applied only for the purposes for which such grants and contributions may be made;

d. To acquire in the name of the county by gift, purchase, or by the exercise of the right of eminent domain, such lands and rights and interests therein, including lands under water and riparian rights, and to acquire such personal property, as it may deem necessary for the purchase, construction, improvement, extension, enlargement or reconstruction, or for the efficient operation of any facilities purchased or constructed under the provisions of this act and to hold and dispose of all real and personal property under its control;

e. To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act and to employ such consulting and other engineers, superintendents, managers, attorneys, financial or other consultants or experts and such other employees and agents as it may deem necessary in its judgment and to fix their compensation;

f. Subject to the provisions and restrictions as may be set forth in any resolution or ordinance authorizing or securing any bonds issued under the provisions of this act, to enter into contracts with the Federal or State Government, or any agency or instrumentality of either thereof, or with any other county or with any municipality, private corporation, copartnership, association or individual providing for or relating to water supply, which contracts may provide for the furnishing of water supply services either by or to the county, or the joint construction or operation of water supply facilities.

g. To fix and collect rates, fees, rents and other charges for the services and facilities furnished by any such county water supply facilities.

C. 40:14C-6 Surveys, investigations, studies, maps, etc.; estimates of costs; damaged property.

6. Whenever any county chooses to exercise the powers granted by this act, it shall make or cause to be made such surveys, investigations, studies, borings, maps, plans, drawings and estimates of costs and of revenues as it may deem necessary relating to the provision of water supply facilities, the purchase or construction of which shall be deemed to be desirable to protect the health and safety of the inhabitants of the county.

The obtaining of such surveys, investigations, studies, borings, maps, plans, drawings and estimates is hereby declared to be a county purpose and the costs thereof may be paid out of the general funds of the county or from the proceeds of any bonds issued pursuant to this act.

All public or private property damaged or destroyed in carrying out the powers granted by this act shall be restored or repaired and placed in its original condition as nearly as practicable or adequate compensation shall be made therefor out of the funds provided by this act.

C. 40:14C-7 Authorization to issue bonds.

7. The governing body of any county exercising the powers granted by this act is hereby authorized to provide by ordinance or resolution, as appropriate, at one time, or from time to time, for the issuance of general obligation bonds of the county pursuant to the provisions of the Local Bond Law, N. J. S. 40A:2–1 et seq., for the purpose of paying all or any part of the cost of any water supply facilities constructed, acquired, improved, extended, enlarged or reconstructed pursuant to the provisions of this act.

The proceeds of such bonds shall be used solely for the payment of costs of the water supply facilities for the purchase, construction, reconstruction, enlargement or improvement of which such bonds shall have been authorized.

The county may also pledge to the payment of any or all of such bonds so issued all or any part of the revenues derived by the county from the operation or rental of its water supply facilities.

C. 40:14C-8 Rates or rental charged for use of services.

8. After the commencement of operation of water supply facilities, the county may prescribe and change from time to time rates or rentals to be charged for the use of the services of such facilities. Such rates or rentals being in the nature of use or service charges or annual rental charges, shall be uniform and equitable for the same type and class of use or service of such facilities. Such rates or rentals and types and classes of use and service may be based on such factors which the governing body of the county shall deem proper and equitable within the region served by each facility.

C. 40:14C-9 Agreements with other governmental entities.

9. If a county, pursuant to agreement with any municipality, any other county or the State, shall construct or acquire water supply facilities which will benefit any such government, the county may either: a. bear the entire cost of the construction or acquisition of such facilities by itself, or b. share the cost of the construction or acquisition of such improvements with such government. The

county may issue its bonds for all or part of the cost of the construction or acquisition of such facilities. If the cost thereof is to be shared by such government, the county may issue its bonds for its share of such cost and such government, may issue its bonds for its share of such cost, or the county may issue its bonds for all of the cost of such facilities, and the share of such cost to be borne by such other government shall be repaid to the county by such other government in annual installments over a period not exceeding 40 years as shall be agreed upon between the county and such other government. The amount of said annual installments shall include interest at such rate or rates as the county and such other government shall agree upon, and the county and such other government are hereby authorized to enter into agreements relating to such facilities which agreements shall have such terms and conditions as shall be deemed necessary and proper by such county and such participating government. Such agreements shall be authorized by resolution or ordinance, as appropriate, duly adopted by the governing body of any such county and by the governing body of any such municipality and by the Commissioner of Environmental Protection for the State. Such annual payments received by a county from such other government may also include an additional amount as shall be agreed upon for the payment of the agreed share of the cost of operation and maintenance and improvement or enlargement of such facilities. Notwithstanding any provisions of any other law or laws now existing or hereafter enacted, none of such annual payments to be made by such other government to such county shall be included in any computation of gross or net indebtedness required under any such other law or laws.

Notwithstanding any provisions of any other law or laws now existing or hereafter enacted, the amount of any bonds issued by a county to finance the share of any other government of the cost of the construction or acquisition of such facilities shall not be included in any computation of gross or net indebtedness under any such other law or laws as long as such county and other government have entered into an agreement pursuant to this section under which the share of such other government shall be repaid to such county as provided in this section.

C. 40:14C-10 Authorization to enter into contracts; powers.

10. Any municipality with which a county is authorized to contract under the terms and provisions of this act shall have power, by ordinance duly adopted by its governing body to authorize its proper officials to enter into and execute for it a contract, for

such periods of time and under such terms as are deemed proper and necessary, with a county, for the provision of water supply facilities notwithstanding that no appropriation was made or provided to cover the estimated cost of such contract, and the governing body of any such contracting municipality shall have full power and authority to do and perform all acts and things on the part of the municipality to be done and performed under the terms and provisions of such contract.

C. 40:14C-11 Bonds; investment.

11. Notwithstanding any restriction contained in any other law, the State and all public officers, municipalities, counties, political subdivisions and public bodies, and agencies thereof, all banks, bankers, trust companies, savings banks and institutions, building and loan associations, savings and banking businesses, all insurance companies, insurance associations and other persons carrying on any insurance business, and all executors, administrators, guardians, trustees and other fiduciaries, may legally invest any sinking fund moneys or other funds belonging to them or within their control in any bonds of a county authorized pursuant to this act, and such bonds are hereby made and shall be authorized security for any and all public deposits. Any such bonds and the interest thereon shall be exempt from taxation except for transfer and inheritance taxes.

C. 40:14C-12 Payments to counties.

12. The chief fiscal officer of each municipality which shall have entered into a contract pursuant to this act, shall cause to be paid to the county with which such contract is in force, at such times to be agreed upon, the amount of money certified to the municipality by the county pursuant to this act. The power and obligation of such municipality to provide for and make all such payments shall be unlimited and the sums necessary for such payment shall be included in each annual budget of such municipality; and such municipality shall be irrevocably and unconditionally obligated to levy ad valorem taxes on all taxable property therein, without limit as to rate or amount to the full extent necessary to make all such payments in full as the same become due. If any part of the amount certified to a municipality by a county, pursuant to this act, shall remain unpaid for 30 days following the date fixed for payment by the contract, the municipality thus in default shall be charged with and be liable for, and the chief fiscal officer thereof shall pay to such county, interest upon the amount unpaid at the rate of 8% per annum.

C. 40:14C-13 Payments by private companies.

13. Each private water company or industry which shall have entered into a contract with a county pursuant to this act, shall pay at such times as shall be provided in such contract to the contracting county, the sum of money certified to it by such county pursuant to this act, on or before the date provided for such payment in such contract. Any such sum of money so certified by a county shall be a lien in favor of such county on and against the property of such private water company or industry. If such sum of money or any part thereof is not paid to the contracting county on or before such contract payment date, the unpaid amount shall bear interest at the rate of 7% therefrom until payment is complete and, such county shall make and record, in the same manner as conveyances of interest in real property are recorded, a certificate setting forth the facts and giving notice of the existence and amount of such lien remaining unsatisfied. So far as permitted by law, such lien shall have priority over all other liens theretofore or thereafter attaching except those of Federal, State and local taxes.

C. 40:14C-14 Obligations not impaired; establishment of competitive facilities not allowed.

14. a. Nothing contained in this act shall in any way impair the obligations previously assumed by any other public or private agency for the provision of water supply services and facilities to the citizens and industries of this State.

b. In the event a municipal utilities authority has been established in a county pursuant to the provisions of the "municipal and county utilities authorities law," (P. L. 1957, c. 183; C. 40:14B–1 et seq.), no county shall establish any facilities within that county under the provisions of this act which are competitive with any water supply facilities operated by that authority.

C. 40:14C-15 Construction of act; partial invalidity.

15. The object and design of this act being the protection and preservation of public health, safety and welfare, this act shall be liberally construed and the powers granted and the duties imposed by this act shall be construed to be independent and severable. If any one or more sections, clauses, sentences or parts of this act shall for any reason be questioned in any court, and shall be adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions thereof, but shall be confined in its operation to the specific provisions so held unconstitutional or invalid.

Repealer.

16. Sections 40:36–1 through 40:36–10 of the Revised Statutes, inclusive, are repealed.

17. This act shall take effect immediately.

Approved February 22, 1980.

CHAPTER 452

AN ACT concerning the maintenance of statistics on alcohol abuse and amending "An act establishing a Division of Alcoholism in the State Department of Health, providing for a director and assistant to the director thereof, creating an advisory council on alcoholism, providing for the licensing of alcoholic treatment facilities, prescribing procedures to be followed concerning the arrest of an intoxicated person, authorizing the establishment of a service force, prohibiting and repealing county and municipal ordinances and resolutions prescribing penalties for public intoxication, and repealing P. L. 1948, c. 453 (C. 26:2B–1 et seq.)," approved February 9, 1976 (P. L. 1975, c. 305).

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

1. Section 4 of P. L. 1975, c. 305 (C. 26:2B–10) is amended to read as follows:

C. 26:2B-10 Advisory council on alcoholism; membership; terms; compensation; powers and duties.

4. There shall be in the division an advisory council on alcoholism, consisting of the Commissioner of Health, Human Services, Corrections, Labor and Industry, Education, Higher Education, Community Affairs, the Attorney General, the Director of the Division of Motor Vehicles, one member of the Statewide Health Coordinating Council and 12 citizens in the field of alcoholism appointed by the Governor, including citizens who are black, Hispanic, women, and youth representatives, at least two of whom shall be rehabilitated alcoholics. Of the citizen members first appointed, two shall be appointed for a term of 1 year, three shall be appointed for a term of 2 years, and three shall be appointed for a term of 3 years. Thereafter the Governor shall appoint members

to succeed those appointed members whose terms expire to serve for terms of 3 years. Each appointed member shall serve until his successor is appointed and has qualified. No member shall be appointed to serve more than two consecutive 3-year terms. The members of the council shall serve without compensation but shall be reimbursed for their expenses actually and necessarily incurred in the discharge of their duties. The members shall annually designate the chairman of the council from among themselves. The director shall serve as executive secretary of the council and shall attend all meetings of the council. The council shall make an annual report to the Governor and file a copy thereof with the Secretary of State.

The council shall assist the commissioner in coordinating the efforts of all public agencies and private organizations within the State concerned with the prevention of alcoholism, the treatment of intoxicated persons, and the treatment of alcoholics; in providing for the most efficient and effective utilization of resources and facilities; and in developing a comprehensive plan and program for the treatment of intoxicated persons and the treatment of alcoholics.

The council shall also: a. Advise the commissioner on policy and priorities of need in the State for comprehensive treatment of alcoholics;

b. Advise the commissioner on the planning, construction, operation, licensing and approval of facilities.

c. Review the annual plans and the proposed annual budget of the division and the programs and services provided by public and private facilities and make recommendations to the commissioner in regard thereto.

d. Provide such other advice and assistance to the commissioner and the division relative to their duties under this act as the commissioner may request.

2. Section 7 of P. L. 1975, c. 305 (C. 26:2B–13) is amended to read as follows:

C. 26:2B-13 Powers of department.

7. The department is hereby authorized, empowered and directed under this act to:

a. Plan, construct, cause to be established, and maintain such facilities as may be necessary or desirable for the conduct of its program;

b. Acquire, hold, and dispose of real property;

c. Acquire by purchase or otherwise, on such terms and conditions and in such manner as it may deem proper, or by the exercise of the power of eminent domain in accordance with the provisions of Title 20 of the Revised Statutes, and lease, hold and dispose of, real property or any interest therein, for the purposes of this act;

d. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act; including, but not limited to, contracts with government departments and public and private agencies and facilities to pay them for services actually rendered or furnished to alcoholics or intoxicated persons, at rates to be established pursuant to law.

e. Solicit and accept for use in relation to the purposes of this act any gift of money or property made by will or otherwise, and any grant or loan of money services or property from the Federal Government, the State or any political subdivision thereof, or any private source, and do all things necessary to cooperate with the Federal Government or any of its agencies in connection with the application for any such grant or loan; provided, however, that any money received under this subsection shall be deposited with the State Treasurer to be kept in a separate fund in the treasury for expenditure by the department in accordance with the conditions of the gift, loan or grant without specific appropriation.

f. Develop, encourage and foster Statewide, regional and local plans and programs for the prevention, detection, and treatment of alcoholism in cooperation with interested public agencies and private organizations and individuals and provide technical assistance and consultation services for these purposes;

g. Coordinate the efforts and enlist the assistance of all public agencies and private organizations and individuals interested in the prevention, detection, and treatment of alcoholism;

h. Cooperate with the Department of Human Services in establishing and conducting a program for the prevention and treatment of alcoholism in penal institutions.

i. Cooperate with police academies, nursing and medical schools, public agencies and private organizations and individuals in establishing programs for the prevention and treatment of intoxication and alcoholism among juveniles and young adults;

j. Prepare, publish and disseminate educational materials dealing with the prevention, nature and effects of alcoholism and the benefits of treatment;

k. Develop and implement an ongoing system of collecting, analyzing and distributing statistics on the incidence and prevalence of alcoholism, alcohol-related problems and alcohol consumption among the citizens of New Jersey, with special emphasis on youth. This system shall include, but is not limited to, studies, surveys, random samplings and assessments, and use as its sources the variety of public agencies and private organizations concerned and connected with the subject, including the Division of Motor Vehicles, the juvenile and domestic relations courts, the youth bureaus, alcohol treatment programs, hospitals and mental health centers, the schools, the police departments, and the Division of Alcoholic Beverage Control. Special attention shall be given to the relationship of alcohol to automobile accidents, crime, delinquency and other social problems;

l. Encourage alcoholism prevention, detection, and treatment programs in government and industry.

m. Organize and foster training programs for professional and para-professional workers in the treatment of intoxicated persons and alcoholics;

n. Approve and license public and private facilities in accordance with section 8;

o. Promulgate rules and regulations for the exercise of its powers and the performance of its duties under this act;

p. Do all other acts and things necessary or convenient to carry out the powers expressly granted in this act.

3. This act shall take effect immediately.

Approved February 22, 1980.

CHAPTER 453

AN ACT concerning the retention of paid personnel by fire districts amending N. J. S. 40A:14-79, N. J. S. 40A:14-84 and N. J. S. 40A:14-87, and supplementing chapter 14 of Title 40A of the New Jersey Statutes.

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

C. 40A:14-81.1 Establishment of paid positions within fire department; appointment by resolution.

1. a. The commissioners of any fire district may, by resolution, establish paid positions within the fire department, or for the fire district, as such positions shall be determined by the commissioners to be required for the purposes of the fire district. The commissioners shall, by resolution, appoint persons to, determine the terms of, fix the compensation for, and prescribe the powers, functions and duties of all paid positions so established. For the purposes of this section, a paid position shall mean any position for which any compensation is provided by the fire district other than reimbursement for expenses and losses actually incurred in the performance of duties.

b. Every resolution proposed pursuant to subsection a. of this section, after being introduced and having passed a first reading, which may be by title, shall be published in full at least once in a newspaper having substantial circulation in the fire district, together with a notice of the introduction thereof and the time and place when and where it will be considered for final passage. Such publication shall appear at least 1 week prior to the time fixed for further consideration for final passage.

c. At the time and place stated in the publication, or at any time and place to which the meeting for the further consideration of the resolution shall from time to time be adjourned, all persons interested shall be given an opportunity to be heard concerning the resolution. The opportunity to be heard shall include the right to ask pertinent questions concerning the resolution by any resident of the fire district or by any other person affected by the resolution. Final passage of the resolution shall be at least 10 days after the first reading.

d. Upon the opening of the hearing, the resolution shall be given a second reading, which may be by title, and may thereafter be passed with or without amendment, or rejected. At least 1 week prior to second reading, a copy of the resolution shall be posted in such public place as notices are usually posted in the district, and copies shall be made available to each person requesting a copy during said week and during the hearing. No amendment to such resolution shall be adopted, unless such amendment is presented in written form to the fire commissioners and copies made available to each person requesting a copy at the meeting at which the amendment is considered.

e. Upon passage, every such resolution, or the title, together with a notice of the date of passage or approval, or both, shall be

published at least once in a newspaper having substantial circulation in the fire district.

C. 40A:14-81.2 Qualifications for appointment.

2. Except as otherwise provided by law, no person shall be appointed to a paid position authorized pursuant to section 1 of this act unless that person:

a. Is a citizen of the United States;

b. Is eligible for acceptance in the Public Employees' Retirement System of New Jersey or in the Police and Firemen's Retirement System of New Jersey;

c. Is able to read, write and speak the English language well and intelligently;

d. Is of good moral character;

e. Has not been convicted of any criminal offense involving moral turpitude.

C. 40A:14-81.3 Supervisory authority.

3. Supervisory authority over personnel of a fire district may be exercised by the commissioners of the fire district or delegated, by resolution, to any commissioner or any employee or employees thereof.

C. 40A:14-81.4 Reimbursement for expenses and losses.

4. Any employees of a fire district and any volunteer firemen having membership in a volunteer fire company within the fire district may be reimbursed within the limitations of amounts appropriated therefor in the annual district budget for expenses and losses actually incurred in the performance of their duties.

C. 40A:14-78.1 Annual budget.

5. The fire commissioners of any fire district shall introduce and approve the annual budget not later than 60 days prior to the annual election held pursuant to N. J. S. 40A:14–72. The budget shall be introduced in writing at a meeting of the fire commissioners. Approval thereof shall constitute a first reading which may be by title, and the fire commissioners shall at that time fix the time and place for the holding of a public hearing upon the budget. Notice of the date, time, place and purpose of such public hearing, and of the time and place at which a copy of the approved budget shall be available to each person requesting it during the week preceding such public hearing, shall be advertised at least 10 days prior to such hearing in a newspaper having substantial circulation in the fire district.

C. 40A:14-78.2 Adoption of budget.

6. No fire district budget shall be adopted until a public hearing has been held thereon and taxpayers of the district and all persons having an interest therein shall have been given an opportunity to present objections. Such hearing shall be held not less than 28 days after approval of the budget.

The public hearing shall be held at the time and place specified in the notice, but may be adjourned from time to time until the hearing is closed.

The budget shall be read at the public hearing in full, or it may be read by its title, if:

a. At least 1 week prior to the date of the hearing, a complete copy of the approved budget shall have been posted in such public place as notices are usually posted in the district, and is made available to each person requesting a copy during said week and during the public hearing; and,

b. The fire commissioners shall, by resolution passed by not less than a majority of the full membership, determine that the budget shall be read by its title and declare that the conditions set forth in subsection a. of this section have been met.

After closing the hearing, the fire commissioners may, by a vote of not less than a majority of the full membership, adopt the budget by title without amendments, or may approve amendments as provided in section 7. of this act.

C. 40A:14-78.3 Amendments to budget.

7. The fire commissioners may amend the budget during or after the public hearing. All amendments shall be read in full.

No amendment shall be effective until the taxpayers of the district and all persons having an interest therein shall have been granted a public hearing thereon, if such amendment shall:

a. Add a new item of operating appropriations in an amount in excess of 1% of the total amount of operating appropriations as stated in the approved budget;

b. Increase or decrease any item of operating appropriations by more than 10%; or,

c. Increase the amount to be raised by taxes by more than 5%.

Notice of hearing on any amendment shall be advertised at least 3 days before the date set therefor. Such amendment shall be read in full at such hearing and before adoption.

C. 40A:14-78.4 Adoption of budget; advertisement.

8. The fire district budget shall be adopted, by a vote of a majority of the full membership of the fire commissioners, not later than 25 days prior to the annual election. The adopted budget shall be advertised after adoption. The advertisement shall contain a copy of the budget and shall be published at least once in a newspaper circulating in the fire district at least 7 days prior to the annual election.

C. 40A:14-78.5 Procedure for final adoption of budget; certification.

9. a. If at the annual election held pursuant to N. J. S. 40A:14–72 the question of finally adopting the budget is voted affirmatively upon by a majority of the legal voters voting in the election, the budget shall be considered finally adopted, and the board of fire commissioners shall certify the amount to be raised by taxation to support the district budget to the assessor of the municipality pursuant to N. J. S. 40A:14–79.

b. If at the annual election the question of finally adopting the budget is voted negatively upon by a majority of the legal voters voting in the election, the governing body of the municipality in which the fire district is located shall, by resolution of a majority of its full membership, within 30 days after the annual election and after a public hearing for which the legal voters of the fire district shall be given 5 days' advertised notice, and at which any interested person shall be heard, fix an annual budget for the fire district. The amount of each appropriations section of the budget so fixed shall not exceed the amount for each as previously voted upon at the annual election. The governing body shall certify the amount to be raised by taxation to support the district budget as set forth in the final budget, to the assessor of the municipality pursuant to N. J. S. 40A:14–79.

C. 40A:14-78.6 Separate sections for fire district budget.

10. The fire district budget shall provide for separate sections for:

a. Operating appropriations:

(1) Current operating expenses; and,

(2) Amounts necessary to fund any deficit from the preceding budget year.

b. Capital appropriations: Amounts necessary in the current budget year to fund or meet obligations incurred for capital purposes pursuant to N. J. S. 40A:14–84, N. J. S. 40A:14–85 and N. J. S. 40A:14–87, itemized according to purpose.

c. Total appropriations: The sum of a. and b. above.

C. 40A:14-78.7 Operating appropriations section; separate items.

11. The operating appropriations section of the fire district budget shall set forth separate items for administration, operation and maintenance of each office or agency of the fire district. Each paid position established pursuant to this act shall be set forth along with the compensation to be paid therefor. The total amount to be appropriated for the purposes set forth in section 4 of this act shall be stated separately.

C. 40A:14-78.8 Separate items in fire district budget.

12. The fire district budget shall provide for separate items for:

a. Surplus, which shall not exceed the amount of surplus held in cash or quick assets at the beginning of the budget year;

b. Miscellaneous revenues, which shall be such amounts as may reasonably be expected to be realized in cash during the budget year from known and regular sources, or from sources reasonably capable of anticipating, including amounts expected to be received from municipalities appropriating money for fire district purposes, but not including revenues from taxes to be levied to support the district budget; and,

c. Amount to be raised by taxation to support the district budget, which shall be the amount to be certified to the assessor of the municipality to be assessed against the taxable property in the district pursuant to N. J. S. 40A:14–79. Such amount shall be equal to the amount of the total appropriations set forth in the budget minus the total amount of surplus and miscellaneous revenues set forth in the budget.

13. Any fire district which has prior to the effective date of this act, established any paid position or positions within the fire department, or for the fire district, or has incurred expenses in the operation of said district, may, by resolution of the board of fire commissioners provide for the payment of compensation to persons employed in such paid position or positions for any time of employment prior to the adoption of such resolution during which compensation was discontinued as a result of court action, and for any time remaining after the adoption of such resolution but prior to the date of final adoption of the first fire district budget pursuant to this act. Such compensation shall not exceed the amount such persons would have received during such time.

14. N. J. S. 40A:14–79 is amended to read as follows:

Assessment and collection.

40A:14–79. Upon proper certification pursuant to section 9 of this amendatory and supplementary act, the assessor of the municipal-

ity, in which the fire district is situate, shall assess the amount to be raised by taxation to support the district budget against the taxable property therein, in the same manner as municipal taxes are assessed and the same amount shall be assessed, levied and collected at the same time and in the same manner as other municipal taxes.

The collector or treasurer of the municipality, in which said district is situate, shall pay over all moneys so assessed to the treasurer or custodian of funds of said fire district one-half on or before July 1 in the year for which said taxes are levied and the other half on or before January 1 of the following year, to be held and expended for the purpose of providing and maintaining means for extinguishing fires in such district.

The commissioners may also pay back, or cause to be paid back to such municipality, any funds or any part thereof paid to the treasurer or custodian of funds of such fire district by the collector or treasurer of the municipality, representing taxes levied for fire district purposes but not actually collected in cash by said collector or treasurer.

15. N. J. S. 40A:14–84 is amended to read as follows:

Raising revenue for fire district; amount; special meeting.

40A:14–84. The legal voters, at the annual meeting or at a special meeting called by the commissioners of the fire district, may vote to raise money for a firehouse, apparatus and appliances in connection therewith for fire extinguishing purposes, in an amount not exceeding 5 mills on the dollar of the last assessed valuation of the property in the fire district. The amount so voted for shall be included in the next succeeding annual budget of the fire district under the section for capital appropriations.

Any such special meeting shall be called on 10 days' notice by the board of fire commissioners, to be posted in five public places in the district, setting forth the time, place and object of the meeting and the legal voters shall determine the amount of money to be raised.

16. N. J. S. 40A:14–87 is amended to read as follows:

Payment of principal and interest on bonds; borrowing moneys.

40A:14–87. Whenever bonds have been duly issued the board of fire commissioners shall annually include in the budget of the fire district under the section for capital appropriations, the amount required to meet the interest payments and pay the bonds maturing in the ensuing year, together with interest thereon. The board of

fire commissioners shall cause the principal and interest on said bonds to be paid as they become due.

If no funds are currently available to pay the maturing bonds or interest, the board of fire commissioners may borrow money and execute evidences of indebtedness for the purpose of making such payments in the same manner as in other cases of borrowing.

17. This act shall take effect immediately, but sections 5 through 12, inclusive, and sections 14, 15 and 16 shall apply only with respect to annual elections held by fire districts and annual budgets adopted by fire districts on or after a time 90 days from the effective date of this act.

Approved February 22, 1980.

CHAPTER 454

AN ACT concerning exemptions from property taxation and supplementing Article 2 of chapter 4 of Title 54 of the Revised Statutes.

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

C. 54:4-3.6b Continuation of exemption.

1. Wherever an owner of real property, who has been granted an exemption from taxation pursuant to R. S. 54:4–3.6 or R. S. 54:4–3.26 shall make subsequent application for an exemption from taxation for property newly acquired by him, such application shall be deemed timely filed notwithstanding that the acquisition may have been made subsequent to October 1 of the pretax year, and the exemption shall be extended, provided:

a. The applicant and subject property meet all other requirements for exemption; and

b. The subject property was exempt from taxation under this article when acquired by the applicant.

2. In the event that an owner of real property meets the requirements of this section 1 and an acquisition occurred which would have met the provisions of section 1 prior to the effective date of this act, such owner may apply for exemption for the period for which he would have been exempt under section 1 above, and such

application may be accepted and processed in the manner prescribed in section 1; provided, however, that such application shall be made within 60 days of the effective date of this act.

3. This act shall take effect immediately.

Approved February 22, 1980.

CHAPTER 455

AN ACT to incorporate and erect the borough of Ocean Grove in the county of Monmouth, the territory of which now comprises a part of the present township of Neptune, in the county of Monmouth.

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

1. The following described territory now contained in the township of Neptune, county of Monmouth, is hereby constituted a borough of this State and the inhabitants residing within the limits thereof are hereby declared to be a body politic and corporate by the name of "Borough of Ocean Grove", and shall be governed by the general laws of this State relating to boroughs.

2. That portion of the township of Neptune, county of Monmouth hereby incorporated as the borough of Ocean Grove is described as follows:

All that part or portion of the township of Neptune, county of Monmouth, which is commonly called Ocean Grove and which territorial limits are bounded on the east by the Atlantic Ocean; on the north by the southerly boundary line of the city of Asbury Park; on the west by the main road leading from Asbury Park to Belmar; and on the south by the northerly boundary line of the borough of Bradley Beach.

3. This act shall take effect immediately but shall not operate to effect the incorporation of the territory above described until it shall have been submitted to and accepted by both a majority vote of the qualified voters residing in the territory above described on the effective date of this act and by a majority vote of the qualified voters residing in the remainder of the Township of Neptune on the effective date of this act, at an election to be held within 7

months after the effective date of this act. Said vote may be held on primary or general election day or on a special election day.

4. Within 20 days after the effective date of this act, the Governor shall appoint a qualified individual, who shall have the full power and authority to conduct any hearings as hereinafter provided and who shall fix the time and place of the election to be held pursuant to this act. Such individual shall not be a resident of the territory above described or of the township of Neptune, and shall serve at the pleasure of the Governor and without compensation, but shall be reimbursed for necessary expenses incurred in the performance of any duties pursuant to this act by the township of Neptune.

5. Prior to the election there shall be at least three public hearings to be held on the plan for incorporation of the territory above described, with at least one such hearing to be held within such territory. At least 10 days and not more than 15 days prior to the date set for a public hearing, the clerk of the township of Neptune shall cause notice of the time, place and purpose of the hearing to be published at least twice in at least one newspaper of general circulation in such territory and township.

6. It shall be the duty of the clerk of the township of Neptune to cause public notice of the time and place of the election to be held pursuant to this act, at least 20 days and not more than 30 days prior to the date set for said election, to be published at least twice in at least one newspaper of general circulation in such territory and township. Said election shall be held under the general laws relating to election in this State.

7. The clerk shall provide ballots for the electors voting at such election which shall be printed in substantially the following form:

"To vote upon the public question printed below, if in favor thereof mark a cross (×) or plus (+) or check (√) in the square at the left of the word "yes", and if opposed thereof mark a cross (×) or plus (+) or check (√) in the square to the left of the word "no".

	Yes.	Shall an act entitled "An act to incorporate and erect the borough of Ocean Grove in the county of Monmouth, the territory of which now comprises a part of the present township of Neptune, in the county of Monmouth" be approved?
	No.	

If both a majority of the qualified voters of the territory above described and a majority of the remaining qualified voters of the township of Neptune shall vote in favor thereof, this act shall, thereupon, become operative and shall effect the incorporation of the territory above described, as a borough of this State.

8. Such election shall be held at the time and place so appointed and shall be conducted by the county board of elections of the county of Monmouth. The qualified voters of the territory above described shall vote at a place so designated located therein and the remainder of qualified voters of the township of Neptune shall vote at a place so designated in such township, but not at a place in the territory above described. The reasonable cost of the booths or compartments, the preparation of registry or poll lists, and the conduct and holding of said election, shall be incurred by the township of Neptune; provided, however, that upon approval of said act the newly created municipality shall reimburse the township for such costs. The officers holding such election shall within 2 days after such election make a return to the Governor, county clerk of the county of Monmouth and to the clerk of the township of Neptune of the result of such election, by statements in writing and under their hands, and the same shall be entered at length upon the minutes of the clerk of the township of Neptune.

9. Within 30 days after the adoption of this act as provided herein, the Governor shall appoint from among the inhabitants of the newly created borough of Ocean Grove, in the county of Monmouth, a borough council of six members and a mayor, who shall hold office until January first following the election of a mayor and council by the voters of said borough at the first general election held following the adoption of this act and until such elected officers shall have qualified as required by law.

10. Following their appointment and qualification, the said members shall have and perform all the powers, functions and duties vested in such offices by the laws of this State relating to boroughs.

11. The said borough council shall appoint all such other officers as may be required for the due administration of the affairs of said borough until the election, appointment and qualification of borough officers at the next general election; such officers, so appointed, shall hold office until their successors, chosen

at said general election or duly appointed, have qualified as required by law.

12. Except as otherwise provided in this act, the procedure provided in respect to newly created municipalities by article 4 of chapter 43 of Title 40 of the Revised Statutes shall be applicable to the borough incorporated by this act.

13. Notwithstanding the provisions of R. S. 1:6–1, notice of the introduction of this bill shall be accomplished by publication in a newspaper of general circulation in the Township of Neptune prior to the introduction of this act.

14. This act shall take effect immediately, and be retroactive to December 6, 1979.

Approved February 22, 1980.

CHAPTER 456

AN ACT concerning special motor vehicle registration plates for members of the New Jersey National Guard, and supplementing chapter 3 of Title 39 of the revised Statutes.

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

C. 39:3-27.13 Special plates for national guard members; fee.

1. Upon the application of any person who is an active member of the New Jersey National Guard, as certified by the State Department of Defense, the Director of the Division of Motor Vehicles shall issue for the motor vehicle owned by such person special registration plates, at a fee to be prescribed by the director, identifying the holder as a member of the "Air National Guard" or "Army National Guard," as the case may be, in addition to the registration number and other markings or identification otherwise prescribed by law.

C. 39:3-27.14 Rules and regulations.

2. The Director of the Division of Motor Vehicles and the Chief of Staff of the State Department of Defense shall promulgate and adopt interdepartmental rules and regulations governing the issuance and use of such registration plates and providing for

their surrender by persons who cease to be members of the New Jersey National Guard.

3. For the fiscal year ending June 1980 the fees established hereinabove are hereby appropriated to the Division of Motor Vehicles to fund the additional costs incurred in making such plates available.

4. This act shall take effect on the one hundred and eightieth day following enactment.

Approved February 22, 1980.

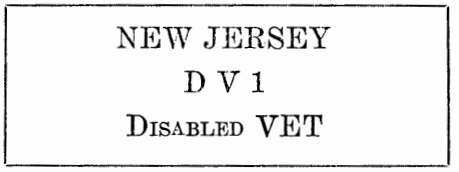
CHAPTER 457

AN ACT concerning special motor vehicle license plates for disabled veterans, and supplementing chapter 3 of Title 39 of the Revised Statutes.

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

C. 39:3-27.15 Special license plates for disabled veterans.

1. Upon the application of any disabled veteran eligible to operate a motor vehicle in this State under the provision of R. S. 39:3–10, the Director of the Division of Motor Vehicles may issue for a motor vehicle owned by such a person a license plate bearing the term "Disabled Vet" and registration numbers to be selected from the following registration numbers which shall be reserved for disabled veterans: D V 1 through D V 9999 and 1 D V through 9999 D V. The plate shall resemble the following illustration:



For the purposes of this section, "disabled veteran" shall mean any citizen and resident of this State now or hereafter honorably discharged or released under honorable circumstances from active service in any branch of the Armed Forces of the United States and who has been or shall be declared by the United States Veterans

Administration, or its successor, to have a service-connected disability.

C. 39:3-27.16 Fee.

2. The special plates authorized by this act may be issued upon proof, satisfactory to the director, that the applicant is a disabled veteran. The fee for such plates shall be $15.00 in addition to any other fees otherwise prescribed by law for the registration of such motor vehicle.

C. 39:3-27.17 Plates not transferable.

3. No person shall lend the special plates for use on a motor vehicle other than the vehicle for which issued, or use the same for a motor vehicle other than the vehicle for which issued.

C. 39:3-27.18 Violations; penalty.

4. Any person who violates any of the provisions of this act shall be fined not less than $25.00 nor more than $50.00.

5. For the fiscal year ending June, 1981 all fees collected as provided for herein are hereby appropriated to the Division of Motor Vehicles to fund the additional costs incurred in making such plates available.

6. This act shall take effect 6 months after enactment.

Approved February 22, 1980.

CHAPTER 458

AN ACT concerning elections and amending R. S. 19:5–2 and R. S. 19:5–3.

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

1. R. S. 19:5–2 is amended to read as follows:

Membership and organization of municipal committees.

19:5–2. The members of the municipal committees of political parties shall consist of the elected members of the county committee resident in the respective municipalities. The members of the municipal committee shall take office on the first Saturday following their election as members of the county committee, on which day the terms of all members of such committees theretofore

elected shall terminate. The annual meeting of each municipal committee shall be held on the first Monday following the primary election for the general election, at an hour and place to be designated in a notice to be given by the chairman of the outgoing municipal committee to each member-elect, at which annual meeting the members of each committee shall elect some suitable person who shall be a resident of such municipality as chairman to hold office for 1 year or until his successor is elected. The municipal committee shall have power to adopt a constitution and bylaws for its proper government. The chairman shall preside at all meetings of the committee, and shall perform all duties required of him by law and the constitution and bylaws of such committee.

When a member of a municipal committee ceases to be a resident of the district or unit from which elected, a vacancy on the committee shall exist. A member of a municipal committee of any political party may resign his office to the committee of which he is a member, and upon acceptance thereof by the committee a vacancy shall exist. A vacancy in the office of a member of a municipal committee of any political party, howsoever caused, shall be filled for the unexpired term by the remaining members of the committee in the municipality in which the vacancy occurs.

2. R. S. 19:5–3 is amended to read as follows:

Membership and organization of county committees; vacancies; certification of unit of representation and number of election districts.

19:5–3. The members of the county committees of political parties shall be elected annually at the primary for the general election in the manner provided in this Title for the selection of party candidates to be voted for at the general election by voters of a municipality. The county committee shall consist of one male and one female member from each unit of representation in the county. The male receiving the highest number of votes among the male candidates and the female receiving the highest number of votes among the female candidates shall be declared elected. Members of the county committee shall actually reside in the districts or units which they respectively represent. The county committee shall determine by its bylaws the units into which the county shall be divided for purpose of representation in the county committee.

The members of the county committee of each of the political parties shall take office on the first Saturday following their election, on which day the terms of all members of such committees theretofore elected shall terminate. The annual meeting of each

county committee shall be held on the first Tuesday following the primary election, except that when such meeting day falls on a legal holiday then the said meeting shall be held on the day following, at an hour and place to be designated in a notice in writing to be mailed by the chairman of the outgoing county committee to each member-elect, at which annual meeting the members of such committee shall elect some suitable person as chairman who shall be a resident of such county to hold office for 1 year, or until his successor is elected. The members shall also elect a vice-chairman of the opposite sex of the chairman to hold office for 1 year or until his or her successor is elected and the vice-chairman shall perform all duties required of him or her by law and the constitution and bylaws of such committee. Such committee shall have power to adopt a constitution and bylaws for its proper government. The chairman shall preside at all meetings of the committee and shall perform all duties required of him by law and the constitution and bylaws of such committee.

When a member of a county committee ceases to be a resident of the district or unit from which elected, a vacancy on the county committee shall exist. A member of a county committee of any political party may resign his office to the committee of which he is a member, and upon acceptance thereof by the committee a vacancy shall exist. A vacancy in the office of a member of the county committee of any political party, caused by death, resignation, failure to elect or otherwise, shall be filled for the unexpired term by the municipal committee of the municipality wherein the vacancy occurs, if there is such committee, and if not, by the remaining members of the county committee of such political party representing the territory in the county in which such vacancy occurs.

The chairman of the county committee of the several political parties shall before April 1, certify to the clerk of each municipality in the county the unit of representation in such municipality, together with the enumeration of the election district or districts embraced within such unit.

3. This act shall take effect immediately.

Approved February 27, 1980.

CHAPTER 459

AN ACT concerning soil conservation, amending R. S. 4:24–19, P. L. 1975, c. 251 and P. L. 1977, c. 264, supplementing chapter 24 of Title 4 of the Revised Statutes and repealing P. L. 1959, c. 129, s. 2.

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

1. Section 3 of P. L. 1975, c. 251 (C. 4:24–41) is amended to read as follows:

C. 4:24-41 Definitions.

3. For the purposes of this act, unless the context clearly indicates a different meaning:

a. "Application for development" means a proposed subdivision of land, site plan, conditional use zoning variance, planned unit development or construction permit.

b. "Certification" means (1) a written endorsement of a plan for soil erosion and sediment control by the local Soil Conservation District which indicates that the plan meets the standards promulgated by the State Soil Conservation Committee pursuant to this act, (2) that the time allotted in section 7 of this act has expired without action by the district or (3) a written endorsement of a plan filed by the State Department of Transportation with the district.

c. "District" means a Soil Conservation District organized pursuant to chapter 24 of Title 4 of the Revised Statutes.

d. "Disturbance" means any activity involving the clearing, excavating, storing, grading, filling or transporting of soil or any other activity which causes soil to be exposed to the danger of erosion.

e. "Erosion" means the detachment and movement of soil or rock fragments by water, wind, ice and gravity.

f. "Plan" means a scheme which indicates land treatment measures, including a schedule of the timing for their installation, to minimize soil erosion and sedimentation.

g. "Project" means any disturbance of more than 5,000 square feet of the surface area of land (1) for the accommodation of construction for which the State Uniform Construction Code

would require a construction permit, except that the construction of a single-family dwelling unit shall not be deemed a "project" under this act unless such unit is part of a proposed subdivision, site plan, conditional use, zoning variance, planned development or construction permit application involving two or more such single-family dwelling units, (2) for the demolition of one or more structures, (3) for the construction of a parking lot, (4) for the construction of a public facility, (5) for the operation of any mining or quarrying activity, or (6) for the clearing or grading of any land for other than agricultural or horticultural purposes.

h. "Sediment" means solid material, mineral or organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water or gravity as a product of erosion.

i. "Soil" means all unconsolidated mineral and organic material of any origin.

j. "Standards" means the standards promulgated by the committee pursuant to this act.

k. "Committee" means the State Soil Conservation Committee in the Department of Agriculture established pursuant to R. S. 4:24–3.

l. "Public facility" means any building; pipeline; highway; electricity, telephone or other transmission line; or any other structure to be constructed by a public utility, municipality, county or the State or any agency or instrumentality thereof.

2. Section 4 of P. L. 1975, c. 251 (C. 4:24–42) is amended to read as follows:

C. 4:24-42 Standards for control of soil erosion and sedimentation.

4. The committee shall have the power, subject to the approval of the Secretary of Agriculture and the Commissioner of Environmental Protection, to formulate, promulgate, amend and repeal standards for the control of soil erosion and sedimentation, pursuant to the Administrative Procedure Act, P. L. 1968, c. 410 (C. 52:14B–1 et seq.).

a. Such standards shall be based upon relevant physical and developmental information concerning the watersheds and topography of the State, including, but not limited to, data relating to land use, soil, slope, hydrology, geology, size of land area being disturbed, proximate water bodies and their characteristics.

b. Such standards shall include criteria, techniques and methods for the control of erosion and sedimentation resulting from land

disturbing activities for various categories of soils, slopes, and land uses.

c. Such standards shall include standards of administrative procedure for the implementation of this act.

3. Section 5 of P. L. 1975, c. 251 (C. 4:24–43) is amended to read as follows:

C. 4:24-43 Approval of application; conditions.

5. Approval of an application for development for any project by the State, any county, municipality, or any instrumentality thereof shall be conditioned upon certification by the local district of a plan for soil erosion and sediment control. Any person proposing to engage in any project not requiring approval by the State, any county, municipality, or any instrumentality thereof shall, prior to commencing such project, receive certification by the local district of a plan for soil erosion and sediment control. Any public utility, municipality, county or the State or any agency or instrumentality thereof, other than the State Department of Transportation, which proposes a project shall, prior to the construction of such project submit to and receive certification by the district of a plan for soil erosion and sediment control. The State Department of Transportation shall certify a plan for any project that it proposes to construct and shall file such certification with the district. Certification by the Department of Transportation shall be pursuant to soil erosion control standards developed jointly by the Department of Transportation, the Department of Environmental Protection and the committee and promulgated by the Department of Transportation.

C. 4:24-17.6 Appropriation of funds.

4. (New section) Any board of chosen freeholders may appropriate such funds as it deems necessary to the soil conservation district serving that county for the purpose of providing district services to the people of that county.

C. 4:24-17.7 Legal services to districts.

5. (New section) The Attorney General, on his own initiative, or the respective county counsel, with the approval of the board of chosen freeholders, may provide any and all legal services to any district.

6. R. S. 4:24–19 is amended to read as follows:

Designation of chairman; supervisors; terms; quorum; compensation.

4:24–19. The supervisors shall designate a chairman and may, from time to time, change such designation. The term of office of

each supervisor shall be at the pleasure of the State committee. The selection of successors shall be made in the same manner in which the retiring supervisor shall have been selected. A majority of the supervisors shall constitute a quorum and the concurrence of a majority in any matter within their duties shall be required for its determination. A supervisor shall be entitled to expenses and a per diem, in an amount to be established by the State committee within the limits of available appropriations, when engaged in the performance of his duties.

7. Section 3 of P. L. 1977, c. 264 (C. 4:24–17.5) is amended to read as follows:

C. 4:24-17.5 Soil conservation districts.

3. The whole area of the State shall, at all times, be covered by a soil conservation district. Each soil conservation district shall cover the whole area of one or more counties. A tri-county soil conservation district shall serve the counties of Hudson, Essex and Passaic to be known as the Hudson, Essex and Passaic Soil Conservation District. Bi-county soil conservation districts shall serve the following pairs of counties: Middlesex-Monmouth, Somerset-Union and Cape May-Atlantic to be known as the Freehold, Somerset-Union and Cape-Atlantic Soil Conservation Districts respectively. Every other county in the State shall be served by its own soil conservation district to be known as "the ..... County Soil Conservation District" with the name of each such county inserted. The State Soil Conservation Committee shall work with the supervisors of the multi-county soil conservation districts to encourage the formation of a soil conservation district in each county of the State, pursuant to the procedures contained in P. L. 1966, c. 77 (C. 4:24–17.1 et seq.).

C. 4:24-21.1 Liabilities.

8. (New section) No district supervisor shall be personally liable for any liability incurred by or on behalf of the district.

C. 4:24-6.1 Review, approval, modification or rejection of decisions.

9. The committee may, on its own motion or at the request of any person aggrieved by any decision by a local district, review and approve, modify or reject any such decision as it deems appropriate.

10. Section 11 of P. L. 1975, c. 251 (C. 4:24–49) is amended to read as follows:

C. 4:24-49 Issuance of certificate of occupancy.

11. No certificate of occupancy for a project shall be issued by a municipality or any other public agency unless there has been compliance with the provisions of a certified plan for permanent measures to control soil erosion and sedimentation.

Repealer.

11. Section 2 of P. L. 1959, c. 129 (C. 4:24–12.1) is repealed.

12. This act shall take effect immediately.

Approved February 27, 1980.

CHAPTER 460

AN ACT concerning notaries public, providing for their appointment and qualification and supplementing Title 52 of the Revised Statutes.

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

C. 52:7-10 Short title.

1. This act shall be known and may be cited as the "Notaries Public Act of 1979."

C. 52:7-11 Notaries public; appointment; removal; application; endorsement; renewal.

2. a. The Secretary of State shall appoint so many notaries public as the Governor shall deem necessary to commission, who shall hold their respective offices for the term of 5 years, but may be removed from office at the pleasure of the Governor.

b. A person desiring to be appointed and commissioned a notary public shall make application to the Secretary of State on a form prescribed by him and endorsed by a member of the Legislature or the Secretary of State or Assistant Secretary of State. Renewals thereof shall be made in the same manner as the original application.

C. 52:7-12 Age requirement.

3. No person shall be appointed a notary public unless he is 18 years of age or older.

C. 52:7-13 Appointment of nonresidents; requirements.

4. No person shall be denied appointment as a notary public on account of residence outside of this State, provided such person

resides in a State adjoining this State and maintains, or is regularly employed in, an office in this State. Before any such nonresident shall be appointed and commissioned as a notary public, he shall file with the Secretary of State an affidavit setting forth his residence and the address of his office or place of employment in this State. Any such nonresident notary public shall file with the Secretary of State a certificate showing any change of residence or of his office or place of employment address in this State.

C. 52:7-14 Oath of office; filing; certificate of commission and qualification; time limitation for taking oath; failure.

5. a. Within 3 months of the receipt of his commission, each notary public shall take and subscribe an oath before the clerk of the county in which he resides, faithfully and honestly to discharge the duties of his office, and that he will make and keep a true record of all such matters as are required by law, which oath shall be filed with said clerk. The oath of office of a nonresident notary public shall be taken and subscribed before the clerk of the county in which he maintains his office or is employed in this State.

b. Upon the administration of said oath, the said clerk shall cause the notary public to indorse a certificate of commission and qualification and shall transmit said certificate to the Secretary of State within 10 days of the administration of said oath.

c. The Secretary of State shall cancel and revoke the appointment of any notary public who fails to take and subscribe said oath within 3 months of the receipt of his commission and any appointment so canceled and revoked shall be null, void and of no effect.

C. 52:7-15 Performance of duties.

6. a. A notary public who has been duly commissioned and qualified is authorized to perform his duties throughout the State.

b. Any notary public, after having been duly commissioned and qualified, shall, upon request, receive from the clerk of the county where he has qualified, as many certificates of his commission and qualification as he shall require for filing with other county clerks of this State, and upon receipt of such certificates the notary public may present the same, together with his autograph signature, to such county clerks as he may desire, for filing.

C. 52:7-16 Autograph signature; filing; acknowledgement or affidavit.

7. The county clerk of the county in which a notary public resides or the county clerk of any county where such notary public shall have filed his autograph signature and certificate, as provided in section 6 of this act, shall, upon request, subjoin to any certificate of proof, acknowledgement or affidavit signed by the notary public,

a certificate under the clerk's hand and seal stating that the notary public was at the time of taking such proof, acknowledgement or affidavit duly commissioned and sworn and residing in this State, and was as such an officer of this State duly authorized to take and certify said proof, acknowledgement or affidavit as well as to take and certify the proof or acknowledgement of deeds for the conveyance of lands, tenements or hereditaments and other instruments in writing to be recorded in this State; that said proof, acknowledgement or affidavit is duly executed and taken according to the laws of this State; that full faith and credit are and ought to be given to the official acts of the notary public, and that the county clerk is well acquainted with the handwriting of the notary public and believes the signature to the instrument to which the certificate is attached is his genuine signature.

C. 52:7-17 Manual for notaries; fee.

8. The Secretary of State shall, by regulation, fix a fee to be charged to each notary for the costs of printing and distribution to each applicant of a manual prescribing the powers, duties and responsibilities of a notary.

C. 52:7-18 Adoption of new name by notary public; statement; filing.

9. After a notary public adopts a name different from that which he used at the time he was commissioned, and before he signs his name to any document which he is authorized or required to sign as notary public, he shall make and sign a statement in writing and under oath, on a form prescribed and furnished by the Secretary of State, setting out the circumstances under which he has adopted the new name. The statement shall set forth whether the new name has been adopted through marriage or by a change of name proceeding or otherwise, and such other information as the Secretary of State shall require.

The statement shall be filed in the office of the Secretary of State and in the office of the clerk of the county where he qualified as a notary public and in the office of the clerk of any county in which he may have filed a certificate of his commission and qualification.

Such statement, or a certified copy thereof, shall be evidence of the right of said notary public to continue to exercise the powers and privileges and perform the duties of a notary public in his changed and new name.

C. 52:7-19 Affixing of name in readable manner.

10. Each notary public, in addition to subscribing his autograph signature to any jurat upon the administration of any oath or the

taking of any acknowledgement or proof, shall affix thereto his name in such a manner and by such means, including, but not limited to, printing, typing, or impressing by seal or mechanical stamp, as will enable the Secretary of State easily to read said name.

Repealer.

11. The following are repealed:

a. R. S. 52:7–1 to 52:7–8;

b. P. L. 1944, c. 243 (C. 52:7–1.1 and 52:7–1.2);

c. P. L. 1949, c. 19 (C. 52:7–1.3);

d. P. L. 1973, c. 121 (C. 52:7–9).

12. This act shall take effect 60 days after enactment.

Approved February 27, 1980.

CHAPTER 461

AN ACT concerning the qualifications for the appointment of municipal policemen in certain cases and supplementing Title 40A of the New Jersey Statutes.

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

C. 40A:14-127.1 Maximum age requirement for certain municipal policemen.

1. Notwithstanding the provisions of any other law to the contrary, any former municipal policeman who has separated from service, other than by removal for cause on charges of misconduct or delinquency, shall be deemed to meet the maximum age requirement for appointment established by N. J. S. 40A:14–127, if his actual age, less the number of years of his previous service as a policeman, would meet the maximum age requirement established by said section.

C. 40A:14-127.2 General qualifications required.

2. No former policeman who meets the age requirements for reappointment under the provisions of this act shall be exempt from meeting the general qualifications for appointment provided in N. J. S. 40A:14–122.

C. 40A:14-127.3 Acceptance into retirement system; contribution rate.

3. The Board of Trustees of the Police and Firemen's Retirement System of New Jersey shall accept as a member of the retire-

ment system any policeman otherwise eligible for membership appointed pursuant to this act, provided that he shall contribute to the retirement system at a rate based on his current age at the time of enrollment.

4. This act shall take effect immediately.

Approved February 27, 1980.

CHAPTER 462

AN ACT to amend "An act providing for the regulation of the transportation of bulk commodities in intrastate commerce, designating the Division of Motor Vehicles in the Department of Law and Public Safety to be responsible therefor, providing penalties for the violation thereof, and making an appropriation therefor," approved October 12, 1977 (P. L. 1977, c. 259).

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

1. Section 3 of P. L. 1977, c. 259 (C. 39:5E–3) is amended to read as follows:

C. 39:5E-3 Definitions.

3. The words and phrases used herein shall have the following meaning:

a. "Person" means any individual, copartnership, association, company, or corporation, and includes any trustee, receiver, assignee, leasee, or personal representative of any person herein defined.

b. "Director" means the Director of the Division of Motor Vehicles in the Department of Law and Public Safety.

c. "Hauler of bulk commodities" or "bulk commodity hauler" means any common carrier or contract carrier as defined herein.

d. "Motor vehicle" means any vehicle, machine, tractor, truck trailer, or semi-trailer, or any combination thereof, propelled, driven or drawn by mechanical power, and used upon the public highways in the transportation of bulk commodities in intrastate commerce defined herein.

e. "Intrastate commerce" means the shipment of property wholly between points in this State, or at a single location, in which the highways within or without this State are used by the transporting motor vehicle.

f. "Public highway" or "highway" means any public street, road, thoroughfare, bridge and way in this State open to the use of the public for purposes of motor vehicular travel, including those that impose toll charges.

g. "Bulk commodities" means liquids or gases, not in containers, and dry fungible commodities, not in containers; slurries not in containers; loaded in bulk in a carrier's vehicle and unloaded in bulk from a carrier's vehicle. It shall not include agricultural, farm or dairy products in their natural, processed, concentrated or treated states, whether packaged or unpackaged.

h. "Common carrier" means any person who or which engages in or holds itself out to the general public to engage in the transportation of bulk commodities by motor vehicle for compensation in intrastate commerce in this State.

i. "Contract carrier" means any person who or which engages in transportation of bulk commodities by motor vehicle in intrastate commerce for compensation under continuing contracts with one person or a limited number of persons either (a) for the furnishing of transportation services through the assignment of motor vehicles for a continuing period of time to the exclusive use of each person served or (b) for the furnishing of transportation services designed to meet the distinct need of each individual customer.

j. "Certificate" means the certificate of public convenience and necessity issued by the director to a common carrier to operate as such over the public highways of this State, or at a single location.

k. "Permit" means the permit issued by the director to contract carriers to operate as such over the public highways of this State, or at a single location.

l. "Property" shall include all of the articles in the definition of bulk commodities.

2. This act shall take effect immediately.

Approved February 27, 1980.

CHAPTER 463

AN ACT concerning motor vehicles and amending R. S. 39:4–129 and R. S. 39:5–30.

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

1. R. S. 39:4–129 is amended to read as follows:

Action in case of accident.

39:4–129. (a) The driver of any vehicle, knowingly involved in an accident resulting in injury or death to any person shall immediately stop the vehicle at the scene of the accident or as close thereto as possible but shall then forthwith return to and in every event shall remain at the scene until he has fulfilled the requirements of subsection (c) of this section. Every such stop shall be made without obstructing traffic more than is necessary. Any person who shall violate this subsection shall be fined not less than $100.00 nor more than $1,000.00 or be imprisoned for a period of 30 days, or both, for the first offense, and for a subsequent offense shall be fined not less than $500.00 nor more than $2,000.00, and be imprisoned for a period of not less than 3 months nor more than 6 months.

In addition, any person convicted under this subsection shall forfeit his right to operate a motor vehicle over the highways of this State for a period of not less than 6 months from the date of his conviction for the first offense and for a subsequent offense shall thereafter forfeit his right to operate a motor vehicle over the highways of this State.

(b) The driver of any vehicle knowingly involved in an accident resulting only in damage to a vehicle, including his own vehicle, or other property which is attended by any person shall immediately stop his vehicle at the scene of such accident or as close thereto as possible, but shall then forthwith return to and in every event shall remain at the scene of such accident until he has fulfilled the requirements of subsection (c) of this section. Every such stop shall be made without obstructing traffic more than is necessary. Any person who shall violate this subsection shall be fined not less than $25.00 nor more than $100.00, or be imprisoned for a period of not more than 30 days, or both, for the first offense, and for a subsequent offense, shall be fined not less than $100.00 nor more

than $200.00, or be imprisoned for a period of not less than 30 days nor more than 90 days or both.

(c) The driver of any vehicle knowingly involved in an accident resulting in injury or death to any person or damage to any vehicle or property shall give his name and address and exhibit his operator's license and registration certificate of his vehicle to the person injured or whose vehicle or property was damaged and to any police officer or witness of the accident, and to the driver or occupants of the vehicle collided with and render to a person injured in the accident reasonable assistance, including the carrying of that person to a hospital or a physician for medical or surgical treatment, if it is apparent that the treatment is necessary or is requested by the injured person.

In the event that none of the persons specified are in condition to receive the information to which they otherwise would be entitled under this subsection, and no police officer is present, the driver of any vehicle involved in such accident after fulfilling all other requirements of subsections (a) and (b) of this section, insofar as possible on his part to be performed, shall forthwith report such accident to the nearest office of the local police department or of the county police of the county or of the State Police and submit thereto the information specified in this subsection.

(d) The driver of any vehicle which knowingly collides with or is knowingly involved in an accident with any vehicle or other property which is unattended resulting in any damage to such vehicle or other property shall immediately stop and shall then and there locate and notify the operator or owner of such vehicle or other property of the name and address of the driver and owner of the vehicle striking the unattended vehicle or other property or, in the event an unattended vehicle is struck and the driver or owner thereof cannot be immediately located, shall attach securely in a conspicuous place in or on such vehicle a written notice giving the name and address of the driver and owner of the vehicle doing the striking or, in the event other property is struck and the owner thereof cannot be immediately located, shall notify the nearest office of the local police department or of the county police of the county or of the State Police and in addition shall notify the owner of the property as soon as the owner can be identified and located. Any person who violates this subsection shall be punished as provided in subsection (b) of this section.

(e) The driver of any motor vehicle involved in an accident resulting in injury or death to any person or damage in the amount

of $250.00 or more to any vehicle or property shall be presumed to have knowledge that he was involved in such accident, and such presumption shall be rebuttable in nature.

2. R. S. 39:5–30 is amended to read as follows:

Suspension or revocation of driver's license, registration certificate or nonresident reciprocity privileges.

39:5–30. a. Every registration certificate and every license certificate to drive motor vehicles may be suspended or revoked, and any person may be prohibited from obtaining a driver's license or a registration certificate, and the reciprocity privilege of any nonresident may be suspended or revoked by the director for a violation of any of the provisions of this Title or on any other reasonable grounds, after due notice in writing of such proposed suspension, revocation or prohibition and the ground thereof.

He may also summon witnesses to appear before him at his office or at any other place he designates, to give testimony in a hearing which he holds looking toward a revocation of a license or registration certificate issued by or under his authority. The summons shall be served at least 5 days before the return date, either by registered mail or personal service. A person who fails to obey the summons shall be subject to a penalty not exceeding $100.00, to be recovered with costs in an action at law, prosecuted by the Attorney-General, and in addition the vehicle registration or driver's license, or both, as the case may be, shall forthwith be revoked. The fee for witnesses required to attend before the director shall be $1.00 for each day's attendance and $0.03 for every mile of travel by the nearest generally traveled route in going to and from the place where the attendance of the witness is required. These fees shall be paid when the witness is excused from further attendance, and the disbursements made from payment of the fees shall be audited and paid in the manner provided for expenses of the department. The actual conduct of said hearing may be delegated by the director to such departmental employees as he may designate, in which case the said employees shall recommend to the director in writing, whether the said licenses or certificates shall or shall not be suspended or revoked.

b. Whenever a matter is presented to the director involving an alleged violation of

(1) R. S. 39:4–98, where an excess of 20 miles per hour over the authorized speed limit is alleged;

(2) R. S. 39:4–50;
(3) R. S. 39:4–96; or
(4) R. S. 39:4–129

wherein the death of another occurred, the director shall issue a proposed notice of suspension or revocation of any license certificate or any nonresident reciprocity privileges held by the individual charged or issue a temporary order prohibiting the individual from obtaining any license to operate any motor vehicle in this State. A preliminary hearing shall be held on the matter within 15 days of the date that the summons was issued or the arrest was made. Adjournment of such hearing upon motion by the individual charged shall be given only for good cause shown. The administrative law judge hearing such matter shall determine at such hearing whether there is probable cause to believe that grounds exist for suspension or revocation of the individual's license certificate. If, from the evidence, the administrative law judge determines that such grounds exist, he shall immediately issue a preliminary suspension of any license certificate or any nonresident reciprocity privileges held by the individual charged or issue a temporary order prohibiting the individual from obtaining any license to operate any motor vehicle in this State. After concluding the proceeding the administrative law judge shall transmit his findings to the director. Whether or not a preliminary finding of probable cause was made at a preliminary hearing, a hearing shall be held on the matter within 45 days of the date that the summons was issued or arrest was made. Adjournment of such hearing upon motion by the individual charged shall be given only for good cause shown. If the hearing is otherwise postponed or delayed solely at the instance of the individual charged, the administrative law judge shall immediately issue a preliminary suspension of any license certificate or any nonresident reciprocity privileges held by the individual charged or if any such preliminary suspension or order is in effect, he shall continue such suspension or order. Such preliminary suspension or temporary order shall be effective until the individual charged appears at a hearing on the matter.

In addition, the director shall require any person whose privileges to operate a motor vehicle are suspended or against whom a temporary order is issued prohibiting the individual from obtaining a license, pursuant to this section, to be reexamined to determine the ability of the person to safely operate a motor vehicle prior to regaining or obtaining any driving privileges in this State.

Any determination resulting from such hearing shall not be admissible at any criminal or quasi-criminal proceedings on the alleged violation or violations.

c. Whenever any other matter is presented to the director involving an alleged violation of this title wherein the death of another occurred and for which he determines immediate action is warranted, he may proceed in the manner prescribed in subsection b. above.

d. Whenever a fatal accident occurs in this State wherein any operator involved in the accident is charged with any of the offenses enumerated in subsection b. of this section, an investigation of the incident, whether performed by the State Police or by local police, shall be completed and forwarded to the director within 72 hours of the time of the accident.

3. This act shall take effect immediately.

Approved February 27, 1980.

CHAPTER 464

A SUPPLEMENT to the "Local Public Contracts Law," approved June 9, 1971 (P. L. 1971, c. 198; C. 40A:11–1 et seq.).

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

C. 40A:11-16.2 Contract exceeding certain limit; partial payments.

1. Any contract or agreement, the total price of which exceeds $100,000.00, entered into by a contracting unit involving the construction, reconstruction, alteration, repair or maintenance of any building, structure, facility or other improvement to real property, shall provide for partial payments to be made at least once each month as the work progresses, unless the contractor shall agree to deposit bonds with the contracting unit pursuant to P. L. 1979, c. 152 (C. 40A:11–16.1).

C. 40A:11-16.3 Withholding of payments.

2. With respect to any contract or agreement entered into by a contracting unit pursuant to section 1 of this act for which the contractor shall agree to the withholding of payments pursuant to P. L. 1979, c. 152 (C. 40A:11–16.1), 2% of the amount due on each

partial payment shall be withheld by the contracting unit pending completion of the contract or agreement.

C. 40A:11-16.4 Partial payments not to exceed cost of materials.

3. Any contract or agreement entered into by a contracting unit pursuant to section 1 of this act may also provide for partial payments at least once in each month with respect to all materials placed along or upon the site, or stored at secured locations, which are suitable for use in the execution of the contract or agreement, if the person providing the materials furnishes releases of liens for the materials at the time each estimate of work is submitted for payment. The total of all the partial payments shall not exceed the cost of the materials.

4. This act shall take effect 30 days after enactment, and shall apply only to contracts or agreements entered into after the effective date of the act.

Approved February 27, 1980.

CHAPTER 465

AN ACT concerning the Secretary of State and repealing R. S. 52:16–3.

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

Repealer.

1. R. S. 52:16–3 is repealed.

2. This act shall take effect immediately.

Approved February 27, 1980.

CHAPTER 466

AN ACT authorizing the sale of surplus real property owned by the Department of Defense.

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

1. The Department of Defense is authorized to sell and convey all of the State's interest in 0.29 acres of surplus real property, borough of Dumont, Bergen county. The property is designated as Block 45, Lot 14-18, on the borough of Dumont tax map.

2. The sale shall be upon terms and conditions as approved by the State House Commission.

3. This act shall take effect immediately.

Approved February 27, 1980.

CHAPTER 467

AN ACT concerning dual candidacy for public office in certain cases and supplementing chapter 3 of Title 19 of the Revised Statutes.

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

C. 19:3-5.1 Running for more than one office to be filled at same general election; prohibition.

1. No person may accept a nomination by petition in the manner provided by R. S. 19:13–8 or consent to the acceptance of a nomination in a petition for a primary election in the manner provided by R. S. 19:23–7, for more than one office to be filled at the same general election, the simultaneous holding of which would be prohibited by the Constitution of the State of New Jersey or R. S. 19:3–5.

2. This act shall take effect immediately.

Approved February 27, 1980.

CHAPTER 468

AN ACT regarding temporary disability compensation and supplementing chapter 15 of Title 34 of the Revised Statutes.

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

New Jersey State Library

C. 34:15-28.1 Refusal to pay temporary disability compensation or delaying denial of claim; liability.

1. If a self-insured or uninsured employer or employer's insurance carrier, having actual knowledge of the occurrence of the injury, or having received notice thereof such that temporary disability compensation is due pursuant to R. S. 34:15–17, unreasonably or negligently delays or refuses to pay temporary disability compensation, or unreasonably or negligently delays denial of a claim, it shall be liable to the petitioner for an additional amount of 25% of the amounts then due plus any reasonable legal fees incurred by the petitioner as a result of and in relation to such delays or refusals. A delay of 30 days or more shall give rise to a rebuttable presumption of unreasonable and negligent conduct on the part of a self-insured or uninsured employer or an employer's insurance carrier.

2. This act shall take effect 60 days after enactment.

Approved February 27, 1980.

CHAPTER 469

AN ACT to amend "A supplement to 'An act concerning municipalities, providing a plan of optional charters and for the manner of adoption and effect thereof,' approved June 8, 1950 (P. L. 1950, c. 210)," approved April 24, 1973 (P. L. 1973, c. 89).

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

1. Section 1 of P. L. 1973, c. 89 (C. 40:69A–60.5) is amended to read as follows:

C. 40:69A-60.5 Appointment of aides to councilmen in municipalities over 250,000.

1. The municipal council of any municipality having a population of more than 250,000 which has adopted or shall hereafter adopt the form of government designated as "Mayor-Council Plan C" provided for in article 5 of the act of which this act is a supplement, may appoint not more than one aide for each councilman, who shall serve, and be removable at the pleasure of the councilman, and who shall serve in the unclassified service of the civil

service of the city and shall receive such salary as shall be fixed by ordinance, but said salary shall not exceed $10,000.00.

2. This act shall take effect immediately.

Approved February 27, 1980.

CHAPTER 470

AN ACT to amend and supplement "An act concerning the rehabilitation and liquidation of certain insurers, supplementing Title 17 of the Revised Statutes, and repealing chapter 30 of Title 17 of the Revised Statutes," approved June 3, 1975 (P. L. 1975, c. 113, C. 17:30c–1 et seq.).

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

1. Section 26 of P. L. 1975, c. 113 (C. 17:30C–26) is amended to read as follows:

C. 17:30C-26 Priority of claims for compensation.

26. Priority of claims for compensation.

a. Compensation actually owing to employees other than officers of an insurer, for services rendered within 3 months prior to the commencement of a proceeding against the insurer under this act, but not exceeding $1,000.00 for each such employee, shall be paid prior to the payment of any other debt or claim, and in the discretion of the commissioner, may be paid as soon as practicable after the proceeding has been commenced; except, that at all times the commissioner shall reserve such funds as will, in his opinion, be sufficient for the expenses of administration.

b. Such priority shall be in lieu of any other similar priority which may be authorized by law as to the wages or compensation of such employees.

c. The priorities of distribution in a liquidation proceeding shall be in the following order:

(1) Expenses of administration;

(2) Compensation of employees as provided in subsection (a) of this section;

(3) Claims for taxes and debts due to Federal or any state or local government which are secured by liens perfected prior to the commencement of delinquency proceedings;

(4) Claims by policyholders, beneficiaries and insurers arising from and within the coverage of and not in excess of the applicable limits of insurance policies and insurance contracts issued by the company and liability claims against insurers which claims are within the coverage of and not in excess of the applicable limits of insurance policies and insurance contracts issued by the company and claims presented by the New Jersey Property-Liability Insurance Guaranty Association and claims presented by any similar organization in another state.

(5) All other claims.

C. 17:30C-31 Application to court for disbursement of assets; contents of proposals; notice.

2. (New section) a. Within 120 days of a final determination of insolvency of a company by a court of competent jurisdiction of this State, the commissioner shall make application to the court for approval of a proposal to disburse assets out of such company's marshaled assets, from time to time as such assets become available, to the New Jersey Property-Liability Insurance Guaranty Association and to any similar organization in another state having substantially the same provision of law.

b. Such proposals shall at least include provision for:

(1) Reserving amounts for the payment of the expenses of administration and the claims falling within priorities established in section 26 of the act to which this act is amendatory.

(2) Disbursement of the assets marshaled to date and subsequent disbursements of assets as they become available.

(3) Equitable allocation of disbursements to the New Jersey Property-Liability Guaranty Association and similar associations established in other states which are entitled thereto; and

(4) The securing by the receiver from each of such associations entitled to disbursements pursuant to this section of an agreement to return to the receiver such assets previously disbursed as may be required to pay claims of secured creditors and claims falling within the priorities established in section 26 of P. L. 1975, c. 113 (C. 17:30C–26), in accordance with such priorities. No bonds shall be required of any such association.

c. The receiver's proposal shall provide for disbursements to the associations in amounts at least equal to the payments made or

to be made thereby for which such association could assert claims against the receiver and shall further provide that if the assets available for disbursement from time to time do not equal or exceed the amounts of such payments made or to be made by the associations then disbursements shall be in the amount of available assets.

d. Notice of intention to apply for approval of a disbursement of assets shall be given to the associations in and to the commissioners of insurance of each of the states. Any such notice shall be deemed to have been given when deposited in the United States certified mails, first class postage fee paid, at least 30 days prior to submission of such application to the court. Action on the application may be taken by the court provided the above required notice has been given and provided further that the receiver's proposal complies with subsection (b) (1) and (b) (4) of this section.

3. This act shall take effect immediately.

Approved February 27, 1980.

CHAPTER 471

AN ACT concerning exemption from taxation of certain property of certain nonprofit organizations and supplementing Article 2 of chapter 4 of Title 54 of the Revised Statutes.

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

1. In the case of any real and personal property of a fraternal organization or lodge exempt from taxation under R. S. 54:4–3.26, as amended, for which an application by the owner of such real and personal property was not submitted on or before January 10, 1972, such owner may file an application with the tax assessor of the local taxing district in which such real and personal property is situated on the forms prescribed by the Director of the Division of Taxation, and such application filed with the assessor after January 10, 1972 and prior to the thirtieth day following the effective date of this act, shall be deemed to have been timely made for the tax year 1972, and the taxes of any such fraternal organization whose real and personal property qualifies for the tax exemption under R. S. 54:4–3.26, as amended, shall be extinguished from the tax rolls of

the local taxing district, together with any liens in connection therewith, notwithstanding any other law to the contrary.

2. In the case of any land held by a religious organization for which an exemption from taxation has been granted under R. S. 54:4–3.6, for the 1978 tax year, the owner may file an application with the tax assessor of the local taxing district in which such land is situated prior to the thirtieth day following the effective date of this act for an exemption of such land from taxation for the tax years 1976 and 1977. The application shall be deemed timely filed for tax years 1976 and 1977 and if otherwise qualified for the exemption under R. S. 54:4–3.6, the taxes on such land of any such religious organization shall be extinguished from the tax rolls of the local taxing district for the applicable tax years, together with any liens in connection therewith, notwithstanding any other law to the contrary.

3. This act shall take effect immediately.

Approved February 27, 1980.

CHAPTER 472

AN ACT concerning the admission of new inmates to county penal facilities and supplementing Title 30 of the Revised Statutes.

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

C. 30:8-57 Disregard of minimum standards; imposition of restrictions.

1. If the Commissioner of the Department of Corrections shall determine that a county jail, workhouse or penitentiary is in willful and continuous disregard of the minimum standards for such facilities promulgated by the department pursuant to section 10 of P. L. 1976 c. 98 (C. 30:1B–10), he shall order a phased restriction of admission of new inmates to such facility. Upon such determination, the commissioner shall notify the county governing body of his decision to impose such a restriction, which notification shall include a written statement specifying the reasons therefor. If the commissioner shall determine that no appropriate action has been initiated within 60 days following such notification to correct the violations specified in the notice, he shall order the following:

a. That such county jail, workhouse or penitentiary shall immediately cease to admit persons sentenced to State penal facilities and awaiting transfer or admittance to such facilities;

b. That such county jail, workhouse or penitentiary shall, upon the expiration of 30 days after such order, immediately cease to admit persons sentenced to terms in said county penal facility; and,

c. That such county jail, workhouse or penitentiary shall, upon the expiration of 90 days after such order, immediately cease to admit all persons sent to said facility.

Any county jail, workhouse or penitentiary so restricted shall continue under such order until such time as the commissioner determines that the violations specified in the notice have been corrected or that the facility has initiated actions which will ensure the correction of said violations.

C. 30:8-58 Relocation of inmates to other penal facilities.

2. Upon the issuance of an order pursuant to section 1 of this act, the commissioner shall locate inmates assigned to any facility so restricted by such order within other State or county penal facilities. The commissioner shall determine which other State or county penal facilities have adequate room for such inmates and shall assign them on the basis of available space; provided, however, that such assignments shall conform to all statutory requirements providing for the classification of inmates. Any State or county penal facilities ordered to accept such inmates shall do so within 5 days following the issuance of an order pursuant to section 1 of this act. Any county jail, workhouse or penitentiary restricted by an order issued pursuant to section 1 of this act shall assume responsibility for all transportation of any person sent to another penal facility so long as such order shall remain in effect.

C. 30:8-59 Repayment to department for reassigned inmates.

3. The governing body of a county whose jail, workhouse or penitentiary has been prohibited from accepting new inmates, and whose inmates have been assigned to other penal facilities pursuant to section 2 of this act, shall appropriate an amount to repay the Department of Corrections for the custody, care, maintenance, and for all other services normally provided by the county to inmates of such facilities. For the first full calendar year, or portion thereof, following the effective date of this act said payment shall be $60.00 a day for each inmate, and said sum shall increase 5% per annum each year thereafter. Any facility receiving inmates pursuant to section 2 of this act shall receive from the Department of

Corrections $60.00 per day for each inmate sent to the institution for the first full calendar year, or portion thereof, following the effective date of this act. Such sum shall increase by 5% per annum each year thereafter.

C. 30:8-60 Rules and regulations.

4. The Department of Corrections shall after notice and hearing promulgate, pursuant to law, such rules and regulations it may deem necessary to effectuate the purposes of this act.

5. This act shall take effect immediately.

Approved February 27, 1980.

CHAPTER 473

AN ACT to amend the "Municipal and County Utilities Authorities Law," approved August 22, 1957 (P. L. 1957, c. 183, C. 40:14B–1 et seq.).

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

1. Section 4 of P. L. 1957, c. 183 (C. 40:14B–4) is amended to read as follows:

C. 40:14B-4 Municipal utilities authority; establishment; membership; terms of office; vacancies.

4. a. Any governing body may, in the case of a county by resolution or ordinance duly adopted, or in the case of a municipality by ordinance duly adopted, create a public body corporate and politic under the name and style of "the ..... municipal utilities authority," or of "the ..... county utilities authority," with the name of said county or municipality inserted. Said body shall consist of the 5 members thereof, who shall be appointed by the governing body as hereinafter in this section provided, and it shall constitute the county or municipal authority contemplated and provided for in this act and an agency and instrumentality of said county or municipality. After the taking effect of the resolution or ordinance for the creation of said body and the filing of a certified copy thereof as in section 7 of this act provided, 5 persons shall be appointed as the members of the county or municipal authority. The members first appointed shall, by the resolution

of appointment, be designated to serve for terms respectively expiring on the first days of the first, second, third, fourth and fifth Februarys next ensuing after the date of their appointment. On or after January 1 in each year after such first appointments, 1 person shall be appointed as a member of the county or municipal authority to serve for a term commencing on February 1 in such year and expiring on February 1 in the fifth year after such year. In the event of a vacancy in the membership of the county or municipal authority occurring during an unexpired term of office, a person shall be appointed as a member of the county or municipal authority to serve for such unexpired term.

b. Any county governing body may provide by resolution or ordinance as appropriate that the county utilities authority created by it shall consist of nine members. The four additional members first appointed pursuant to said resolution or ordinance shall be designated to serve for terms respectively expiring on the first day of the second, third, fourth and fifth Februarys next ensuing after the date of their appointment. On or after January 1 in the year in which expires the term of said additional member first appointed and in every fifth year thereafter, one person shall be appointed as a member of the county utilities authority by said county governing body as a successor to such additional member, to serve for a term commencing on February 1 of such year and expiring on February 1 in the fifth year after such year.

c. Whenever the municipal authority of any county shall certify to the governing body of any county that it has entered into a contract pursuant to section 49 of this act (C. 40:14B–49) with one or more municipalities situate within any other county one additional member of the municipal authority for each such other county shall be appointed by the governing body of such other county as in this section provided. The additional member so appointed for any such other county, and his successors shall be a resident of one of said municipalities situate within such other county. The additional member first appointed or to be first appointed for such other county shall serve for a term expiring on the first day of the fifth February next ensuing after the date of such appointment, and on or after January 1 in the year in which expires the term of the said additional member first appointed, and in every fifth year thereafter, one person shall be appointed by said governing body as a member of the municipal authority as successor to said additional member, to serve for a term commencing on February 1 in such year and expiring on

February 1 in the fifth year after such year. If after such appointment of an additional member for such other county the municipal authority shall certify to said governing body of such other county that it is no longer a party to a contract entered into pursuant to section 49 of this act (C. 40:14B–49) with any municipality situate within such other county, the term of office of such additional member shall thereupon cease and expire and no additional member for such other county shall thereafter be appointed.

d. In any county wherein a county sewer authority is reorganized as a municipal authority pursuant to section 6. of this act (C. 40:14B–6), its governing body shall, by resolution or ordinance as appropriate, reappoint the existing members of the authority to terms corresponding to terms of members first appointed to a municipal authority pursuant to subsection a. of this section; provided, however, that, if said county sewer authority has seven members, then the existing members shall be reappointed to the reorganized municipal authority pursuant to subsections a. and b. of this section.

2. This act shall take effect immediately.

Approved February 27, 1980.

CHAPTER 474

AN ACT appropriating funds from the Clean Waters Fund for the purposes of researching, planning, acquiring, developing, constructing and maintaining water supply, wastewater treatment and water quality plans, facilities and programs; and providing for procedures and regulations relating to the expenditure of such funds.

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

1. There is hereby appropriated to the Department of Environmental Protection, from the Clean Waters Fund created pursuant to the "Clean Waters Bond Act of 1976" (P. L. 1976, c. 92), the sum of $125,000.00* for the purpose of providing a grant to the

borough of Haledon, such grant to be used for the repair and maintenance of the Haledon Reservoir Dam.

2. The appropriation made pursuant to this act shall be subject to the provisions of P. L. 1976, c. 92 and P. L. 1977, c. 119.

3. This act shall take effect immediately.

Approved February 27, 1980.

* This $2,800,000.00 item was reduced to $125,000.00 by line item veto of the Governor. See Statement following.

STATEMENT TO ASSEMBLY BILL NO. 3154

Pursuant to Article V, Section I, Paragraph 15 of the Constitution, I am appending to Assembly Bill No. 3154 at the time of signing it, this statement of the items, or parts thereof, to which I object so that each item, or part thereof, so objected to shall not take effect.

This bill would appropriate $2,800,000.00 from the 1976 Clean Waters Fund to provide a grant to the Borough of Haledon to be used for the repair and maintenance of the Haledon Reservoir Dam. The stated intent of this bill is to respond to an Army Corps of Engineers' report which indicates that certain deficiencies exist in the dam and that certain repairs should be made. However, there has been no detailed engineering work which would demonstrate the extent of the work that would be required to meet the Corps' recommendations. Accordingly, I am reducing the appropriation to $125,000.00 for the preparation a detailed engineering report to provide this information. It is my intent and understanding that the Department of Environmental Protection will be closely involved with the preparation of this report and will see that it is professionally carried out within the limits of this appropriation. I find such report justified for this particular dam as a prototype project to develop statewide standards for compliance with the several Army Corps of Engineers' reports statewide. I further expect that any funds not expended for these purposes will be returned to the State Treasury.

On page 1, section 1, line 4: *delete $2,800,000.00, insert $125,000.00.*

Respectfully,

/s/ BRENDAN BYRNE,
Governor.

[SEAL]

Attest:

/s/ HAROLD L. HODES,
Chief of Staff, Secretary.

CHAPTER 475

AN ACT appropriating funds from the Clean Waters Fund for the purposes of researching, planning, acquiring, developing, constructing and maintaining water supply, wastewater treatment and water quality plans, facilities and programs; and providing for procedures relating to the expenditure of such funds.

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

1. There is hereby appropriated to the Department of Environmental Protection from the Clean Waters Fund created pursuant to the "Clean Waters Bond Act of 1976" (P. L. 1976, c. 92), the sum of $3,100,000.00 for the following water quality planning and water supply construction and rehabilitation projects:

Areawide Water Quality Planning	$750,000
Delaware and Raritan Canal Rehabilitation and Improvement	2,200,000
Manasquan River Reservoir Engineering and Design	150,000
	$3,100,000

2. In order to provide flexibility in administering this act and all prior acts appropriating moneys from the Clean Waters Fund, the Commissioner of the Department of Environmental Protection may apply to the Director of the Division of Budget and Accounting for permission to transfer a part of any item to any other item in such appropriations. Upon approval of such application by said director and by the Legislative Budget Officer, in writing, said director shall make such transfer.

3. The expenditure of the sums appropriated by this act are subject to the provisions and conditions of P. L. 1976, c. 92 and P. L. 1977, c. 119.

4. This act shall take effect immediately.

Approved February 27, 1980.

CHAPTER 476

AN ACT concerning municipalities in relation to the maintenance and condition of residential rental property in certain circumstances and supplementing Title 40 of the Revised Statutes.

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

C. 40:48-2.12m Adoption of ordinances requiring certificates of inspection or occupancy before rerental.

1. The governing body of a municipality may adopt ordinances regulating the maintenance and condition of any unit of dwelling space, upon the termination of occupancy, in any residential rental property for the purpose of the safety, healthfulness, and upkeep of the structure and the adherence to such other standards of maintenance and condition as are required in the interest of public safety, health and welfare. Such ordinances shall require the owner of any residential rental property, prior to rental or lease involving a new occupancy of any unit of dwelling space in such property, to obtain a certificate of inspection or occupancy for the unit of dwelling space. Such certificate of inspection or occupancy shall be issued by the municipality upon the inspection of the unit of dwelling space by a municipal inspector and his findings that such unit meets the standards provided by law. The municipality may charge a fee to fund the costs of the inspections and the issuance of the certificates. For purposes of this act "owner" means the person who owns, purports to own, or exercises control of any residential rental property.

2. This act shall take effect immediately.

Approved February 27, 1980.

CHAPTER 477

AN ACT to amend and supplement the "New Jersey Employer-Employee Relations Act," approved April 30, 1941 (P. L. 1941, c. 100, C. 34:13A–1 et seq.), as said short title was amended by P. L. 1968, c. 303.

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

1. Section 1 of P. L. 1974, c. 123 (C. 34:13A–5.4) is amended to read as follows:

C. 34:13A-5.4 Prohibited acts by employers, their representatives or agents; powers and duties of commission.

1. a. Public employers, their representatives or agents are prohibited from:

(1) Interfering with, restraining or coercing employees in the exercise of the rights guaranteed to them by this act.

(2) Dominating or interfering with the formation, existence or administration of any employee organization.

(3) Discriminating in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage employees in the exercise of the rights guaranteed to them by this act.

(4) Discharging or otherwise discriminating against any employee because he has signed or filed an affidavit, petition or complaint or given any information or testimony under this act.

(5) Refusing to negotiate in good faith with a majority representative of employees in an appropriate unit concerning terms and conditions of employment of employees in that unit, or refusing to process grievances presented by the majority representative.

(6) Refusing to reduce a negotiated agreement to writing and to sign such agreement.

(7) Violating any of the rules and regulations established by the commission.

b. Employee organizations, their representatives or agents are prohibited from:

(1) Interfering with, restraining or coercing employees in the exercise of the rights guaranteed to them by this act.

(2) Interfering with, restraining or coercing a public employer in the selection of his representative for the purposes of negotiations or the adjustment of grievances.

(3) Refusing to negotiate in good faith with a public employer, if they are the majority representative of employees in an appropriate unit concerning terms and conditions of employment of employees in that unit.

(4) Refusing to reduce a negotiated agreement to writing and to sign such agreement.

(5) Violating any of the rules and regulations established by the commission.

c. The commission shall have exclusive power as hereinafter provided to prevent anyone from engaging in any unfair practice listed in subsections a. and b. above. Whenever it is charged that anyone has engaged or is engaging in any such unfair practice, the commission, or any designated agent thereof, shall have authority to issue and cause to be served upon such party a complaint stating the specific unfair practice charged and including a notice of hearing containing the date and place of hearing before the commission or any designated agent thereof; provided that no complaint shall issue based upon any unfair practice occurring more than 6 months prior to the filing of the charge unless the person aggrieved thereby was prevented from filing such charge in which event the 6-month period shall be computed from the day he was no longer so prevented.

In any such proceeding, the provisions of the Administrative Procedure Act P. L. 1968, c. 410 (C. 52:14B–1 et seq.) shall be applicable. Evidence shall be taken at the hearing and filed with the commission. If, upon all the evidence taken, the commission shall determine that any party charged has engaged or is engaging in any such unfair practice, the commission shall state its findings of fact and conclusions of law and issue and cause to be served on such party an order requiring such party to cease and desist from such unfair practice, and to take such reasonable affirmative action as will effectuate the policies of this act. All cases in which a complaint and notice of hearing on a charge is actually issued by the commission, shall be prosecuted before the commission or its agent, or both, by the representative of the employee organization or party filing the charge or his authorized representative.

d. The commission shall at all times have the power and duty, upon the request of any public employer or majority representative, to make a determination as to whether a matter in dispute is within the scope of collective negotiations. The commission shall serve the parties with its findings of fact and conclusions of law. Any determination made by the commission pursuant to this subsection may be appealed to the Appellate Division of the Superior Court.

e. The commission shall adopt such rules as may be required to regulate the conduct of representation elections, and to regulate the time of commencement of negotiations and of institution of impasse procedures so that there will be full opportunity for negotiations and the resolution of impasses prior to required budget submission dates.

f. The commission shall have the power to apply to the Appellate Division of the Superior Court for an appropriate order enforcing any order of the commission issued under subsection c. or d. hereof, and its findings of fact, if based upon substantial evidence on the record as a whole, shall not, in such action, be set aside or modified; any order for remedial or affirmative action, if reasonably designed to effectuate the purposes of this act, shall be affirmed and enforced in such proceeding.

C. 34:13A-5.5 Requirement of representation fee in lieu of dues.

2. (New section) a. Notwithstanding any other provisions of law to the contrary, the majority representative and the public employer of public employees in an appropriate unit shall, where requested by the majority representative, negotiate concerning the subject of requiring the payment by all nonmember employees in the unit to the majority representative of a representation fee in lieu of dues for services rendered by the majority representative. Where agreement is reached it shall be embodied in writing and signed by the authorized representatives of the public employer and the majority representative.

b. The representation fee in lieu of dues shall be in an amount equivalent to the regular membership dues, initiation fees and assessments charged by the majority representative to its own members less the cost of benefits financed through the dues, fees and assessments and available to or benefitting only its members, but in no event shall such fee exceed 85% of the regular membership dues, fees and assessments.

c. Any public employee who pays a representation fee in lieu of dues shall have the right to demand and receive from the majority representative, under proceedings established and maintained in accordance with section 3 of this act, a return of any part of that fee paid by him which represents the employee's additional pro rata share of expenditures by the majority representative that is either in aid of activities or causes of a partisan political or ideological nature only incidentally related to the terms and conditions of employment or applied toward the cost of any other benefits available only to members of the majority representative. The pro rata share subject to refund shall not reflect, however, the costs of support of lobbying activities designed to foster policy goals in collective negotiations and contract administration or to secure for the employees represented advantages in wages, hours, and other conditions of employment in addition to those secured through collective negotiations with the public employer.

C. 34:13A-5.6 Payroll deduction; membership in majority representative.

3. (New section) Where a negotiated agreement is reached, pursuant to section 2 of this act, a majority representative of public employees in an appropriate unit shall be entitled to a representation fee in lieu of dues by payroll deduction from the wages or salaries of the employees in such unit who are not members of a majority representative; provided, however, that membership in the majority representative is available to all employees in the unit on an equal basis and that the representation fee in lieu of dues shall be available only to a majority representative that has established and maintained a demand and return system which provides pro rata returns as described in section 2(c). The demand and return system shall include a provision by which persons who pay a representation fee in lieu of dues may obtain review of the amount returned through full and fair proceedings placing the burden of proof on the majority representative. Such proceedings shall provide for an appeal to a board consisting of three members to be appointed by the Governor, by and with the advice and consent of the Senate, who shall serve without compensation but shall be reimbursed for actual expenses reasonably incurred in the performance of their official duties. Of such members, one shall be representative of public employers, one shall be representative of public employee organizations and one, as chairman, who shall represent the interest of the public as a strictly impartial member not having had more than a casual association or relationship with any public employers, public employer organizations or public employee organizations in the 10 years prior to appointment. Of the first appointees, one shall be appointed for 1 year, one for a term of 2 years and the chairman, for a term of 3 years. Their successors shall be appointed for terms of 2 years each and until their successors are appointed and qualified, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the member whose office has become vacant. Nothing herein shall be deemed to require any employee to become a member of the majority representative.

C. 34:13A-5.7 Discrimination between nonmembers and members treated as unfair practice.

4. (New section) Any action engaged in by a public employer, its representatives or agents, or by an employee organization, its representatives or agents, which discriminates between nonmembers who pay the said representation fee and members with regard to the payment of such fee other than as allowed under this act,

shall be treated as an unfair practice within the meaning of subsection 1(a) or subsection 1(b) of this act.

C. 34:13A-5.8 Payment to majority representative.

5. (New section) Payment of the representation fee in lieu of dues shall be made to the majority representative during the term of the collective negotiation agreement affecting such nonmember employees and during the period, if any, between successive agreements so providing, on or after, but in no case sooner than the thirtieth day following the beginning of an employee's employment in a position included in the appropriate negotiations unit, and the tenth day following reentry into the appropriate unit for employees who previously served in a position included in the appropriate unit who continued in the employ of the public employer in an excluded position and individuals being reemployed in such unit from a reemployment list. For the purposes of this section, individuals employed on a 10-month basis or who are reappointed from year to year shall be considered to be in continuous employment.

C. 34:13A-5.9 Rules and regulations.

6. (New section) The commission may promulgate rules or regulations to effectuate the purposes of this act.

7. This act shall take effect July 1 next following its enactment.

Approved February 27, 1980.

CHAPTER 478

AN ACT providing for the regulation of dental service benefits by dental plan organizations.

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

C. 17:48D-1 Short title.

1. This act shall be known and may be cited as the "Dental Plan Organization Act."

C. 17:48D-2 Definitions.

2. In this act, unless the context otherwise requires:

a. "Commissioner" means the Commissioner of Insurance;

b. "Dental plan" means any contractual arrangement for dental services provided directly or arranged for or administered

directly on a prepaid or postpaid individual or group capitation basis;

c. "Dental plan organization" means any person who undertakes to provide directly or to arrange for or administer one or more dental plans providing dental services;

d. "Dental services" means services included in the practice of dentistry as defined in R. S. 45:6–19.

e. "Enrollee" means an individual and his dependents who are enrolled in a dental plan organization;

f. "Evidence of coverage" means any certificate, agreement or contract issued to an enrollee setting out the dental services to which the enrollee is entitled.

C. 17:48D-3 Establishment, operation and administration of dental plan organization; certificate of authority; application; information included.

3. a. No person may establish, operate or administer a dental plan organization, or sell or offer to sell, or solicit offers to purchase, or receive advance or periodic consideration in conjunction with any dental plan organization, utilizing in the aggregate the services of more than one full-time equivalent dentist without obtaining and maintaining a certificate of authority pursuant to this act.

b. Within 90 days after the effective date of this act, every dental plan organization utilizing in the aggregate the services of more than one full-time equivalent dentist shall submit an application for a certificate of authority to the commissioner. A dental plan organization may continue to operate until the commissioner acts upon the application. If the application is denied, the dental plan organization shall be treated as if its certificate of authority has been revoked.

c. An application for a certificate of authority shall be in a form prescribed by the commissioner, shall be verified by an officer or authorized representative of the dental plan organization and shall include the following:

(1) All basic organizational documents of the dental plan organization such as the articles of incorporation, articles of association, partnership agreement, trade name certificate, trust agreement, shareholder agreement or other applicable documents and all amendments to those documents;

(2) The bylaws, rules and regulations or similar documents regulating the conduct or the internal affairs of the dental plan organization;

(3) The names, addresses and official positions of the persons who are responsible for the conduct of the affairs of the dental plan organization, including all members of the board of directors, board of trustees, executive committee or other governing board or committee, the principal officers in the case of a corporation and the partners or members in the case of a partnership or association;

(4) All contracts made between any dentist and the dental plan organization;

(5) All contracts made between any dentist and any person listed in paragraph (3) of this subsection, any consultant, or any business manager;

(6) A description of the dental plan organization, its dental plan or plans, facilities and personnel;

(7) The form of the evidence of coverage to be issued to the enrollees;

(8) The form of any group contract which is issued to employers, unions, trustees or others;

(9) Financial statements showing the dental plan organization's assets, liabilities and sources of financial support. If the dental plan organization's financial affairs are audited by independent certified public accountants, a copy of the most recent regular certified financial statement shall satisfy this requirement unless the commissioner determines that additional or more recent financial information is required for the proper administration of this act;

(10) The proposed method of marketing the plan, a financial plan with a 3 year projection of the initial operating results and a statement of the sources of working capital and any other sources of funding;

(11) A power of attorney duly executed by the dental plan organization if not domiciled in this State, appointing the commissioner, the commissioner's successors in office and duly authorized deputies as the true and lawful attorney of the dental plan organization in and for this State, upon whom lawful process in any legal action or proceeding against the dental plan organization on a cause of action arising in this State may be served;

(12) A description of the geographic area or areas to be served;

(13) A description of the procedures and programs to be implemented to achieve an effective dental plan as required in section 5. a. (2) of this act; and

(14) Such other information as the commissioner may require.

d. The dental plan organization shall pay a fee of $100.00 to the commissioner upon filing an application for a certificate of authority.

C. 17:48D-4 Notice of modification; filing.

4. Within 10 days following any significant modification of information submitted with the application for a certificate of authority, a dental plan organization shall file notice of the modification with the commissioner.

C. 17:48D-5 Certificate of authority; issuance; conditions.

5. a. The commissioner shall issue a certificate of authority if he is satisfied that the following conditions are met:

(1) The persons responsible for conducting the affairs of the dental plan organization are competent and trustworthy and are professionally capable of providing, arranging for or administering the services offered by the plan;

(2) The dental plan organization constitutes an appropriate mechanism to achieve an effective dental plan, as determined by the commissioner;

(3) The dental plan organization has demonstrated the potential to provide dental services in a manner that will assure both availability and accessibility of adequate personnel and facilities;

(4) The dental plan organization has arrangements for an ongoing quality of dental care assurance program;

(5) The dental plan organization has a procedure to establish and maintain uniform systems of cost accounting and reports and audits that meet the requirements of the commissioner;

(6) The dental plan organization is financially responsible and may reasonably be expected to meet its obligations to enrollees. In making this determination the commisisoner shall consider:

(a) The financial soundness of the dental plan's arrangements for services and the schedule of charges used;

(b) Any arrangement with an insurer or medical or dental service corporation for continuation of coverage in the event of discontinuance of the plan on an indemnity basis through a group vehicle to the end of the period for which premiums were paid to the discontinued dental plan organization; and

(c) The sufficiency of an agreement with dentists for the provision of dental services.

(7) A general surplus is maintained as required in section 6 of this act;

(8) A contingent surplus is accumulated and maintained as required in section 7 of this act; and

(9) The condition or methods of operation of the dental plan organization are not such as would render its operations hazardous to its enrollees or the public.

b. When the commissioner disapproves an application for a certificate of authority he shall notify the dental plan organization in writing of the reasons for the disapproval.

c. A certificate of authority shall expire 1 year following the date of issuance or previous renewal. If the dental plan organization remains in compliance with this act and has paid a renewal fee of $100.00, its certificate shall be renewed.

C. 17:48D-6 General surplus.

6. The commissioner may determine, at his discretion, the amount of a general surplus, if any, that the dental plan organization shall be required to maintain.

C. 17:48D-7 Special contingent surplus for organizations.

7. A dental plan organization utilizing in the aggregate the services of more than 20 full-time equivalent dentists shall accumulate and maintain a special contingent surplus in excess of its assets over liabilities at the rate of 2% annually of its net contract and certificate income until the surplus totals $100,000.00.

C. 17:48D-8 Individuals to be bonded; malpractice insurance.

8. a. Any director, officer, employee or partner of a dental plan organization who receives, collects, reimburses or invests moneys in connection with the activities of the organization shall be bonded for his fidelity in an amount which shall be determined by the commissioner.

b. Each dentist employed by a dental plan organization shall be insured against professional liability or malpractice by an insurer licensed to conduct business in this State for such minimum amounts as shall be determined by the commissioner.

C. 17:48D-9 Evidence of coverage or certificate for enrollees; issuance.

9. a. An enrollee shall be entitled to receive evidence of coverage or a certificate indicating specifically the nature and extent of coverage, and evidence of the total amount or percentage of payment, if any, which the enrollee is obligated to pay for dental services. If an individual enrollee obtains coverage through an insurance policy or through a contract issued by a medical or

dental service corporation, whether by option or otherwise, the insurer or medical or dental service corporation shall issue the evidence of coverage. Otherwise, the dental plan organization shall issue the evidence of coverage.

b. No evidence of coverage or amendment thereto shall be issued or delivered to any person until a copy of the form of evidence of coverage or amendment thereto has been filed with the commissioner.

c. Evidence of coverage shall contain a clear and complete statement if a contract, or a reasonably complete summary if a certificate, of:

(1) The dental services and the insurance or other benefits, if any, to which enrollees are entitled;

(2) Any limitations on the services, kind of services, benefits, or kind of benefits to be provided, including any charge, deductible or co-payment feature;

(3) Where and in what manner information is available as to how services may be obtained; and

(4) A clear and understandable description of the dental plan organization's method for resolving enrollees' complaints.

d. Any subsequent change in the evidence of coverage or the amount or percentage of payment which the enrollee is obligated to pay, shall be evidenced in a separate document issued to the enrollee.

C. 17:48D-10 Schedule of charges; filing.

10. a. No schedule of charges for enrollee coverage for dental services, or amendment thereto, may be used by a dental plan organization until a copy of such schedule, or amendment thereto, has been filed with the commissioner. The commissioner may disapprove the schedule of charges at any time if he finds that the charges are excessive, inadequate or unfairly discriminatory. If the commissioner disapproves the schedule of charges he shall notify the dental plan organization within 5 days of the date of disapproval and specify in the notice, the reason for his disapproval. A hearing shall be granted within 20 days after a request in writing by the filer. It shall be unlawful for any dental plan organization whose schedule of charges has been disapproved to effect any contract or issue any subscription certificate which uses the disapproved schedule of charges until a revised schedule of charges has been filed.

b. Charges shall be established in accordance with actuarial principles, but charges applicable to an enrollee shall not be individually determined based on the status of his health.

C. 17:48D-11 Examination of books, accounts and files.

11. a. The commissioner or his designee may, as often as he may reasonably determine, investigate the business and examine the books, accounts, records and files of every dental plan organization. For that purpose the commissioner or his designee shall have reasonably free access to the offices and places of business, books, accounts, papers, records and files of all dental plan organizations. A dental plan organization shall keep and use in its business such books, accounts and records as will enable the commissioner to determine whether the dental plan organization is complying with the provisions of this act and with the rules and regulations promulgated pursuant to it. A dental plan organization shall preserve its books, accounts and records for at least 3 years; except that preservation by photographic reproduction or records in photographic form shall constitute compliance with this act.

b. For the purpose of the examination, the commissioner may, within the limits of funds appropriated for such purpose, contract with such persons as he may deem advisable to conduct the same or assist therein.

c. At the discretion of the commissioner, the Commissioner of Health and the New Jersey State Board of Dentistry may participate in the investigations and examinations described in this section to verify the existence of an effective dental plan.

d. The expenses incurred in making any examination pursuant to this section up to $1,000.00 annually, shall be assessed against and paid by the dental plan organization so examined. Upon written notice by the commissioner of the total amount of an assessment, a dental plan organization shall become liable for and shall pay the assessment to the commissioner.

C. 17:48D-12 Complaints; procedure for resolution.

12. a. A dental plan organization shall establish and maintain a complaint system to provide reasonable procedures for the resolution of written complaints initiated by enrollees concerning dental plan services. The dental plan organization shall maintain records of all written complaints initiated by enrollees.

b. The commissioner may examine the complaint system and if he determines that the system is not adequate he may require a revision of the complaint system.

C. 17:48D-13 Report; forms.

13. a. Every dental plan organization annually on or before March 1 shall file with the commissioner a report covering its activities for the preceding calendar year.

b. The reports shall be on forms prescribed by the commissioner and shall include:

(1) A financial statement of the dental plan organization, including its balance sheet, receipts and disbursements for the preceding year certified by a certified public accountant;

(2) Any significant modification of information submitted with the application for a certificate of authority;

(3) The number of persons who became enrollees during the year, the number of enrollees as of the end of the year and the number of enrollments terminated during the year;

(4) A description of the enrollee complaint system including the procedures of the complaint system, the total number of written complaints handled through the system, a summary of causes underlying the complaints filed, and the number, amount and disposition of malpractice claims settled during the year by the dental plan organization and any of the dentists used by it; and

(5) Any other information relating to the performance of the dental plan organization as required by the commissioner.

C. 17:48D-14 General expenses; limitations.

14. A dental plan organization shall not use more than 30% of its gross contract and certificate income in the first year of operation, 25% in the second year of operation and 20% in any subsequent year for general expenses, acquisition expenses and miscellaneous taxes, licenses and fees.

C. 17:48D-15 Untrue or misleading advertising; enforcement of provisions.

15. a. No dental plan organization, or representative thereof, may cause or knowingly permit the use of advertising which is untrue or misleading, solicitation which is untrue or misleading, or any form of evidence of coverage which is deceptive. For purposes of this act:

(1) A statement or item of information shall be deemed to be untrue if it does not conform to fact in any respect which is or may be significant to an enrollee of, or person considering enrollment in, a dental plan;

(2) A statement or item of information shall be deemed to be misleading, whether or not it may be literally untrue, if, in the total context in which the statement is made or the item of in-

formation is communicated, the statement or item of information may be reasonably understood by a person who does not possess special knowledge regarding dental plan coverage, as indicating any benefit or advantage or the absence of any exclusion, limitation, or disadvantage of possible significance to an enrollee of, or person considering enrollment in a dental plan, if the benefit or advantage or absence of exclusion, limitation, or disadvantage does not in fact exist;

(3) Evidence of coverage shall be deemed to be deceptive if the evidence of coverage taken as a whole, and with consideration given to typography, format and language, may cause a person who does not possess special knowledge regarding dental plans and evidences of coverage therefor, to expect benefits, services, charges, or other advantages which the evidence of coverage does not provide or which the dental plan organization issuing the evidence of coverage does not regularly make available for enrollees covered under such evidence of coverage.

b. The unfair trade practice provisions contained in chapter 30 of Title 17B of the New Jersey Statutes shall apply to dental plan organizations, dental plans and evidences of coverage, except to the extent that the commissioner determines that the nature of dental plan organizations, dental plans and evidences of coverage render these sections clearly inappropriate.

c. No dental plan organization, unless licensed as an insurer, may use in its name, evidence of coverage or literature any of the words "insurance," "assurance," "casualty," "surety," "mutual" or any other words descriptive of the insurance, casualty, or surety business or deceptively similar to the name or description of any insurer licensed to do business in this State.

The provisions of this subsection shall be enforced by the Division of Consumer Affairs in the Department of Law and Public Safety and, where applicable, the commissioner. Nothing in this act shall limit the powers of the Attorney General and the procedures with respect to consumer fraud in P. L. 1960, c. 39 (C. 56:8–1 et seq.).

C. 17:48D-16 Suspension or revocation of certificate of authority; conditions.

16. a. The commissioner may suspend or revoke any certificate of authority issued to a dental plan organization pursuant to this act if he finds that any of the following conditions exist:

(1) The dental plan organization is operating in a manner significantly contrary to that described in sections 3 and 4 of this act;

(2) The dental plan organization issues an evidence of coverage which does not comply with the requirements of section 9 of this act;

(3) The dental plan organization does not provide or arrange for an effective dental plan as determined by the commissioner;

(4) The dental plan organization can no longer be expected to meet its obligations to enrollees;

(5) The dental plan organization, or any authorized person on its behalf, has advertised or merchandised its services in an untrue or misleading manner;

(6) The dental plan organization has failed to comply with this act or any rules and regulations promulgated thereunder.

b. When the commissioner has cause to believe that grounds for the suspension or revocation of a certificate of authority exist, he shall notify the dental plan organization in writing, specifically stating the grounds for suspension or revocation. A hearing on the matter shall be granted by the commissioner within 20 days after a request in writing by the dental plan organization. After the hearing, or upon failure of the dental plan organization to appear at the hearing, the commissioner shall take action on his findings.

c. If the commissioner suspends the certificate of authority, the dental plan organization shall not accept any additional enrollees or engage in any advertising or solicitation during the period of the suspension.

d. If the commissioner revokes the certificate of authority, the dental plan organization shall proceed to dissolve its structure immediately following the effective date of the order of revocation, and shall conduct no further business except as may be essential to the orderly conclusion of the affairs of the dental plan organization. The commissioner by written order, however, may permit such further operation of the dental plan organization as he finds to be in the best interest of enrollees to the end that enrollees shall be afforded the greatest practical opportunity to obtain continuing dental plan coverage.

e. Notwithstanding the provisions of subsections c. and d. of this section, a dental plan organization which has had its certificate of authority suspended or revoked, or has suffered an adverse decision by the commissioner, shall be entitled to a hearing pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.).

C. 17:48D-17 Orders to cease and desist; issuance.

17. a. The commissioner may issue an order directing a dental plan organization or a representative of a dental plan organization to cease and desist from engaging in any act or practice in violation of the provisions of this act.

b. Within 20 days after service of the order of cease and desist, the respondent may request a hearing on the question of whether acts or practices in violation of this act have occurred. The hearings shall be conducted pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.) and judicial review shall be available as provided therein.

C. 17:48D-18 Violation of act; penalty.

18. Any dental plan organization which violates any provisions of this act, or neglects, fails or refuses to comply with any of the requirements of this act, except the failure to file an annual report and the failure to reply in writing to inquiries of the commissioner, shall be liable for a civil penalty of no more than $1,000.00 for each violation. The penalty may be sued for and recovered by the commissioner in a summary proceeding pursuant to the "Penalty Enforcement Law" (N. J. S. 2A:58–1 et seq.).

C. 17:48D-19 Insolvency; court action; receiver; appointment.

19. Whenever any dental plan organization shall become insolvent or shall suspend its ordinary business for want of funds to carry on the same, or whenever the commissioner shall ascertain, as a result of examination as authorized by this act, or in any other manner, that the dental plan organization is exceeding its powers or violating the law or that its condition or methods of business may render the continuance of its operations hazardous to its enrollees or the public, or that its assets are less than its liabilities, the commissioner may institute an action in the Superior Court to enjoin it from the transaction of any further business, or from the transfer or disposal of its property in any manner whatsoever. The court may proceed in the action in a summary manner or otherwise. It may grant injunctive relief and appoint a receiver, with power to sue for, collect, receive and take into his possession all the goods and chattels, rights and credits, moneys and effects, lands and tenements, books, papers, choses in action, bills, notes and property of every description belonging to the dental plan organization and sell and convey and assign the same, and authorize the purchase of continuing coverage for enrollees utilizing the remaining assets, and hold and dispose of the proceeds thereof under the direction of the Superior Court. The

court may cause the receiver to continue the existing operations of the organization, under court supervision, until the next anniversary of the subscription certificates and contracts then in force. The dental plan organization may be deemed insolvent whenever it is presently or prospectively unable to fulfill its outstanding contracts and to maintain the surpluses required pursuant to this act.

C. 17:48D-20 Certain documents treated as public documents.

20. Applications, filings and reports required under this act except contracts referred to in section 3. c. (4) and 3. c. (5) of this act, shall be treated as public documents and shall not be considered confidential.

C. 17:48D-21 Diagnosis, treatment or health of enrollees; confidentiality.

21. Data or information pertaining to the diagnosis, treatment or health of any enrollee obtained by the dental plan organization from the enrollee or any dentist shall be confidential and shall not be disclosed to any person except to the extent that it may be necessary to carry out the purposes of this act, or upon the express consent of the enrollee, or pursuant to statute or court order for the production of evidence or the discovery thereof, or in the event of claim or litigation between the enrollee and the dental plan organization wherein the data or information is pertinent. A dental plan organization shall be entitled to claim any statutory privileges against such disclosure which the dentist who furnished the information to the dental organization is entitled to claim.

C. 17:48D-22 Applicability of act.

22. Except with respect to the dental plan organization activities of a duly organized and authorized insurer or medical or dental service corporation, which activities are authorized and regulated pursuant to this act, this act shall not apply to a person engaged as indemnitor or contractor in the business of life insurance, health insurance or of annuity, nor shall it apply to a medical service corporation or dental service corporation.

C. 17:48D-23 Rules and regulations.

23. The commissioner may promulgate such rules and regulations as he may deem necessary to effectuate the purposes of this act.

C. 17:48D-24 Partial invalidity.

24. If any section, term or provision of this act shall be adjudged invalid for any reason, such judgment shall not affect, impair or invalidate any other section, term or provision of this act, and the

remaining sections, terms and provisions shall be and remain in full force and effect.

25. This act shall take effect on the first day of the first month next following 90 days after the date of enactment.

Approved February 27, 1980.

CHAPTER 479

A SUPPLEMENT to "The Evidence Act, 1960," approved June 20, 1960 (P. L. 1960, c. 52; C. 2A:84A–1 et seq.).

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

C. 2A:84A-21.1 Applicability of newsperson's privilege.

1. Where a newsperson is required to disclose information pursuant to a subpena issued by or on behalf of a defendant in a criminal proceeding, not including proceedings before administrative or investigative bodies, grand juries, or legislative committees or commissions, the provisions and procedures in this act are applicable to the claim and exercise of the newsperson's privilege under Rule 27 (C. 2A:84A–21).

C. 2A:84A-21.2 Proceedings; when instituted.

2. Proceedings pursuant to this act shall take place before the trial, except that the court may allow a motion to institute proceedings pursuant to this act to be made during trial if the court determines that the evidence sought is newly discovered and could not have been discovered earlier through the exercise of due diligence.

C. 2A:84A-21.3 Prima facie showing; waiver of privilege; determinations after hearing.

3. a. To sustain a claim of the newsperson's privilege under Rule 27 the claimant shall make a prima facie showing that he is engaged in, connected with, or employed by a news media for the purpose of gathering, procuring, transmitting, compiling, editing or disseminating news for the general public or on whose behalf news is so gathered, procured, transmitted, compiled, edited or disseminated, and that the subpenaed materials were obtained in the course of pursuing his professional activities.

b. To overcome a finding by the court that the claimant has made a prima facie showing under a. above, the party seeking enforcement of the subpena shall show by clear and convincing evidence that the privilege has been waived under Rule 37 (C. 2A:84A–29) or by a preponderance of the evidence that there is a reasonable probability that the subpenaed materials are relevant, material and necessary to the defense, that they could not be secured from any less intrusive source, that the value of the material sought as it bears upon the issue of guilt or innocence outweighs the privilege against disclosure, and that the request is not overbroad, oppressive, or unreasonably burdensome which may be overcome by evidence that all or part of the information sought is irrelevant, immaterial, unnecessary to the defense, or that it can be secured from another source. Publication shall constitute a waiver only as to the specific materials published.

c. The determinations to be made by the court pursuant to this section shall be made only after a hearing in which the party claiming the privilege and the party seeking enforcement of the subpena shall have a full opportunity to present evidence and argument with respect to each of the materials or items sought to be subpenaed.

C. 2A:84A-21.4 In camera inspection and determination of admissibility in trial.

4. Upon a finding by the court that there has been a waiver as to any of the materials sought or that any of the materials sought meet the criteria set forth in subsection 3.b., the court shall order the production of such materials, and such materials only, for in camera inspection and determination as to its probable admissibility in the trial. The party claiming the privilege and the party seeking enforcement of the subpena shall be entitled to a hearing in connection with the in camera inspection of such materials by the court, during which hearing each party shall have a full opportunity to be heard. If the court, after its in camera review of the materials, determines that such materials are admissible according to the standards set forth in subsection 3.b., the court shall direct production of such materials, and such materials only.

C. 2A:84A-21.5 Hearings; findings.

5. After any hearing conducted by the court pursuant to section 3 or 4 hereof, the court shall make specific findings of fact and conclusions of law with respect to its rulings, which findings shall be in writing or set forth on the record.

C. 2A:84A-21.6 Appeal; record return of privileged material.

6. An interlocutory appeal taken from a decision to uphold or quash a subpena shall act as a stay of all penalties which may have been imposed for failure to comply with the court's order. The record on appeal shall be kept under seal until such time as appeals are exhausted. In the event that all material or any part thereof is found to be privileged, the record as to that privileged material shall remain permanently sealed. Any subpenaed materials which shall, upon exhaustion and determination of such appeals, be found to be privileged, shall be returned to the party claiming the privilege.

C. 2A:84A-21.7 Notice to all co-defendants; intervention.

7. Where proceedings are instituted hereunder by one of several co-defendants in a criminal trial, notice shall be provided to all of the co-defendants. Any co-defendant shall have the right to intervene if the co-defendant can demonstrate, pursuant to section 3, that the materials sought by the issuance of the subpena bear upon his guilt or innocence. Where such intervention is sought by a co-defendant, that co-defendant shall be required, prior to being permitted to participate in any in camera proceeding, to make that showing required of a defendant in section 3.

C. 2A:84A-21.8 Costs and counsel fee.

8. If the court finds no reasonable basis for requesting the information has been shown, costs, including counsel fee, may be assessed against the party seeking enforcement of the subpena. Where an application for costs or counsel fee is made, the judge shall set forth his reasons for awarding or denying same.

9. This act shall take effect immediately.

Approved February 27, 1980.

CHAPTER 480

AN ACT to amend "An act creating a commission to study teacher preparation programs at New Jersey colleges," approved May 23, 1978 (P. L. 1978, c. 25).

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

1. Section 1 of P. L. 1978, c. 25 is amended to read as follows:

1. There is hereby created a commission to consist of 15 members to be appointed as follows: two to be appointed from the membership of the Senate by the President thereof, no more than one of whom shall be of the same political party; two to be appointed from the membership of the General Assembly by the Speaker thereof, no more than one of whom shall be of the same political party; and nine to be appointed by the Governor, whose appointees shall include one dean of a teacher education school or program at a New Jersey college, one teaching staff member of a teacher education program in a New Jersey college and one person who shall be a member of the graduating class of 1978 enrolled in an approved teacher education program at a New Jersey college and six members of the general public. The Chancellor of Higher Education and the Commissioner of Education or their designated representatives shall be ex officio voting members of the commission. All shall serve without compensation. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments were made.

2. Section 5 of P. L. 1978, c. 25 is amended to read as follows:

5. The commission may meet and hold hearings at such place or places as it shall designate during the sessions or recesses of the Legislature and shall report its findings and recommendations to the Legislature not later than January 1, 1981, accompanying the same with any legislative bills which it may desire to recommend for adoption by the Legislature.

3. This act shall take effect immediately.

Approved February 27, 1980.

CHAPTER 481

AN ACT to amend "An act imposing a tax on the sale, possession for sale, use, consumption or storage for use of cigarettes within the State, providing for the licensing of manufacturers, manufacturers' representatives, distributors, dealers and consumers; providing for the control of the transportation of cigarettes in and through the State; establishing a tobacco industry advisory council; defining certain words for the purposes of the act; prescribing the methods of collecting the tax imposed; providing penalties for violations; and making certain violations misdemeanors," approved April 29, 1948 (P. L. 1948, c. 65), as said title was amended by P. L. 1968, c. 351 and making an appropriation.

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

1. Section 202 of P. L. 1948, c. 65 (C. 54:40A–4) is amended to read as follows:

C. 54:40A-4 Issuance of license; fee.

202. Issuance of license; fee.

a. All licenses shall be issued by the director, who shall make rules and regulations respecting applications therefor and issuance thereof.

b. The following individuals related to distributors, wholesale dealers, retail dealers operating more than five cigarette vending machines, and retail dealers who sell cigarettes at retail at more than five premises shall submit with applications for a license fingerprints, which shall be processed through the Federal Bureau of Investigation and the New Jersey State Police, and such other information as the director may require:

(1) Individuals having any interest whatsoever in a proprietorship or company.

(2) Partners of a partnership, regardless of percentage.

(3) Joint venturers in a joint venture.

(4) Officers, directors, and all stockholders holding directly or indirectly a beneficial interest in more than 5% of the outstanding shares of a corporation.

(5) Employees receiving in excess of $30,000.00 per annum compensation whether as salary, commission, bonus or otherwise and persons who, in the judgment of the director are employed in a supervisory capacity or have the power to make or substantially affect discretionary business judgments of the applicant entity with regard to the cigarette business.

(6) Other persons who the director establishes have the ability to control the applicant entity through any means including but not limited to, contracts, loans, mortgages or pledges of securities where such control is inimical to the policies of this act because such person is a career offender or a member of a career offender cartel as defined in section 2(e) hereof. Individuals licensed pursuant to the Casino Control Act shall only be required to produce evidence of said licensure in satisfaction of the foregoing.

The provisions in this paragraph b. as to wholesale dealers, retail dealers operating more than five cigarette vending machines, and retail dealers who sell cigarettes at retail at more than five premises do not apply to retail grocery stores and supermarkets primarily engaged in the self-service sale of foods and household supplies for off-premises consumption or to restaurants, hotels and motels operated by national corporations with such premises in six or more states and primarily engaged in the sale of foods for retail consumption or in the rental of rooms for lodging.

c. The director shall not issue any license under this act where he has reasonable cause to believe that anyone required to submit information under this act has willfully withheld information requested of him for the purpose of determining the eligibility of the applicant to receive a license, or where the director has reasonable cause to believe that information submitted in the application is false and misleading and is not made in good faith.

d. The director shall not issue any license under this act where he has reasonable cause to believe that anyone required to be licensed or anyone required to submit information under this act, has been convicted of any offense in any jurisdiction which would be at the time of conviction a crime involving moral turpitude.

It is further provided that any applicant or person required to submit information who has a charge pending pursuant to any of the foregoing shall disclose that fact to the director. The director may then withhold action on new applications or, in the case of an application for the renewal of a license, issue a temporary license until there has been a disposition of the charge. The director shall

have the discretion to waive the prohibition against licensure herein provided upon the presentation of proof that a period of not less than 5 years has elapsed since the last conviction or the expiration of any period of incarceration imposed with respect thereto.

e. The director shall not issue any license where the applicant or anyone required to submit information has been identified as a career offender or a member of a career offender cartel in such a manner as to create a reasonable belief that the association is of such a nature as to be inimical to the policies of this act or to the taxation, distribution, and sale of cigarettes within the State. The director may request the Attorney General for advice respecting whether a person is a "career offender" within the meaning of this subsection, or is a "contumacious defiant" within the meaning of subsection f. of this section.

(1) As used in this subsection: "career offender" means any person whose behavior is pursued in an occupational manner or context for the purpose of economic gain, utilizing such methods as are deemed criminal violations of the public policy of this State; and (2) "career offender cartel" means any group of persons who operate together as career offenders.

f. The director shall not issue any license where the applicant or anyone required to submit information has been found to be contumaciously defiant before any legislative investigative body or other official investigative body of this State or of the United States when such body is engaged in the investigation of organized crime, official corruption or the cigarette industry itself.

g. Each such license shall lapse on March 31 of the period for which it is issued, and each such license shall be continued annually upon the conditions that the licensee shall have paid the required fee and complied with all the provisions of this act and the rules and regulations of the director made pursuant thereto.

h. For each license issued to a distributor there shall be paid to the director a fee of $350.00. If a distributor sells or intends to sell cigarettes at two or more places of business, whether established or temporary, a separate license shall be required for each place of business. Each license, or certificate, thereof, and such other evidence of license shall be exhibited in the place of business for which it is issued and in such manner as may be prescribed by the director. The director shall require each licensed distributor to file with him a bond in an amount not less than $6,000.00 to guarantee the proper performance of his duties and the discharge of his liabilities under this act. The bond shall be executed by such

licensed distributor as principal, and by a corporation approved by the director and duly authorized to engage in business as a surety company in the State of New Jersey, as surety. The bond shall run concurrently with the distributor's license.

For each license issued to a manufacturer, and for each continuance thereof, there shall be paid to the director a fee of $10.00.

For each license issued to a manufacturer's representative, and for each continuance thereof, there shall be paid to the director a fee of $5.00.

For each license issued to a wholesale dealer there shall be paid to the director a fee of $250.00. If a wholesale dealer sells or intends to sell cigarettes at two or more places of business, whether established or temporary, a separate license shall be required for each place of business. Each license, or certificate thereof, and such other evidence of license shall be exhibited in the place of business for which it is issued and in such manner as may be prescribed by the director.

For each license issued to a retail dealer and for each continuance thereof, excepting a retail dealer operating a cigarette vending machine, there shall be paid to the director a fee of $5.00. For each license issued to a retail dealer operating a vending machine for the sale of cigarettes and for each continuance thereof, there shall be paid to the director a fee of $5.00. If a retail dealer sells or intends to sell cigarettes at two or more place of business, whether established or temporary, or whether in the same building or not, a separate license shall be required for each place of business. Each vending machine for the sale of cigarettes shall be separately licensed and be deemed a separate place of business. Each license, or certificate thereof, and such other evidence of license shall be exhibited in the place of business for which it is issued and in such manner as may be prescribed by the director.

Any person licensed only as a distributor or as a manufacturer or as a manufacturer's representative or as a wholesaler dealer or as a retail dealer shall not operate in any other capacity except under that for which he is licensed herein, unless the appropriate license or licenses therefor are first secured.

For each license issued to a consumer and for each continuance thereof there shall be paid to the director a fee of $1.00. Each license, or certificate thereof, or such other evidence of license as may be prescribed by the director, shall be so kept by the consumer as to be readily available for inspection.

No license shall be issued to any person except upon the payment of the full fee therefor, any statute or exemption to the contrary notwithstanding. No license shall be assignable or transferable, except as hereinafter provided, but in the case of death, bankruptcy, receivership, or incompetency of the licensee, or if for any other reason whatsoever the business of the licensee shall devolve upon another by operation of law, the director may, in his discretion, extend said license for a limited time to the executor, administrator, trustee, receiver, or person upon whom the same has devolved. A purchaser or assignee of a licensed wholesaler or licensed distributor, or any other person upon whom the business of a licensed wholesaler or licensed distributor shall devolve by operation of law, shall upon application to the director, be entitled to an assignment or transfer of the wholesale or distributor license for the balance of the existing license period upon payment of a transfer fee of $5.00 and subject to his qualification to be a licensed wholesaler or licensed distributor under the provisions of this act. The license issued for each vending machine for the sale of cigarettes may be transferred from machine to machine in the same ownership. No refund of the license fee shall be paid to any person upon the surrender or revocation of any license except a license fee paid or collected in error. But, upon payment of $1.00 fee, there may be obtained (1) a duplicate license, or certificate thereof, in the event the original is lost, destroyed or defaced, and (2) an amended license, or certificate thereof, upon a change in the location of the place of business of any distributor or dealer.

2. Section 203 of P. L. 1948, c. 65 (C. 54:40A–5) is amended to read as follows:

C. 54:40A-5 Revocation of License.

203. Revocation of license.

The director may, upon notice and after hearing, suspend or revoke the license or all licenses issued to any person under this act who violates any of the provisions of this act, or who, after being issued a license becomes disqualified for licensure pursuant to this act or of any rule or regulation of the director, made pursuant thereto or if the licensee has ceased to act in the capacity for which the license was issued or for other good cause. No person whose license has been suspended or revoked shall sell cigarettes or permit cigarettes to be sold during the period of such suspension or revocation on the premises occupied by him or upon other premises controlled by him or others or in any other manner or

form whatever. Nor shall any disciplinary proceeding or action be barred or abated by the expiration, transfer, surrender, continuance, renewal or extension of any license issued under the provisions of this act.

3. There is hereby appropriated to the Division of Taxation for the fiscal year ending June 30, 1980 a sum of $136,000.00 for the administration of this act.

4. This act shall take effect immediately but shall be applicable only to licensing periods commencing not less than 6 months thereafter.

Approved February 28, 1980.

CHAPTER 482

AN ACT concerning guardians of minors and mental incompetents, supplementing Title 3A of the New Jersey Statutes, amending N. J. S. 3A:6–17, 3A:6–18, 3A:6–20, 3A:6–22, 3A:6–23, 3A:6–24, 3A:6–25, 3A:6–28, 3A:6–29, 3A:6–33, 3A:6–36, 3A:6–43 and 3A:9–8 and repealing N. J. S. 3A:6–21, 3A:6–27, 3A:6–37, 3A:6–41, 3A:6–42, 3A:9–6, 3A:20–1 through 3A:20–4, 3A:22–1 and 3A:22–3.

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

A. DEFINITIONS

C. 3A:6-16.10 Definitions.

1. As used in this act:

a. "Estate" means all of the property of the minor or mental incompetent as the property is originally constituted and as it exists from time to time during administration.

b. "Guardian" means a person who has qualified as a guardian of the person or estate of a minor or mental incompetent pursuant to testamentary or court appointment, but excludes one who is merely a guardian ad litem.

c. "Mental incompetent" means a person who is impaired by reason of mental illness or mental deficiency to the extent that he lacks sufficient capacity to govern himself and manage his affairs.

The term "mental incompetent" is also used to designate a person who is impaired by reason of physical illness or disability, chronic use of drugs, chronic alcoholism or other cause (except minority) to the extent that he lacks sufficient capacity to govern himself and manage his affairs.

The terms "mental incompetency" and "mentally incompetent" refer to the state or condition of a "mental incompetent" as defined in this section.

d. "Minor" means a person who is under 18 years of age.

e. "Ward" means a person for whom a guardian has been appointed or a person under the protection of the court.

B. In General

C. 3A:6-16.11 Court's authority.

2. If a guardian has been appointed as to the person of a minor or mentally incompetent person, the court shall have full authority over the ward's person and all matters relating thereto; and if a guardian has been appointed as to the estate of a minor or mentally incompetent person, the court shall have full authority over the ward's estate, and all matters relating thereto.

C. 3A:6-16.12 Powers of guardian; limitations; relief of limitations.

3. The court may, at the time of appointment or later, limit the powers of a guardian otherwise conferred by this act, or previously conferred by the court, and may at any time relieve him of any limitation. If the court limits any power conferred on the guardian, the limitation shall be stated in certificates of letters of guardianship thereafter issued.

C. 3A:6-16.13 Title of property vesting in guardian as trustee.

4. The appointment of a guardian of the estate of a minor or mental incompetent vests in him title as trustee to all property of his ward, presently held or thereafter acquired, including title to any property theretofore held for the ward by attorneys in fact. The appointment of a guardian is not a transfer or alienation within the meaning of general provisions of any Federal or State statute or regulation, insurance policy, pension plan, contract, will or trust instrument, imposing restrictions upon or penalties for transfer or alienation by the ward of his rights or interest, but this section does not restrict the ability of persons to make specific provision by contract or dispositive instrument relating to a guardian.

C. 3A:6-16.14 Judgment allowing intermediate account; effect.

5. A judgment, made upon notice and hearing, allowing an intermediate account of a guardian, shall have the same effect as a judgment allowing an intermediate account of any other fiduciary.

6. N. J. S. 3A:9–8 is amended to read as follows:

Accounts; statements or information as part of; judgment allowing account.

3A:9–8. a. When in an account, or in a complaint in an action for the settlement of an account, or in any writing annexed to the complaint or account, there appear lists of or statements or information as to the investments or other assets in a fiduciary's hands at the close of, or during, the period covered by the account or as to changes made in investments or other assets during that period, or there appear allegations or information as to other matters done or omitted by the fiduciary during the period, the complaint and such writing, statements, lists, information and allegations shall be deemed to be part of the account.

b. A judgment allowing, after due notice, an account shall be res adjudicata as to all exceptions which could or might have been taken to the account, and shall constitute an approval of the correctness and propriety of the account, the legality and propriety of such investments and other assets, the legality and propriety of such changes in investments or other assets, and the legality and propriety of such other matters, and also shall exonerate and discharge the fiduciary from all claims of all interested parties and of those in privity with or represented by such interested parties, (1) except for the investments and other assets in the fiduciary's hands at the close of the period covered by the account, and assets which may come into his hands after the close thereof, and (2) except insofar as exceptions to the account shall be taken and sustained, and (3) except as relief may be had from a judgment in any civil action.

C. 3A:6-16.15 Delegation of powers by parent or guardian.

7. A parent other than where custody of a minor has been awarded by a court of competent jurisdiction, (with the consent of the other parent, if the latter is living and not a mental incompetent) or a guardian of the person of a minor or mental incompetent, by a properly executed power of attorney, may delegate to another person, for a period not exceeding 6 months, any of his powers regarding care, custody, or property of the minor child or ward, except his power to consent to marriage or adoption of a minor ward.

8. N. J. S. 3A:6–22 is amended to read as follows:

Testamentary guardian of minor or mental incompetent; bond.

3A:6–22. Before receiving his letters, a testamentary guardian of a minor or mental incompetent shall give bond in accordance with section 3A:7–1 of this Title, unless he is relieved from doing so by direction of the will of the parent or spouse appointing the guardian. However, regardless of any such direction, he shall, with respect to property to which the ward is or shall be entitled from any source, other than the said parent or spouse or other than any policy of life insurance upon the life of the said parent or spouse, give bond in accordance with that section before exercising any authority or control over such property.

9. N. J. S. 3A:6–23 is amended to read as follows:

Inquiry into custody by court.

3A:6–23. If a will appointing a testamentary guardian of the person of a minor or mental incompetent has been or is to be probated in the surrogate's court of any county or the Superior Court, the Superior Court may, in an action brought upon notice to the guardian named in the will, inquire into the present custody of the minor or mental incompetent, and make such order touching the testamentary guardianship as may be for the best interest and welfare of the minor or mental incompetent.

10. N. J. S. 3A:6–24 is amended to read as follows:

Appointment of testamentary guardian good and effectual against other claims.

3A:6–24. The appointment of a testamentary guardian of the person of a minor or mental incompetent or his estate shall be good and effectual against any other person claiming the guardianship over or custody of the minor or mental incompetent or his estate, as the case may be.

C. 3A:6-16.16 Appointment of another person as guardian of estate; payment for services; amounts.

11. a. If another person has been appointed guardian of the estate, all of the ward's estate received by the guardian of the person in excess of those funds expended to meet current expenses for support, care and education of the ward must be paid to the guardian of the estate, and the guardian of the person must account to the guardian of the estate for funds expended.

b. If another person has been appointed guardian of the ward's estate, the guardian of the ward's person is entitled to receive reasonable sums for his services and for room and board furnished

to the ward, provided the same has been agreed upon between him and the guardian of the estate; and provided, further, that the amounts agreed upon are reasonable under the circumstances. The guardian of the person may request the guardian of the estate to expend the ward's estate by payment to third persons or institutions for the ward's care and maintenance.

C. 3A:6-16.17 Condition of ward and estate; report.

12. A guardian shall report the condition of the ward and the condition of the ward's estate which has been subject to his possession or control as ordered by the court in an action brought by a person interested in the ward's welfare.

C. 3A:6-16.18 Principles governing expenditure or distribution of ward's income or principal.

13. A guardian of the estate of a minor or mental incompetent may expend or distribute so much or all of the income or principal of his ward for the support, maintenance, education, general use and benefit of the ward and his dependents, in the manner, at the time or times and to the extent that the guardian, in an exercise of a reasonable discretion, deems suitable and proper, with or without court order, with or without regard to the duty or ability of any person to support or provide for the ward, and with or without regard to any other funds, income or property which may be available for any such purpose, but in accordance with the following principles:

a. The guardian is to consider recommendations relating to the appropriate standard of support, education and benefit for the ward made by a parent or guardian of the person, if any. He may not be surcharged for sums paid to persons or organizations actually furnishing support, education or care to the ward pursuant to the recommendations of a parent or guardian of the person unless he knows that the parent or such guardian is deriving personal financial benefit therefrom, or unless the recommendations are clearly not in the best interests of the ward.

b. The guardian is to expend or distribute sums reasonably necessary for the support, education, care or benefit of the protected person with due regard to (1) the size of the estate, the probable duration of the guardianship and the likelihood that the ward, at some future time, may be fully able to manage his affairs and the estate which has been conserved for him; and (2) the accustomed standard of living of the ward and members of his household.

c. The guardian may expend funds of the estate for the support of persons legally dependent on the ward and others who are members of the ward's household who are unable to support themselves, and who are in need of support.

d. Funds expended under this subsection may be paid by the guardian to any person, including the ward, to reimburse for expenditures which the guardian might have made, or in advance for services to be rendered to the ward when it is reasonable to expect that they will be performed and where advance payments are customary or reasonably necessary under the circumstances.

C. 3A:6-16.19 Powers of guardian.

14. a. A guardian of the estate of a minor or mentally incompetent person has all of the powers conferred upon him by law and the terms of this act and all powers conferred by law on trustees.

b. The court has, for the benefit of the ward, his dependents and members of his household, all the powers over his estate and affairs which he could exercise, if present and not under a disability, except the power to make a will, and may confer such powers upon a guardian of his estate. These powers include, but are not limited to power to convey or release the ward's present and contingent and expectant interests in real and personal property, including dower and curtesy and any right of survivorship incident to joint tenancy or tenancy by the entirety, to exercise or release his powers as trustee, personal representative, custodian for minors, guardian, or donee of a power of appointment, to enter into contracts, to create revocable or irrevocable trusts of property of the estate which may extend beyond his disability or life, to exercise his options to purchase securities or other property, to exercise his rights to elect options and change beneficiaries under insurance annuity policies and to surrender the policies for their cash value, to exercise his right to an elective share in the estate of his deceased spouse to the extent permitted by law and to renounce any interest by testate or intestate succession or by inter vivos transfer.

c. The court may exercise, or direct the exercise of, or release the powers of appointment of which the ward is donee, to renounce interests, to make gifts in trust or otherwise, or to change beneficiaries under insurance and annuity policies, only if satisfied, after notice and hearing, that it is in the best interests of the ward.

C. GUARDIANS OF MINORS

C. 3A:6-16.20 Powers and duties of guardian.

15. A guardian of the person of a minor has the powers and responsibilities of a parent who has not been deprived of custody of his minor and unemancipated child, except that a guardian is not legally obligated to provide from his own funds for the ward. In particular, and without qualifying the foregoing, a guardian has the following powers and duties, except as modified by order of the court:

a. He must take reasonable care of his ward's personal effects and institute an action for the appointment of a guardian of his ward's estate if necessary to protect it.

b. He may receive periodically money payable for the support of the ward to the ward's parent, guardian or custodian under the terms of any statutory benefit or insurance system, or any private contract, devise, trust, conservatorship or custodianship. Any sums so received shall be applied to the ward's current needs for support, care and education in an exercise of a reasonable discretion, with or without court order, with or without regard to the duty or ability of any person to support or provide for the ward and with or without regard to any other funds, income or property which may be available for any such purpose. He must exercise due care to conserve any excess funds for the ward's future needs unless a guardian has been appointed for the estate of the ward, in which case the excess shall be paid over at least annually to such guardian. He may institute an action to compel the performance by any person of a duty to support the ward or to pay sums for the welfare of the ward.

c. He is empowered to facilitate the ward's education, social, or other activities and to authorize medical or other professional care, treatment, or advice. He is not liable by reason of this consent for injury to the ward resulting from the negligence or acts of third persons unless it would have been illegal for a parent to have consented. He may consent to the marriage or adoption of his ward or to his ward's military service.

C. 3A:6-16.21 Powers and duties.

16. A guardian of the estate of an unmarried minor, as to whom no one has parental rights, has the duties and powers of a guardian of the person of a minor described in section 15 of this act until the minor attains the age of 18 or marries, but the parental rights so conferred on a guardian of an estate do not preclude appointment of a guardian of the person.

C. 3A:6-16.22 Attainment of age of 18 by ward; payment and distribution of funds.

17. When a minor who has not been adjudged a mental incompetent attains 18 years of age, his guardian, after meeting all prior claims and expenses of administration, shall pay over and distribute all funds and properties to the former ward as soon as possible.

C. 3A:6-16.23 Termination of authority and responsibility of guardian.

18. The authority and responsibility of a guardian of the person or estate of a minor terminates upon the death, resignation or removal of the guardian or upon the minor's death, adoption, marriage or attainment of 18 years of age, but termination does not affect the guardian's liability for prior acts, nor his obligation to account for funds and assets of his ward. Resignation of a guardian does not terminate the guardianiship unless it has been approved by a judgment of the court.

19. N. J. S. 3A:6–17 is amended to read as follows:

Appointment of guardians for minors; jurisdiction of surrogate's court.

3A:6–17. In the appointment of guardians for minors, the surrogate's court of the county in which the minor may reside or if he is a nonresident, then the county in which he may have real or personal estate, shall, have and exercise the same powers as the Superior Court.

20. N. J. S. 3A:6–18 is amended to read as follows:

Appointment of guardian by parents.

3A:6–18. Subject to the provisions of section 3A:6–19 of this Title, either parent may, by his will, appoint a guardian of the person and a guardian of the estate, or a guardian of the person and estate, of any of his children, including children en ventre sa mere, who are under the age of 18 years and unmarried at his death.

21. N. J. S. 3A:6–20 is amended to read as follows:

Appointment of guardian by surviving parent.

3A:6–20. If no guardian has been appointed pursuant to sections 3A:6–18, and 3A:6–19 of this Title, or if the surviving parent was so appointed, the surviving parent may, by his will, appoint a guardian of the person and a guardian of the estate, or a guardian of the person and estate, of any of his children including children en ventre sa mere, who are under the age of 18 years and unmarried at his death.

22. N. J. S. 3A:6–25 is amended to read as follows:

Appointment of guardian by Superior Court.

3A:6–25. Where a nonresident minor has property within this State, the Superior Court may appoint a guardian of the said minor to administer such property. The surrogate's court shall have concurrent authority to appoint such a guardian for any such property within the county.

The court to which said guardian is accountable shall, with respect to such property, have the same authority and control over him which it would have over a guardian of the estate of a resident minor. In any case not provided for by statute, it shall take such action in the matter as it shall deem most for the advantage of the minor.

23. N. J. S. 3A:6–28 is amended to read as follows:

Appointment of persons as guardians; priorities.

3A:6–28. In an action for the appointment of a guardian of the person, guardian of the estate, or a guardian of the person and estate of a minor, the surrogate's court of the county wherein he resides or, if he is a nonresident, wherein his real or personal estate may be, or the Superior Court, upon inquiry into the circumstances, may appoint the parents or either of them or the survivor of them as the guardian of the person, guardian of the estate or guardian of the person and estate of the minor. If neither of said parents or the survivor of them will accept such guardianship, then the heirs, or some of them, may be appointed as such guardian. If none of said heirs will accept such guardianship, then some other proper person shall be appointed as the guardian of the person, guardian of the estate or as guardian of the person and estate of said minor. This section shall not be construed to restrict the power of the court to appoint a substitute guardian on the application of the minor or otherwise.

24. N. J. S. 3A:6–29 is amended to read as follows:

Appointment of guardian by court when heirs of minor nonresidents.

3A:6–29. When it shall be made to appear, to the satisfaction of the Superior Court, or surrogate's court, that the heirs of a minor residing in this State, do not reside within this State, the court may take such action in respect to the appointment of a guardian of the person, guardian of the estate or as guardian of the person and estate for the minor as shall be to his advantage.

25. N. J. S. 3A:6–33 is amended to read as follows:

Appointment of guardian by court when parents absent or absconded.

3A:6–33. If a resident of this State has or shall abscond or absent himself therefrom for a period of 2 years, leaving a child under the age of 18 without sufficient provision for maintenance and education, the surrogate's court of the county wherein the child resides, or the Superior Court, may appoint a guardian for his person or estate or both. The court to which the guardian is accountable may revoke the appointment when it shall appear proper.

D. Guardians of Mental Incompetents

C. 3A:6-16.24 Powers, rights and duties of guardian.

26. a. A guardian of the person of a mentally incompetent person has the same powers, rights and duties respecting his ward that a parent has respecting his unemancipated minor child. In particular, and without qualifying the foregoing, he has the following powers and duties, except as modified by order of the court:

b. To the extent that it is consistent with the terms of any order by a court of competent jurisdiction relating to detention or commitment of the ward, he is entitled to custody of the person of his ward and may establish the ward's place of abode within or without this State.

c. If entitled to custody of his ward he shall make provision for the care, comfort and maintenance of his ward and, whenever appropriate, arrange for his training and education. Whether or not he has custodial rights over the ward's person, he shall take reasonable care of his ward's clothing, furniture, vehicles and other personal effects and institute an action for the appointment of a guardian of the ward's estate, if necessary to protect it.

d. He may give any consents or approvals that may be necessary to enable the ward to receive medical or other professional care, counsel, treatment or service.

e. He may institute an action to compel the performance by any person of a duty to support the ward or to pay sums for the welfare of the ward.

f. He may receive money, payable from any source for the support of the ward and tangible personal property deliverable to the ward. Any sums so received shall be applied to the ward's current needs for support, care and education in an exercise of a reasonable discretion, with or without court order, with or without

regard to the duty or ability of any person to support or provide for the ward and with or without regard to any other funds, income or property which may be available for any such purpose. But he may not use funds from his ward's estate for room and board which he, his spouse, parent, or child have furnished the ward unless agreed upon by a guardian of the ward's estate under section 11 b., or unless a charge for the service is approved by order of the court made upon notice to at least one of the next of kin of the incompetent ward, if notice is possible. He must exercise care to conserve any excess for the ward's needs.

C. 3A:6-16.25 Authorization to make contributions to charity.

27. If the estate is ample to provide for the purposes implicit in the distributions authorized by this act, a guardian for the estate of a mental incompetent may apply to the court for authority to make gifts to charity and other objects as the ward might have been expected to make.

C. 3A:6-16.26 Payment and distribution of funds after return to competency.

28. Upon an adjudication that the ward has returned to competency, the guardian, after the allowance of his final account, shall pay over and distribute all funds and properties of the former ward.

C. 3A:6-16.27 Duties of guardian where ward dies; personal representative; judgment.

29. If a ward dies, the guardian shall deliver to the appropriate court for safekeeping any will of the deceased person which may have come into his possession, inform the executor or a beneficiary named therein that he has done so, and retain the estate for delivery to a duly appointed personal representative of the decedent or other persons entitled thereto. If after 40 days from the death of the ward no other person has been appointed personal representative and no action for an appointment is pending in the Superior Court or surrogate's or County Court of the county where the ward resided at his death, the guardian may institute such an action or may institute an action applying to the Superior Court or such County Court for authority to exercise the powers and duties of a personal representative so that he may proceed to administer and distribute the decedent's estate without additional or further appointment. Upon application for an order granting the powers of a personal representative to a guardian, after notice to all persons interested in the ward's estate either as heirs or devisees and including any person nominated executor in any will of which the applicant is aware, the court may order the conferral

of such powers, upon determining that there is no objection, and may enter judgment that the guardian has all of the powers and duties of a personal representative. The making and entry of a judgment under this section shall have the effect of an order of appointment of a personal representative, except that the estate in the name of the guardian, after administration, may be distributed to persons entitled to the decedent's estate under his will or the laws of intestacy without prior retransfer to the guardian as personal representative.

C. 3A:6-16.28 Investment and selection of assets of estate for distribution; utilizing other powers.

30. In investing the estate, and in selecting assets of the estate for distribution under this act, in utilizing powers of revocation or withdrawal available for the support of the ward, and other powers exercisable by the guardian or a court, the guardian or the court should take into account any known estate plan of the ward, including his will, any revocable trust of which he is settlor, and any contract, transfer or joint ownership arrangement with provisions for payment or transfer of benefits or interests at his death to another or others which he may have originated. The guardian may examine the will of the ward.

C. 3A:6-16.29 Termination of authority of guardian.

31. The authority and responsibility of a guardian of the person or estate of a mental incompetent terminates upon the death, resignation or removal of the guardian or upon the death of the mental incompetent, but termination does not affect the guardian's liability for prior acts, nor his obligation to account for funds and assets of his ward. Resignation of a guardian does not terminate the guardianship unless it has been approved by a judgment of the court.

C. 3A:6-16.30 Appointment of testamentary guardian; confirmation by court.

32. The parents of an unmarried mental incompetent or the spouse of a mental incompetent may by will appoint a testamentary guardian of the person, or a guardian of the estate, or of both the person and estate of the mental incompetent. Before the appointment of a testamentary guardian becomes effective, the person designated as the testamentary guardian shall apply to the court in a summary manner, upon such notice to the mental incompetent, any guardian who may have been appointed for him, to the person or institution having his care and to his heirs as the court may direct, for a judgment confirming his appointment under the will.

C. 3A:6-16.31 Application to court for judgment designating person as temporary guardian.

33. If the person for whom a testamentary guardian has been appointed under the will of a parent or spouse has not been adjudicated as a mental incompetent in accordance with N. J. S. 3A:6–35 and the Rules Governing the Courts of New Jersey, the person named as the testamentary guardian may apply to the court in the manner provided in section 32 for a judgment designating that person as the temporary guardian of the person or of the estate, or of both the person and estate of the alleged mental incompetent until the issue of mental incompetency has been determined. Upon the determination of the issue of mental incompetency, the court shall either enter a judgment confirming the appointment of the testamentary guardian or vacating the appointment of the temporary guardian.

C. 3A:6-16.32 Consent of surviving parent.

34. Where an appointment of a testamentary guardian is made by a parent under section 32 and the other parent survives the appointing parent, the appointment shall be effective only when the surviving parent, at or before the issuance of letters, consents to the appointment in writing and signs and acknowledges the consent in the presence of two witnesses present at the same time who subscribe their names as witnesses thereto in his presence, unless the surviving parent has been adjudged a mental incompetent.

35. N. J. S. 3A:6–36 is amended to read as follows:

Determination of mental incompetency; appointment of guardian.

3A:6–36. The Superior Court may determine the mental incompetency of an alleged mental incompetent and appoint a guardian for his person, guardian for his estate or a guardian for his person and estate.

In any case where a guardian is to be appointed, letters of guardianship shall be granted to the spouse, if the spouse was living with the incompetent as man and wife at the time the incompetency arose, or to the next of kin, or if none of them will accept the letters or it is proven to the court that no appointment from among them will be to the best interest of the incompetent or his estate, then to such other proper person as will accept the same.

36. N. J. S. 3A:6–43 is amended to read as follows:

Adjudication of return to competency.

3A:6–43. The Superior Court may adjudicate that the mental incompetent has returned to competency and restore to him his

estate if the court is satisfied that he has recovered his sound reason and is fit to govern himself and manage his affairs, or, in the case of a mental incompetent determined to be such by reason of chronic alcoholism, that he has reformed and become habitually sober and has continued so for 1 year next preceding the commencement of the action, and in the case of a mental incompetent determined to be such by reason of chronic use of drugs that he has reformed and has not been a chronic user of drugs for 1 year next preceding the commencement of the action.

E. Repealers

Repealer.

37. N. J. S. 3A:6–21, 3A:6–27, 3A:6–37, 3A:6–41, 3A:6–42, 3A:9–6, 3A:20–1 through 3A:20–4, 3A:22–1 and 3A:22–3 are hereby repealed.

38. This act shall take effect 90 days after its enactment.

Approved February 28, 1980.

CHAPTER 483

An Act granting the surviving spouse of a decedent the right to an elective share of that decedent's estate and supplementing Title 3A of the New Jersey Statutes.

Be it enacted *by the Senate and General Assembly of the State of New Jersey:*

C. 3A:38A-1 Right of election to take elective share.

1. a. If a married person dies domiciled in this State on or after the effective date of this act, the surviving spouse has a right of election to take an elective share of one-third of the augmented estate under the limitations and conditions hereinafter stated, provided that at the time of death the decedent and the surviving spouse had not been living separate and apart in different habitations or had not ceased to cohabit as man and wife, either as the result of judgment of divorce from bed and board or under circumstances which would have given rise to a cause of action for divorce or nullity of marriage to a decedent prior to his death under the laws of this State.

b. If a married person not domiciled in this State dies, the right, if any, of the surviving spouse to take an elective share in property in this State is governed by the law of the decedent's domicile at death.

C. 3A:38A-2 "Augmented estate" defined.

2. The "augmented estate" means the estate reduced by funeral and administration expenses, and enforceable claims, to which is added the sum of the following amounts:

a. The value of property transferred by the decedent at any time during marriage, to or for the benefit of any person other than the surviving spouse, to the extent that the decedent did not receive adequate and full consideration in money or money's worth for the transfer, if the transfer is of any of the following types:

(1) Any transfer hereafter made under which the decedent retained at the time of his death the possession or enjoyment of, or right to income from, the property;

(2) Any transfer hereafter made to the extent that the decedent retained at the time of his death a power, either alone or in conjunction with any other person, to revoke or to consume, invade or dispose of the principal for his own benefit;

(3) Any transfer hereafter made whereby property is held at the time of decedent's death by decedent and another with right of survivorship;

(4) Any transfer hereafter made, if made within 2 years of death of the decedent, to the extent that the aggregate transfers to any one donee in either of the years exceed $3,000.00.

Any transfer is excluded if made with the written consent or joinder of the surviving spouse. Property is valued as of the decedent's death except that property given irrevocably to a donee during lifetime of the decedent is valued as of the date the donee came into possession or enjoyment if that occurs first. Nothing herein shall cause to be included in the augmented estate any life insurance, accident insurance, joint annuity, or pension payable to a person other than the surviving spouse.

b. (1) The value of property owned by the surviving spouse at the time of, or as a result of, the decedent's death to the extent that the property is derived from the decedent by means other than by testate or intestate succession without a full consideration in money or money's worth.

(2) The value of the property described in subsection b. (1) of this section 2. which has been transferred by the surviving spouse at any time during marriage without a full consideration in money or money's worth to any person other than the decedent which would have been includable in the spouse's augmented estate if the surviving spouse had predeceased the decedent.

(3) For the purposes of subsections b. (1) and b. (2):

(a) Property derived from the decedent includes, but is not limited to, any beneficial interest of the surviving spouse in a trust created by the decedent during his lifetime, any property appointed to the spouse by the decedent's exercise of a general or special power of appointment also exercisable in favor of others than the spouse, any proceeds of insurance (including accidental death benefits on the life of the decedent attributable to premiums paid by him, any lump sum immediately payable and the commuted value of the proceeds of annuity contracts under which the decedent was the primary annuitant attributable to premiums paid by him, the commuted value of amounts payable after the decedent's death under any public or private pension, disability compensation, death benefit or retirement plan, exclusive of the Federal Social Security system, by reason of service performed or disabilities incurred by the decedent, the value of the share of the surviving spouse resulting from rights in community property acquired in any other state formerly owned with the decedent and the value of any rights of dower and curtesy. Premiums paid by the decedent's employer, his partner, a partnership of which he was a member, or his creditors, are deemed to have been paid by the decedent.

(b) Property owned by the spouse at the decedent's death is valued as of the date of death. Property transferred by the spouse is valued at the time the transfer became irrevocable, or at the decedent's death, whichever occurred first. Income earned by included property prior to the decedent's death is not treated as property derived from the decedent.

(c) Property owned by the surviving spouse as of the decedent's death, or previously transferred by the surviving spouse, is presumed to have been derived from the decedent except to the extent that any party in interest establishes that it was derived from another source.

C. 3A:38A-3 Exercise of right of elective share.

3. The right of election to take an elective share by a surviving spouse may be exercised only during his lifetime. In the case of

a surviving spouse for whom the court has appointed a fiduciary to manage his estate, the right of election may be exercised only by order of the court making the appointment after finding that such election is necessary to provide adequate support for the surviving spouse during his probable life expectancy.

C. 3A:38A-4 Waiver of rights.

4. The right of election of a surviving spouse and the rights of the surviving spouse may be waived, wholly or partially, before or after marriage before, on or after the effective date of this act, by a written contract, agreement or waiver, signed by the party waiving after fair disclosure. Unless it provides to the contrary, a waiver of "all rights" (or equivalent language) in the property or estate of a present or prospective spouse or a complete property settlement entered into after or in anticipation of separation or divorce is a waiver of all rights to an elective share by each spouse in the property of the other and a renunciation by each of all benefits which would otherwise pass to him from the other by intestate succession or by virtue of the provisions of any will executed before the waiver or property settlement.

C. 3A:38A-5 Proceeding in court.

5. a. The surviving spouse may elect to take his elective share in the augmented estate by filing in the Superior Court in the county in which the personal representative was appointed a complaint in an action applying for the elective share, within 6 months after the appointment of a personal representative. Before the time for election has expired, the court may for good cause shown by the surviving spouse extend the time for election upon notice to persons interested in the estate and to distributees and recipients of portions of the augmented estate whose interests will be adversely affected by the taking of the elective share.

b. The surviving spouse shall give notice of the time and place set for hearing to persons interested in the estate and to the distributees and recipients of portions of the augmented estate whose interests will be adversely affected by the taking of the elective share.

c. The surviving spouse may withdraw his demand for an elective share at any time before entry of a final determination by the court.

d. After notice and hearing, the court shall determine the amount of the elective share and shall order its payment from the assets of the augmented estate or by contribution as appears appropriate

under section 7. of this act. If it appears that a fund or property included in the augmented estate has not come into the possession of the personal representative, or has been distributed by the personal representative, the court nevertheless shall fix the liability of any person who has any interest in the fund or property or who has possession thereof, whether as trustee or otherwise. The proceeding may be maintained against fewer than all persons against whom relief could be sought, but no person is subject to contribution in any greater amount than he would have been if relief had been secured against all persons subject to contribution.

e. The order or judgment of the court may be enforced as other judgments are enforced by law.

C. 3A:38A-6 Valuation of estates.

6. In an action for an elective share, the electing spouse's total or proportional beneficial interest in any life estate in real or personal property or in any trust shall be valued at one-half of the total value of the property or trust or of the portion of the property or trust subject to the life estate.

C. 3A:38A-7 Satisfaction of elective share in action.

7. In an action for an elective share,

a. The amount of the surviving spouse's elective share shall be satisfied by applying:

(1) The value of all property, estate or interest therein, owned by the surviving spouse in his own right at the time of the decedent's death from whatever source acquired, or succeeded to by the surviving spouse as a result of decedent's death notwithstanding that the property, estate or interest or part thereof, succeeded to by the surviving spouse as the result of decedent's death has been renounced by the surviving spouse, and

(2) The value of property described in subsection b. (2) of section 2 of this act.

b. Remaining property of the augmented estate is so applied that liability for the balance of the elective share of the surviving spouse is equitably apportioned among the recipients of the augmented estate in proportion to the value of their interests therein.

c. Only original transferees from, or appointees of, the decedent and their donees, to the extent the donees have the property or its proceeds, are subject to the contribution to make up the elective share of the surviving spouse. A person liable to contribution may choose to give up the property transferred to him or to pay its value as fixed in the manner provided in section 2 a. of this act.

C. 3A:38A-8 Conviction of intentional killing; loss of benefits.

8. A surviving spouse who intentionally kills the decedent is not entitled to any benefits under this act. A final judgment of conviction of intentional killing is conclusive for purposes of this section. In the absence of a conviction of intentional killing the court may determine by a preponderance, of evidence whether the killing was intentional for purposes of this section.

9. This act shall take effect 90 days after enactment.

Approved February 28, 1980.

CHAPTER 484

AN ACT concerning disclaimers of transfers by will, intestate succession or under powers of a testamentary appointment, and supplementing Title 3A of the New Jersey Statutes.

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

C. 3A:25-39 Definitions.

1. As used in this act:

a. A "present interest" is one to take effect in immediate possession, use or enjoyment without the intervention of a preceding estate or interest or without being dependent upon the happening of any event or thing.

b. A "future interest" is one to take effect in possession, use or enjoyment dependent upon the termination of an intervening estate or interest or the happening of any event or thing.

c. An "heir" means a person, including the surviving spouse, entitled under the statutes of intestate succession to the property of a decedent.

d. A "devisee" means any person designated in a will to receive a devise, but does not mean a trustee or trust designated in a will to receive a devise.

e. A "devise," when used as a noun, means a testamentary disposition of real or personal property and when used as a verb, means to dispose of real or personal property by will.

C. 3A:25-40 Filing disclaimer for right of succession to property or interest.

2. Any person who is a devisee or beneficiary under a testamentary instrument, or appointee under a power of appointment

exercised by a testamentary instrument, including a person succeeding to a disclaimed interest, or an heir may disclaim in whole or in part the right of succession to any property or interest therein, including a future interest, by filing a disclaimer under this act. A disclaimer may be of a fractional share, expressed as either a percentage or dollar amount, or any limited interest or estate.

C. 3A:25-41 Contents of instrument.

3. The instrument disclaiming shall be in writing, signed and acknowledged by the person disclaiming, and shall (1) describe the property or interest disclaimed, and if real property, the municipality and county wherein the real property is situated (2) declare the disclaimer and extent thereof.

C. 3A:25-42 Disclaimer on behalf of decedent, minor or mentally incompetent person.

4. A disclaimer on behalf of a decedent, minor or mentally-incompetent person may be made by the personal representative of the decedent or the guardian of the estate of the minor or mentally-incompetent person. Such disclaimer shall not be effective unless, prior thereto, the personal representative or guardian has been authorized to disclaim by the court having jurisdiction of the estate of the decedent, minor or mentally-incompetent person, after finding that it is advisable and will not materially prejudice the rights of creditors, devisees, heirs or beneficiaries of the decedent, the minor or mentally-incompetent person or his creditors, as the case may be.

C. 3A:25-43 Filing instrument.

5. a. The instrument disclaiming a present interest shall be filed not later than 9 months after the death of the decedent or of the donee of the power.

b. The instrument disclaiming a future interest shall be filed not later than 9 months after the happening of the event which determines the taker's right to possession, use or enjoyment of the property or interest.

c. The time within which a disclaimer shall be filed may be extended by the court for reasonable cause, and on notice to such persons and in such manner as the court may direct.

C. 3A:25-44 Filing of disclaimer; copies delivered to certain persons; recording.

6. a. The disclaimer shall be filed in the office of the surrogate or Superior Court in which proceedings have been commenced or will be commenced for the administration of the estate of the decedent or deceased donee of the power. A copy of such dis-

claimer shall also be delivered in person or mailed by registered or certified mail to any personal representative, other fiduciary of the decedent or donee of the power or to the holder of the legal title to which the interest relates.

b. If real property or any interest therein is disclaimed, the surrogate or clerk of the Superior Court, as the case may be, shall forthwith forward a copy of the disclaimer for filing in the office of the clerk or register of deeds and mortgages of the county in which the real property is situated. Each county clerk or register of deeds and mortgages shall provide a book to be entitled "Disclaimers", so arranged that he may record therein:

(1) The name of the disclaimant;

(2) The name of the decedent or the name of the donee of the power of appointment;

(3) The location of the property;

(4) The file number of the county clerk's office or the office of register of deeds and mortgages indorsed upon each disclaimer filed;

(5) The date of filing the disclaimer.

The county clerk or the register of deeds and mortgages shall maintain in said record an alphabetical index of the names of all disclaimants stated in any disclaimer file, and also keep in his office for public inspection, all disclaimers so filed therein.

C. 3A:25-45 Property or interest disclaimed; devolution; relation of disclaimer back to date of death of decedent or donee of power.

7. Unless the decedent or donee of the power has otherwise provided, the property or interest disclaimed devolves (a) as to a present interest, as if the disclaimant had predeceased the decedent or, if the disclaimant is designated to take under a power of appointment exercised by a testamentary instrument, as if the disclaimant had predeceased the donee of the power, and (b) as to a future interest as if the disclaimant had died before the event determining that the taker of the property or interest had become finally ascertained and his interest indefeasibly vested. A disclaimer relates back for all purposes to the date of death of the decedent or the donee of the power.

C. 3A:25-46 Right of person to disclaim property; when barred.

8. The right of a person to disclaim property or any interest therein is barred if the property or interest is seized under judicial process issued against the person before the expiration of the period in which he is permitted to disclaim; or if before the expiration of the period in which he is permitted to disclaim, the

person (1) accepts or exercises control as beneficial owner over all or any part of such property or interest; or (2) voluntarily transfers or encumbers or contracts to transfer or encumber all or any part of such property or interest; or (3) disclaims or attempts to disclaim all or any part of such property or interest in fraud of his creditors as set forth in the Uniform Fraudulent Conveyance Law (R. S. 25:2–7 et seq.); or (4) executes a written waiver of the right to disclaim.

C. 3A:25-47 Disclaimer or written waiver binding.

9. The disclaimer or the written waiver of the right to disclaim shall be binding upon the disclaimant or person waiving and all persons claiming by, through or under him.

C. 3A:25-48 Existence of right to disclaim.

10. The right to disclaim exists notwithstanding any limitation on the interest of the disclaimant in the nature of a spendthrift provision or similar restriction.

C. 3A:25-49 Rights of person not abridged under other statutes.

11. This act does not abridge the right of a person to waive, release, disclaim or renounce property or an interest therein under any other statute.

C. 3A:25-50 Interest in property.

12. An interest in property existing on the effective date of this act as to which, if a present interest, the time for filing a disclaimer under this act has not expired, or if a future interest, the interest has not become indefeasibly vested or the taker finally ascertained, may be disclaimed within 9 months after the effective date of this act.

13. This act shall take effect immediately.

Approved February 28, 1980.

CHAPTER 485

AN ACT concerning the rights of married persons in certain real property and supplementing Title 3A of the New Jersey Statutes.

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

C. 3A:35-5 Rights of married persons in certain real property.

1. All rights of dower and curtesy are abolished as to the real property whereof a married person, or another to his or her use,

shall, subsequent to the effective date of this act, be seized, during coverture, of an estate of inheritance; however, as to such real property occupied jointly with his or her spouse, as their principal matrimonial residence every married person shall be entitled to joint possession with his or her spouse during their marriage, which right of possession may not be released, extinguished or alienated without the consent of both spouses except by judgment of a court of competent jurisdiction. All other real property owned by either spouse which is not the principal matrimonial residence may be alienated without the consent of both spouses.

2. This act shall take effect 90 days after its enactment.

Approved February 28, 1980.

CHAPTER 486

AN ACT concerning protective arrangements for minors and mental incompetents and supplementing Title 3A of the New Jersey Statutes.

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

C. 3A:20-12 Authorization to direct or ratify single or more than one transaction.

1. If it is established that a minor or mental incompetent has property which may be wasted or dissipated or that a basis exists for affecting the property and affairs of a minor or mental incompetent, or that funds are needed for the support, care and welfare of the minor or mental incompetent or those entitled to be supported by him, the court may, subject to the appointment of a guardian ad litem and upon notice to the guardian ad litem, without appointing a guardian of his estate, authorize, direct or ratify any single or more than one transaction necessary or desirable to achieve any security, service, care or protective arrangement meeting the foreseeable needs of the minor or mental incompetent or those dependent upon him. Protective arrangements include, but are not limited to, payment, delivery, deposit or retention of funds or property, sale, mortgage, lease or other transfer of property, entry into an annuity contract, a contract for life care, a deposit contract, a contract for training and education, or addition to, or establishment of suitable trust. The court may authorize, direct or ratify any contract, trust or other

transaction relating to the minor's or mental incompetent's financial affairs or involving his estate if the court determines that the transaction is in the best interests of the minor or mental incompetent or those dependent upon him.

C. 3A:20-13 Considerations by court before approval of protective arrangement.

2. Before approving a protective arrangement or other transaction the court shall consider the interests of creditors and dependents of the minor or mental incompetent and, in view of his disability, whether the minor or mental incompetent needs the continuing protection of a guardian. The court may appoint a special guardian to assist in the accomplishment of any protective arrangement or other transaction authorized under this section who shall have authority conferred by the order and serve until discharged by order after report to the court of all matters done pursuant to the order of appointment.

C. 3A:20-14 Application for trial.

3. Where application is made to the court for proceedings to affect the property and affairs of a mental incompetent, and the alleged mental incompetent has not been adjudicated as such, the alleged mental incompetent or someone in his behalf may apply for a trial of the issue of mental incompetency in accordance with N. J. S. 3A:6–35 and the rules governing the courts of the State of New Jersey.

4. This act shall take effect immediately.

Approved February 28, 1980.

CHAPTER 487

AN ACT concerning the conservation of property of an absent person, amending N. J. S. 3A:39–1 and 3A:39–2, supplementing Title 3A of the New Jersey Statutes and repealing N. J. S. 3A:39–3 and 3A:39–4.

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

C. 3A:39-5 "Absent person" defined.

1. As used in this act, an absent person means any person who has disappeared, or been confined or detained by a foreign power.

2. N. J. S. 3A:39–1 is amended to read as follows:

Appointment of trustees; powers.

3A:39–1. If an absent person has property in this State, which property may be wasted or dissipated unless proper management is provided, or where funds are needed for the support, care and welfare of such person or those entitled to be supported by him, and protection is necessary or desirable to obtain or provide funds, the Superior Court may in a summary action appoint one or more trustees to take charge of and manage the property. The trustee shall be under the direction and control of the court appointing him and shall have full power over the property and may commence and maintain such proceedings for the conservation, protection or disposal of the property, or any part thereof, as the court may deem proper.

3. N. J. S. 3A:39–2 is amended to read as follows:

Distribution or disposition of property.

3A:39–2. Distribution or any other disposition of the property in the case of any such person may be made under direction of the court when he is presumed dead under section 3A:40–1 of this Title, or sooner if the death of the absent person is established by evidence satisfactory to the court. If the absent person returns or the need for management or protection ceases before distribution or other disposition the trustee shall restore to him the property, after deduction of the reasonable expenses of the trust and compensation of the trustees.

C. 3A:39-6 Powers.

4. The trustee shall have all the powers, duties and responsibilities of a guardian of the estate of a minor, and the court shall have all the powers, for the benefit of any such person, which it has for the benefit of a minor for whom a guardian has been appointed. The court shall have the same powers, without appointing a trustee, to authorize, direct or ratify any single or more than one transaction necessary or desirable to achieve any security, service, care or protective arrangement, which it has in the case of a minor for whom no general guardian has been appointed.

Repealer.

5. N. J. S. 3A:39–3 and 3A:39–4 are repealed.

6. This act shall take effect immediately.

Approved February 28, 1980.

CHAPTER 488

A SUPPLEMENT to "The Evidence Act 1960," approved June 20, 1960 (P. L. 1960, c. 52).

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

C. 2A:84A-21.9 Freedom from searches and seizures for newsperson; exceptions.

1. (New section) Any person, corporation, partnership, proprietorship or other entity engaged on, engaged in, connected with, or otherwise employed in gathering, procuring, transmitting, compiling, editing, publishing, or disseminating news for the public, or on whose behalf news is so gathered, procured, transmitted, compiled, edited, published or disseminated shall be free from searches and seizures, by State, county and local law enforcement officers with respect to any documentary materials obtained in the course of pursuing the aforesaid activities whether or not such material has been or will be disseminated or published.

This section shall not restrict or impair the ability of any law enforcement officer, pursuant to otherwise applicable law, to search for or seize such materials, if there is probable cause to believe that:

a. The person, corporation, partnership, proprietorship or other entity possessing the materials has committed or is committing the criminal offense for which the materials are sought; or

b. The immediate seizure of the materials is necessary to prevent the death of or serious bodily injury to a human being; or

c. The giving of notice pursuant to a subpena duces tecum would result in the destruction, alteration or deliberate concealment of the documentary materials other than work product; or

d. The documentary materials, other than work product, have not been produced in response to a court order directing compliance with a subpena duces tecum, and

(1) All appellate remedies have been exhausted by the party seeking to quash the subpena duces tecum; or

(2) There is a probability that the delay in an investigation or trial occasioned by further proceedings relating to the subpena would threaten the interests of justice. In the event a search warrant is sought pursuant to this subparagraph, the person, corporation, partnership, proprietorship or other entity possessing the

materials shall be afforded adequate opportunity to submit an affidavit to the court setting forth the basis for any contention that the materials sought are not subject to seizure.

C. 2A:84A-21.10 Search warrant; application; approval.

2. (New section) In the event a search warrant is sought pursuant to Section 1 of this act, all applications to the court for such warrants shall be approved in advance of their submission by the Attorney General or the prosecutor of the county in which execution of the warrant will take place.

C. 2A:84A-21.11 Civil cause of action for damages for search and seizure.

3. (New section) a. A person, corporation, partnership, proprietorship or other entity aggrieved by a search for or seizure of materials in violation of this act shall have a civil cause of action for damages for such search or seizure:

(1) Against the State of New Jersey, or against any other governmental unit, all of which shall be liable for violations of this act by their officers, employees or agents while acting within the scope or under color of their office, employment or agency.

(2) Against an officer, employee or agent of the State of New Jersey or any other governmental unit who has violated this act while acting other than within the scope or under color of his office, employment or agency. It shall be a complete defense to a civil action brought under this paragraph that the officer, employee or agent had a reasonable good faith belief in the lawfulness of his conduct unless his error is due to an ignorance of an official statement of the law.

b. The State of New Jersey or any other governmental unit, liable for violations of this act under paragraph 3 a. (1), may not assert as a defense to a claim arising under this act the immunity of the officer, employee or agent whose violation is complained of or his reasonable good faith belief in the lawfulness of his conduct, except that such a defense may be asserted if the violation complained of is that of a judge.

c. The remedy provided by paragraph 3 a. (1) against the State of New Jersey or any other governmental unit is exclusive of any other civil action or proceeding for conduct constituting a violation of this act, against the officer, employee or agent whose violation gave rise to the claim, or against the estate of such officer, employee or agent.

d. A person, corporation, partnership, proprietorship or other entity having a cause of action under this section shall be entitled to recover actual damages but not less than liquidated damages of

$1,000.00, such punitive damages as may be warranted, and such reasonable attorney's fee and other litigation costs reasonably incurred as the court, in its discretion, may award; provided, however, that the State of New Jersey or any other governmental unit shall not be liable for interest prior to judgment.

e. The Attorney General is authorized to settle a claim for damages brought against the State of New Jersey under this section and shall promulgate regulations to provide for the commencement of an administrative inquiry following a determination of a violation of this act by an officer, employee or agent of the State of New Jersey or any other governmental unit and for the imposition of administrative sanctions against such officer, employee or agent if warranted.

f. A county prosecutor may settle a claim for damages brought against the county of his jurisdiction or any other governmental unit under this section.

C. 2A:84A-21.12 Definitions.

4. (New section) As used in this act: a. "Documentary materials" means materials upon which information is recorded and includes, but is not limited to, written or printed materials, photographs, tapes, videotapes, negatives, films, outtakes and interview files.

b. "Work product" means any documentary materials created by or for a person in connection with his plans, or the plans of the person creating such materials, to gather, file, procure, transmit, compile, edit, publish or disseminate news for the public, except such work product as constitutes contraband, or the fruits, instrumentalities or evidence of a crime.

c. "Any other governmental unit" includes any branch, subdivision or agency of the government of the State or any locality within it.

d. "Attorney General" means the Attorney General of the State of New Jersey, or his designee.

e. "County prosecutor" means the duly appointed prosecutor of a county, or his designee.

C. 2A:84A-21.13 Applicability of act.

5. (New section) Nothing contained in this act shall be construed to limit the right of the Department of Corrections to search the offices of inmate newspapers or the public information offices of any inmate organization located within a correctional facility.

6. This act shall take effect immediately.

Approved February 28, 1980.

CHAPTER 489

"AN ACT concerning powers of executors, administrators, guardians and trustees," and amending P. L. 1968, c. 270.

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

1. Section 1 of P. L. 1968, c. 270 (C. 3A:6–16.1) is amended to read as follows:

C. 3A:6-16.1 Definitions.

1. As used in this act, unless the context or subject matter otherwise requires:

(a) The term "estate" means the estate of a decedent or the estate of a minor or mentally incompetent person;

(b) The term "trust" means any express trust of real or personal property, or both, created by a will, deed or other instrument whereby there is imposed upon a trustee the duty to administer a trust asset, transferred to the trust by a testator or settlor, for benefit of a named or otherwise described income or principal beneficiary, or both. A trust shall not include trusts for the benefit of creditors, resulting or constructive trusts, business trusts where certificates of beneficial interest are issued to the beneficiary, investment trusts, voting trusts, security investments such as deeds of trust and mortgages, trusts created by the judgment or decree of a court, liquidation or reorganization trusts, trusts for the sole purpose of paying dividends, interest, interest coupons, salaries, wages, pensions or profits, instruments wherein one or more persons are mere nominees for another or others, or trusts created in deposits in any banking institution or savings and loan institution;

(c) The term "fiduciary" means guardians, executors, administrators, administrators with the will annexed, administrators pendente lite, trustees of express trusts, including a corporate as well as a natural person acting as a fiduciary, and an ancillary, successor or substituted fiduciary.

2. Section 2 of P. L. 1968, c. 270 (C. 3A:6–16.2) is amended to read as follows:

C. 3A:6-16.2 Powers.

2. In the absence of contrary or limiting provisions in the judgment or order appointing a fiduciary, in the will, deed or

other instrument or in a subsequent court judgment or order, every fiduciary shall, in the exercise of good faith and reasonable discretion, have the power:

(a) To accept additions to any estate or trust from sources other than the estate of the decedent or the settlor of a trust;

(b) To acquire the remaining undivided interest in an estate or trust asset in which the fiduciary, in his fiduciary capacity, holds an undivided interest;

(c) To invest and reinvest assets of the estate or trust under the provisions of the will, deed or other instrument or as otherwise provided by law and to exchange assets for investments and other property upon such terms as may seem to the fiduciary advisable;

(d) To effect and keep in force fire, rent, title, liability, casualty or other insurance to protect the property of the estate or trust and to protect the fiduciary;

(e) With respect to any property or any interest therein owned by an estate or trust, including any real property belonging to the fiduciary's decedent at death, except where such real property or any interest therein is specifically disposed of:

i. To take possession of, collect the rents from and manage the same, and pay taxes, mortgage interest and other charges against the property;

ii. To sell the same at public or private sale, and on such terms as in the opinion of the fiduciary shall be most advantageous to those interested therein;

iii. With respect to fiduciaries other than a trustee, to lease the same for a term not exceeding 3 years, and in the case of a trustee to lease the same for a term not exceeding 10 years, though such term extends beyond the duration of the trust, and in either of such cases including the right to explore for and remove mineral or other natural resources, and in connection with mineral leases to enter into pooling and unitization agreements; and

iv. To mortgage the same;

v. To grant easements to adjoining owners and utilities;

vi. A fiduciary acting under a will may exercise any of the powers granted by this subparagraph (e) notwithstanding the effects upon the will of the birth of a child after its execution.

(f) To make repairs to the property of the estate or trust for the purpose of preserving the property or rendering it rentable or saleable;

(g) To grant options for the sale of any property of the estate or trust for a period not exceeding 6 months;

(h) With respect to any mortgage held by the estate or trust (i) to continue the same upon and after maturity, with or without renewal or extension, upon such terms as may seem to the fiduciary advisable, and (ii) to foreclose, as an incident to collection of any bond or note, any mortgage and purchase the mortgaged property or acquire the property by deed from the mortgagor in lieu of foreclosure;

(i) In the case of the survivor or survivors of two or more fiduciaries to administer the estate or trust without the appointment of a successor to the fiduciary or fiduciaries who have ceased to act and to exercise or perform all of the powers given unless contrary to the express provision of the will, deed or other instrument;

(j) As a new, alternate, successor, substitute or additional fiduciary or fiduciaries, to have or succeed to all of the powers, duties and discretion of the original fiduciary or fiduciaries, with respect to the estate or trust, as were given to the original fiduciary or fiduciaries named in or appointed by a will, deed or other instrument, unless the exercise of such powers, duties or discretion of such original fiduciary or fiduciaries is expressly prohibited by the will, deed or other instrument to any successor or substitute fiduciary or fiduciaries;

(k) Where there are three or more fiduciaries qualified to act, to take any action with respect to the estate or trust which a majority of such fiduciaries shall determine. A fiduciary who fails to act through absence or disability, or a dissenting fiduciary who joins in carrying out the decision of a majority of the fiduciaries if his dissent is expressed promptly in writing to his cofiduciaries, shall not be liable for the consequences of any majority decision, provided that liability for failure to join in administering the trust or to prevent a breach of trust may not thus be avoided;

(l) To employ and compensate attorneys;

(m) To compromise, contest or otherwise settle any claim in favor of the estate, trust or fiduciary or in favor of third persons and against the estate, trust or fiduciary, including transfer inheritance, estate, income and other taxes;

(n) To vote in person or by proxy, discretionary or otherwise, shares of stock or other securities held by the estate or trust;

(o) To pay calls, assessments and any other sums chargeable or accruing against or on account of shares of stock, bonds, debentures or other corporate securities in the hands of a fiduciary,

whenever such payments may be legally enforceable against the fiduciary or any property of the estate or trust or the fiduciary deems payment expedient and for the best interests of the estate or trust;

(p) To sell or exercise stock subscription or conversion rights, participate in foreclosures, reorganizations, consolidations, mergers or liquidations, and to consent to corporate sales or leases and encumbrances. In the exercise of such powers, the fiduciary is authorized to deposit stocks, bonds or other securities with any custodian, agent, protective or other similar committee, or trustee under a voting trust agreement, under such terms and conditions respecting the deposit thereof as the fiduciary may approve;

(q) To execute and deliver agreements, assignments, bills of sale, contracts, deeds, notes, receipts and any other instrument necessary or appropriate for the administration of the estate or trust;

(r) In the case of a trustee, to hold two or more trusts or parts of such trusts created by the same instrument, as an undivided whole, without separation as between such trusts or parts of such trusts, provided that such separate trusts or parts of such trusts shall have undivided interests and provided further that no such holding shall defer the vesting of any estate in possession or otherwise;

(s) To distribute in kind any property of the estate or trust at its fair market value at the date of distribution;

(t) To join with the surviving spouse, the executor of his or her will or the administrator of his or her estate in the execution and filing of a joint income tax return for any period prior to the death of a decedent for which he has not filed a return or a gift tax return on gifts made by the decedent's surviving spouse, and to consent to treat such gifts as being made one-half by the decedent, for any period prior to a decedent's death, and to pay such taxes thereon as are chargeable to the decedent;

(u) To acquire or dispose of an asset, including real or personal property in this or another state, for cash or on credit, at public or private sale; and manage, develop, improve, exchange, partition, change the character of, or abandon an estate asset.

3. This act shall take effect immediately.

Approved February 28, 1980.

CHAPTER 490

AN ACT concerning investments by fiduciaries administering trust estates and amending P. L. 1975, c. 337.

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

1. Section 2 of P. L. 1975, c. 337 (C. 3A:15–36) is amended to read as follows:

C. 3A:15-36 Definitions.

2. As used in this act:

a. "Trust instrument" means and includes a will, deed, agreement, court order or other instrument pursuant to which money or other property is entrusted to a fiduciary;

b. "Fiduciary" means an individual or corporation authorized to act as a trustee, executor, administrator, administrator with the will annexed, or guardian, and every other person or corporation charged with the duty of administering a trust estate;

c. "Trust estate" means money or other property entrusted to a fiduciary pursuant to a trust instrument, will, estate of an intestate decedent or the estate of a minor or mentally incompetent person being administered by a guardian;

d. "Investments" means and includes property of every nature, real, personal and mixed, tangible and intangible, which persons of ordinary prudence and reasonable discretion acquire for the purpose of preserving capital and of realizing income; and specifically includes, solely by way of description and not by way of limitation, bonds, debentures and other corporate obligations, capital stocks, common stocks, preferred stocks, common trust funds as defined in and regulated by article 9, Common Trust Funds, P. L. 1948, c. 67 (C. 17:9A–36 et seq.), investments as authorized by article 1 of chapter 15 of Title 3A of the New Jersey Statutes, and securities of any open-end or closed-end management type investment company or investment trust registered pursuant to the Federal Investment Company Act of 1940, as from time to time amended.

2. This act shall take effect immediately.

Approved February 28, 1980.

CHAPTER 491

AN ACT revising the law with respect to multiple-party deposit accounts maintained in certain financial institutions; amending sections 82, 89 through 91 of P. L. 1963, c. 144; repealing sections 216 through 218 of P. L. 1948, c. 67; P. L. 1954, c. 208; sections 88, 92 through 102, 104, 105, 107 and 108 of P. L. 1963, c. 144; P. L. 1965, c. 145, and supplementing Title 17 of the Revised Statutes.

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

C. 17:16I-1 Short title.

1. (New section) This act shall be known and may be cited as the "Multiple-party Deposit Account Act".

C. 17:16I-2 Definitions.

2. (New section) As used in this act unless the context otherwise requires:

a. "Account" means a contract of deposit of funds between a depositor and a financial institution, and includes a checking account, savings account, certificate of deposit, share account and other like arrangement;

b. "Beneficiary" means a person named in a trust account as one for whom a party to the account is named as trustee;

c. "Financial institution" means any organization authorized to do business under State or Federal laws relating to financial institutions, including, without limitation, banks and trust companies, savings banks, building and loan associations, savings and loan associations;

d. "Joint account" means an account payable on request to one or more of two or more parties whether or not mention is made of any right of survivorship, and regardless whether the names of the parties are stated in the conjunctive or in the disjunctive;

e. A "multiple-party account" is any of the following types of account: (1) a joint account, (2) a P.O.D. account, or (3) a trust account. It does not include accounts established for deposit of funds of a partnership, joint venture, or other association for business purposes, or accounts controlled by one or more persons as the duly authorized agent or trustee for a corporation, unin-

corporated association, charitable or civic organization or a regular fiduciary or trust account where the relationship is established other than by deposit agreement;

f. "Net contribution" of a party to a joint account as of any given time is the sum of all deposits thereto made by or for him, less all withdrawals made by or for him which have not been paid to or applied to the use of any other party, plus a pro rata share of any interest or dividends included in the current balance. The term includes, in addition, any proceeds of deposit life insurance added to the account by reason of the death of the party whose net contribution is in question;

g. "Party" means a person who, by the terms of the account, has a present right, subject to request, to payment from a multiple-party account. A P.O.D. payee or beneficiary of a trust account is a party only after the account becomes payable to him by reason of his surviving the original payee or trustee. Unless the context otherwise requires, it includes a guardian, conservator, personal representative, or assignee, including an attaching creditor, of a party. It also includes a person identified as a trustee of an account for another whether or not a beneficiary is named, but it does not include any named beneficiary unless he has a present right of withdrawal;

h. "Payment" of sums on deposit includes withdrawal, payment on check or other directive of a party, and any pledge of sums on deposit by a party of any setoff, or reduction or other disposition of all or part of an account pursuant to a pledge;

i. "Proof of death" includes a certified or authenticated copy of a death certificate purporting to be issued by an official or agency of the place where the death purportedly occurred, and a certified or authenticated copy of any judgment or record or report of a court or a governmental agency, domestic or foreign, that a person is dead;

j. "P.O.D. account" means an account payable on request to one person during lifetime and on his death to one or more P.O.D. payees, or to one or more persons during their lifetimes and on the death of all of them to one or more P.O.D. payees;

k. "P.O.D. payee" means a person designated on a P.O.D. account as one to whom the account is payable on request after the death of one or more persons;

l. "Request" means a proper request for withdrawal, or a check or order for payment, which complies with all conditions of the account, including special requirements concerning

necessary signatures and regulations of the financial institution; but if the financial institution conditions withdrawal or payment on advance notice, for purposes of this part the request for withdrawal or payment is treated as immediately effective and a notice of intent to withdraw is treated as a request for withdrawal;

m. "Sums on deposit" means the balance payable on a multiple-party account including interest, dividends, and in addition any deposit life insurance proceeds added to the account by reason of the death of a party;

n. "Trust account" means an account in the name of one or more parties as trustee for one or more beneficiaries where the relationship is established by the form of the account and the deposit agreement with the financial institution and there is no subject of the trust other than the sums on deposit in the account; it is not essential that payment to the beneficiary be mentioned in the deposit agreement. A trust account does not include a regular trust account under a testamentary trust or a trust agreement which has significance apart from the account, or a fiduciary account arising from a fiduciary relation such as attorney-client;

o. "Withdrawal" includes payment to a third person pursuant to check or other directive of a party; and

p. "Written notice or order" received by a financial institution is effective for a particular transaction from the time it is brought to the attention of the individual conducting that transaction.

C. 17:16I-3 Applicability of certain provisions of act.

3. (New section) The provisions of sections 4 to 6 concerning beneficial ownership as between parties, or as between parties and P.O.D. payees or beneficiaries of multiple-party accounts, are relevant only to controversies between these persons and their creditors and other successors, and have no bearing on the power of withdrawal of these persons as determined by the terms of account contracts. The provisions of sections 8 to 13 govern the liability of financial institutions who make payments pursuant thereto, and their setoff rights.

C. 17:16I-4 Ownership of accounts during lifetime.

4. (New section) Unless a contrary intent is manifested by the terms of the contract, or the deposit agreement, or there is other clear and convincing evidence of a different intent at the time the account is created:

a. A joint account belongs, during the lifetime of all parties, to the parties in proportion to the net contributions by each to the

sums on deposit. In the absence of proof of net contributions, the account belongs in equal shares to all parties having present right of withdrawal. This subsection shall not be construed to affect the right of the court to effectuate an equitable distribution of property between the parties in an action for divorce pursuant to N. J. S. 2A:34–23.

b. A P.O.D. account belongs to the original payee during his lifetime and not to the P.O.D. payee or payees; if two or more parties are named as original payees, during their lifetimes rights as between them are governed by subsection a. of this section.

c. A trust account belongs beneficially to the trustee during his lifetime, and if two or more parties are named as trustee on the account, during their lifetimes beneficial rights as between them are governed by subsection a. of this section. If there is an irrevocable trust, the account belongs beneficially to the beneficiary.

C. 17:16I-5 Right of survivorship.

5. (New section) a. Sums remaining on deposit at the death of a party to a joint account belong to the surviving party or parties as against the estate of the decedent unless there is clear and convincing evidence of a different intention at the time the account is created. If there are two or more surviving parties, their respective ownerships during lifetime shall be in proportion to their previous ownership interests under section 4 augmented by an equal share for each survivor of any interest the decedent may have owned in the account immediately before his death; and the right of survivorship continues between the surviving parties.

b. If the account is a P.O.D. account;

(1) On death of one of two or more original payees the rights to any sums remaining on deposit are governed by subsection "a";

(2) On death of the sole original payee or of the survivor of two or more original payees, any sums remaining on deposit belong to the P.O.D. payee or payees if surviving, or to the survivor of them if one or more die before the original payee; if two or more P.O.D. payees survive, there is no right of survivorship in the event of death of a P.O.D. payee thereafter unless the terms of the account or deposit agreement expressly provide for survivorship between them.

c. If the account is a trust account;

(1) On death of one of two or more trustees, the rights to any sums remaining on deposit are governed by subsection "a";

(2) On death of the sole trustee or the survivor of two or more trustees, any sums remaining on deposit belong to the person or

persons named as beneficiaries, if surviving, or to the survivor of them if one or more die before the trustee, unless there is clear evidence of a contrary intent; if two or more beneficiaries survive, there is no right of survivorship in event of death of any beneficiary thereafter unless the terms of the account or deposit agreement expressly provide for survivorship between them.

d. In other cases, the death of any party to a multiple-party account has no effect on beneficial ownership of the account other than to transfer the rights of the decedent as part of his estate.

e. A right of survivorship arising from the express terms of the account or under this section, a beneficiary designation in a trust account, or a P.O.D. payee designation, cannot be changed by will.

C. 17:16I-6 Rights of survivorship; determination; alteration.

6. (New section) The provisions of section 5 as to rights of survivorship are determined by the form of the account at the death of a party. This form may be altered by written notice or order given by a party to the financial institution to change the form of the account or to stop or vary payment under the terms of the account. The order or request must be signed by a party, received by the financial institution during the party's lifetime, and not countermanded by other written order of the same party during his lifetime.

C. 17:16I-7 Liability for receiving payment from multiple-party account.

7. (New section) No multiple-party account will be effective against an estate of a deceased party to transfer to a survivor sums needed to pay debts, taxes, and expenses of administration, if other assets of the estate are insufficient. A surviving party, P.O.D. payee, or beneficiary who receives payment from a multiple-party account after the death of a deceased party shall be liable to account to his personal representative for amounts the decedent owned beneficially immediately before his death to the extent necessary to discharge the claims and charges mentioned above remaining unpaid after application of the decedent's estate. No proceeding to assert this liability shall be commenced unless the personal representative has received a written demand by a creditor, and no proceeding shall be commenced later than 2 years following the death of the decedent. Sums recovered by the personal representative shall be administered as part of the decedent's estate. This section shall not affect the right of a financial institution to make payment on multiple-party accounts according to the terms thereof, or make it liable to the estate of a deceased party unless before

payment the institution has been served with an order of court restraining the payment.

C. 17:16I-8 Financial institutions; entry into multiple-party accounts.

8. (New section) Financial institutions may enter into multiple-party accounts to the same extent that they may enter into single-party accounts. Any multiple-party account may be paid, on request, to any one or more of the parties. A financial institution shall not be required to inquire as to the source of funds received for deposit to a multiple-party account, or to inquire as to the proposed application of any sum withdrawn from an account, for purposes of establishing net contributions.

C. 17:16I-9 Payments after death or disability.

9. (New section) Any sums in a joint account may be paid, on request, to any party without regard to whether any other party is incapacitated or deceased at the time the payment is demanded; but payment may not be made to the personal representative or heirs of a deceased party unless proofs of death are presented to the financial institution showing that the decedent was the last surviving party or unless there is no right of survivorship under section 5.

C. 17:16I-10 P.O.D. account; payment.

10. (New section) Any P.O.D. account may be paid, on request, to any original party to the account. Payment may be made, on request, to the P.O.D. payee or to the personal representative or heirs of a deceased P.O.D. payee upon presentation to the financial institution of proof of death showing that the P.O.D. payee survived all persons named as original payees. Payment may be made to the personal representative or heirs of a deceased orginal payee if proof of death is presented to the financial institution showing that his decedent was the survivor of all other persons named on the account either as an original payee or as P.O.D. payee.

C. 17:16I-11 Payment of trust account.

11. (New section) Any trust account may be paid, on request, to any trustee. Unless the financial institution has received written notice that the beneficiary has a vested interest not dependent upon his surviving the trustee, payment may be made to the personal representative or heirs of a deceased trustee if proof of death is presented to the financial institution showing that his decedent was the survivor of all other persons named on the account either as trustee or beneficiary. Payment may be made, on request, to the beneficiary upon presentation to the financial institution of

proof of death showing that the beneficiary or beneficiaries survived all persons named as trustees.

C. 17:16I-12 Protection to financial institution in making payments; extent of liability.

12. (New section) Payment made pursuant to sections 8, 9, 10 or 11 of this act or sections 89, 90 or 91 of P. L. 1963, c. 144 (C. 17:12B–89 to C. 17:12B–91) discharges the financial institution from all claims for amounts so paid whether or not the payment is consistent with the beneficial ownership of the account as between parties, P.O.D. payees, or beneficiaries, or their successors. The protection here given does not extend to payments made after a financial institution has received written notice from any party able to request present payment to the effect that withdrawals in accordance with the terms of the account should not be permitted. Unless the notice is withdrawn by the person giving it, the successor of any deceased party must concur in any demand for withdrawal if the financial institution is to be protected under this section. No other notice or any other information shown to have been available to a financial institution shall affect its right to the protection provided here. The protection here provided shall have no bearing on the rights of parties in disputes between themselves or their successors concerning the beneficial ownership of funds in, or withdrawn from, multiple-party accounts. Financial institutions refusing or altering payment pursuant to written notice or order from any party able to request present payment shall not be liable to any other party to the account, or beneficiary thereof, by reason of such action.

C. 17:16I-13 Right of setoff.

13. (New section) Without qualifying any other right to setoff or lien and subject to any contractual provision, if a party to a multiple-party account is indebted to a financial institution. the financial institution has a right to setoff against the account in which the party has or had immediately before his death a present right of withdrawal. The amount of the account subject to setoff is that proportion to which the debtor is, or was immediately before his death, beneficially entitled, and in the absence of proof of net contributions, to an equal share with all parties having present rights of withdrawal.

C. 17:16I-14 Transfers; right of survivorship.

14. (New section) Any transfers resulting from the application of section 5 are effective by reason of the account contracts involved and this act, and are not to be considered as testamentary.

The right of any surviving party to a joint account, or of any beneficiary, or of any P.O.D. payee, to the sums on deposit on the death of any party to a multiple-party account maintained in any financial institution, shall not be denied, abridged or in anywise affected because such right has not been created by a writing executed in accordance with the laws of this State prescribing the requirements to effect a valid testamentary disposition of property.

C. 17:16I-15 Conformance with provisions of act.

15. (New section) Nothing in this act shall validate any trust created in fraud of creditors of the fiduciary nor affect any law of this State governing transfer inheritance or estate taxes, nor shall anything herein relieve any financial institution of its duty to conform with the provisions of the law imposing transfer inheritance taxes with respect to decedents' estates.

C. 17:16I-16 Form and content of deposit contracts.

16. (New section) The Commissioner of Banking shall prescribe by rule or regulation the form and content of deposit contracts applicable to deposits of funds which may be subject to this act for the object of assuring to the extent possible that each such contract bears out the intentions of the persons who are named in the account, particularly in respect to the rights of survivorship and whether or not such rights of survivorship are intended to be created.

C. 17:16I-17 Applicability of act.

17. (New section) This act shall apply only to accounts opened after its effective date and accounts opened prior thereto shall be governed by the law in effect when such accounts were opened.

18. Section 82 of P. L. 1963, c. 144 (C. 17:12B–82) is amended to read as follows:

C. 17:12B-82 Membership trust accounts.

82. When a membership trust account is opened in the manner provided in the "Multiple-party Deposit Account Act", and,

a. Where a trustee's death terminates the trust under the provisions of section 5c(2) of the "Multiple-party Deposit Account Act" and where the named beneficiary or all of the beneficiaries so named are 16 years of age or over at the time of termination of such trust, the association shall pay the moneys to the credit of the trust, less all proper set-offs and charges, to the named beneficiary or beneficiaries or upon his or their order, and such payment by the association shall be valid, notwithstanding any lack of legal age of the named beneficiary or beneficiaries;

b. If the named beneficiary or all of the beneficiaries so named are under 16 years of age at the time of termination of such trust, the association shall pay the moneys to the credit of the trust, less all proper set-offs and charges,

(1) When or after the named beneficiary becomes 16 years of age, to the named beneficiary or upon his order, or

(2) When more than one beneficiary is named, the association shall pay to the beneficiary so named his proportionate interest in such account as he becomes 16 years of age, or

(3) To the legal guardian of the named beneficiary wherever appointed, or where more than one beneficiary is named, the association shall pay such beneficiary's proportionate interest in such account to his legal guardian wherever and whenever appointed, or

(4) If a certificate of appointment of a legal guardian is not filed with the association to a person authorized to receive such moneys or proportionate interest thereof pursuant to sections 3A:6–31 and 3A:6–32 of the New Jersey Statutes.

c. Where a trustee's death terminates the trust under the provisions of section 5c(2) of the "Multiple-party Deposit Account Act" and where one or more of the named beneficiaries are under 16 years of age and the remainder of the named beneficiaries are 16 years of age or over, the association shall pay the moneys to the credit of the trust, less all proper set-offs and charges to:

(1) The named beneficiaries 16 years of age or over at the time of termination of said trust pursuant to subsection a of this section. and

(2) The named beneficiaries under 16 years of age at the time of termination of said trust pursuant to subsection b of this section.

19. Section 89 of P. L. 1963, c. 144 (C. 17:12B–89) is amended to read as follows:

C. 17:12B-89 Payments by association; validity.

89. When a membership account is opened by a person or persons payable on death to a beneficiary or beneficiaries in the manner provided in the "Multiple-party Deposit Account Act", and the account is terminated as provided in section 5b(2) of said act, and if the named beneficiary or one of the beneficiaries so named survive the death of the person or persons opening such an account and the beneficiary or all of the beneficiaries so named are 16 years of age or over at the death of the person or persons opening such an account, the association shall pay the moneys to the credit of the account, less all proper set-offs and charges, to the named

beneficiary or beneficiaries or upon his or their order, and such payment by the association shall be valid, notwithstanding any lack of legal age of the named beneficiary or beneficiaries.

20. Section 90 of P. L. 1963, c. 144 (C. 17:12B–90) is amended to read as follows:

C. 17:12B-90 Beneficiaries under 16 years of age; payment.

90. When a membership account is opened by a person or persons payable on death to a beneficiary or beneficiaries in the manner provided in the "Multiple-party Deposit Account Act," and the account is terminated as provided in section 5b(2) of said act, and if the named beneficiary or all of the beneficiaries so named survive the death of the person or persons opening such an account and are under 16 years of age at such time, the association shall pay the moneys to the credit of the account, less all proper set-offs and charges.

a. When or after the named beneficiary becomes 16 years of age, to the named beneficiary or upon his order, or

b. When more than one beneficiary is named, the association shall pay to the beneficiary so named his proportionate interest in such account as he becomes 16 years of age, or

c. To the legal guardian of the named beneficiary, wherever appointed, or where more than one beneficiary is named, the association shall pay such beneficiary's proportionate interest in such account to his legal guardian wherever and whenever appointed, or

d. If a certificate of appointment of a legal guardian is not filed with the association, to a person authorized to receive such moneys, or proportionate interest thereof, pursuant to sections 3A:6–31 and 3A:6–32 of the New Jersey Statutes.

21. Section 91 of P. L. 1963, c. 144 (C. 17:12B–91) is amended to read as follows:

C. 17:12B-91 Beneficiaries under and over 16 years of age; payment.

91. When a membership account is opened by a person or persons payable on death to a beneficiary or beneficiaries in the manner provided in the "Multiple-party Deposit Account Act," and the account is terminated as provided in section 5b(2) of said act, and where one or more of the named beneficiaries are under 16 years of age and the remainder of the named beneficiaries are 16 years of age or over, the association shall pay the moneys to the credit of the trust, less all proper set-offs and charges to:

a. The named beneficiaries 16 years of age or over at the time of termination of said account shall be paid pursuant to section 89 of this act, and

b. The named beneficiaries under 16 years of age at the time of termination of said account shall be paid pursuant to section 90 of this act.

Repealer.

22. The following acts and parts of acts are hereby repealed:

a. Sections 216 through 218 of P. L. 1948, c. 67 (C. 17:9A–216 to C. 17:9A–218);

b. P. L. 1965, c. 145 (C. 17:9A–218.1 to C. 17:9A–218.7);

c. Sections 88, 92 through 102, 104, 105, 107 and 108 of P. L. 1963, c. 144 (C. 17:12B–88, C. 17:12B–92 to C. 17:12B–102, C. 17:12B–104, C. 17:12B–105, C. 17:12B–107 and C. 17:12B–108);

d. P. L. 1954, c. 208 (C. 46:37–1 and C. 46:37–2).

23. This act shall take effect 90 days after enactment.

Approved February 28, 1980.

CHAPTER 492

AN ACT concerning disclaimers of transfers under nontestamentary instruments, and supplementing Title 46 of the Revised Statutes.

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

C. 46:2E-1 Definitions.

1. (New section) As used in this act:

a. A "present interest" is one to take effect in immediate possession, use or enjoyment without the intervention of a preceding estate or interest or without being dependent upon the happening of any event or thing.

b. A "future interest" is one to take effect in possession, use or enjoyment dependent upon the termination of an intervening estate or interest or the happening of any event or thing.

C. 46:2E-2 Persons who may disclaim right of transfer.

2. (New section) Any person who is a grantee, donee, surviving joint tenant, surviving tenant by the entirety, surviving party to a

joint deposit account, a P.O.D. account or a trust deposit account, person succeeding to a disclaimed interest, beneficiary under a nontestamentary instrument or contract, appointee under a power of appointment exercised by a nontestamentary instrument, or a beneficiary under an insurance policy, may disclaim in whole or in part the right of transfer to him of any property or interest therein by delivering or filing a written disclaimer under this act. A disclaimer may be of a fractional share or any limited interest or estate.

C. 46:2E-3 Right to disclaim.

3. (New section) A person designated in section 2 upon whom property or interest therein devolves by right of survivorship may disclaim, as a separate interest, the property or interest so devolving upon him by right of survivorship. He may disclaim the entire interest therein if the property or interest therein was created by the decedent or another party and the survivor did not join in creating it.

C. 46:2E-4 Instrument.

4. (New section) The instrument disclaiming shall be in writing signed and acknowledged by the person disclaiming, and shall (1) describe the property or interest disclaimed, and if real property, the municipality and county wherein the real property is situated (2) declare the disclaimer and extent thereof.

C. 46:2E-5 Disclaimer; effective date.

5. (New section) A disclaimer on behalf of a decedent, minor or mentally-incompetent person may be made by the personal representative of the decedent or the guardian of the estate of the minor or mentally-incompetent person. Such disclaimer shall not be effective unless, prior thereto, the personal representative or guardian has been authorized to disclaim by the court having jurisdiction of the estate of the decedent, minor or mentally-incompetent person, after finding that it is advisable and will not materially prejudice the rights of creditors, devisees, heirs or beneficiaries of the decedent, the minor or mentally-incompetent person or his creditors, as the case may be.

C. 46:2E-6 Filing of instrument.

6. (New section) a. An instrument disclaiming a present interest shall be delivered or filed no later than 9 months after the effective date of the nontestamentary instrument or contract or 9 months after the day on which the taker of such interest attains age 18 if that day is more than 9 months after the effective date of the instrument or contract.

b. An instrument disclaiming a future interest shall be delivered or filed not later than 9 months after the event determining that the taker of the property or interest is finally ascertained and his interest is indefeasibly vested or 9 months after the day on which the taker of such interest attains age 18 if that day is more than 9 months after that event.

c. If the person entitled to disclaim does not have actual knowledge of the existence of the interest, the instrument shall be delivered or filed not later than 9 months after he has actual knowledge of the existence of the interest or 9 months after the day on which the person entitled to disclaim attains age 18 if that day is more than 9 months after he has actual knowledge of the existence of the interest.

d. The effective date of a revocable instrument or contract is the date on which the maker no longer has power to revoke it or to transfer to himself or another the entire legal and equitable ownership of the interest.

e. The time within which a disclaimer shall be filed may be extended by the court for reasonable cause, and on notice to such persons and in such manner as the court may direct.

C. 46:2E-7 Delivery of disclaimer to trustee; filing; book of disclaimers.

7. (New section) a. The disclaimer shall be delivered in person or mailed by registered or certified mail to the trustee or other person having legal title to, or possession of, the property or interest disclaimed or who is entitled thereto in the event of disclaimer.

b. If real property or any interest therein is disclaimed, a copy of the disclaimer shall be delivered or mailed as provided in subsection a. hereof, and the original thereof shall be filed in the office of the clerk or register of deeds and mortgages of the county in which the real property is situated. Each county clerk or register of deeds and mortgages shall provide a book to be entitled "Disclaimers," so arranged that he may record therein:

(1) The name of the disclaimant;

(2) The name of the trustee or other person having legal title to, or possession of, the property or interest disclaimed or is entitled thereto in the event of disclaimer or the name of the donee of the power of appointment;

(3) The location of the property;

(4) The file number of the county clerk's office or the office of register of deeds and mortgages indorsed upon each disclaimer filed;

(5) The date of filing the disclaimer.

The county clerk or the register of deeds and mortgages shall maintain in said record an alphabetical index of the names of all disclaimants stated in any disclaimer file, and also keep in his office for public inspection, all disclaimers so filed therein.

C. 46:2E-8 Devolution of disclaimed property or interest.

8. (New section) Unless the nontestamentary instrument or contract provides for another disposition, the property or interest therein disclaimed shall devolve (a) as to a present interest, as if the disclaimant had died before the effective date of the instrument or contract, and (b) as to a future interest, as if the disclaimant had died before the event determining that the taker of the property or interest had become finally ascertained and his interest indefeasibly vested. A disclaimer relates back for all purposes to that date.

C. 46:2E-9 Right to disclaim; when barred.

9. (New section) The right of a person to disclaim property or any interest therein is barred if the property or interest is seized under judicial process issued against the person before the expiration of the period in which he is permitted to disclaim; or if before the expiration of the period in which he is permitted to disclaim, the person (1) accepts or exercises control as beneficial owner over all or any part of such property or interest; or (2) voluntarily transfers or encumbers or contracts to transfer or encumber all or any part of such property or interest; or (3) disclaims or attempts to disclaim all or any part of such property or interest in fraud of his creditors as set forth in the Uniform Fraudulent Conveyance Law (R. S. 25:2–7 et seq.); or (4) executes a written waiver of the right to disclaim.

C. 46:2E-10 Disclaimer or waiver; when binding.

10. (New section) The disclaimer or the written waiver of the right to disclaim shall be binding upon the disclaimant or person waiving and all persons claiming by, through or under him.

C. 46:2E-11 Right to disclaim despite certain limitations.

11. (New section) The right to disclaim exists notwithstanding any limitation on the interest of the disclaimant in the nature of a spendthrift provision or similar restriction.

C. 46:2E-12 Rights under other statutes.

12. (New section) This act does not abridge the right of a person to waive, release, disclaim or renounce property or an interest therein under any other statute.

C. 46:2E-13 Time to disclaim.

13. (New section) An interest in property existing on the effective date of this act as to which, if a present interest, the time for filing a disclaimer under this act has not expired, or if a future interest, the interest has not become indefeasibly vested or the taker finally ascertained, may be disclaimed within 9 months after the effective date of this act.

14. This act shall take effect immediately.

Approved February 28, 1980.

CHAPTER 493

AN ACT concerning the small loan business, amending sections 17:10–2, 17:10–13, 17:10–14, 17:10–16, 17:10–17, 17:10–19, 17:10–20, and 17:10–21 of the Revised Statutes, P. L. 1962, c. 159, and supplementing Chapter 10 of Title 17 of the Revised Statutes.

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

1. R. S. 17:10–2 is amended to read as follows:

Loan business to be licensed; scope of chapter.

17:10–2. Loan Business to be Licensed; Scope of Chapter. No person, copartnership, association or corporation shall engage in the business of making loans of money, credit, goods or things in action in the amount of or the value of $5,000.00 or less and charge, contract for, or receive a greater rate of interest, discount, or consideration therefor than the lender would be permitted by law to charge if he were not a licensee hereunder, except as authorized by this chapter and without first obtaining a license from the commissioner.

Any person, copartnership, association or corporation directly or indirectly engaging in the business of soliciting or taking applications for such loans of $5,000.00 or less, or in the business of negotiating or arranging or aiding the borrower or lender in procuring or making such loans of $5,000.00 or less, or in the business of buying, discounting or indorsing notes or of furnishing or procuring guarantee or security for compensation in amounts of

$5,000.00 or less shall be deemed to be engaging in the business of making loans subject to the provisions of this chapter.

2. R. S. 17:10–13 is amended to read as follows:

Restrictions upon licensee; contract provisions for payments in installments.

17:10–13. Restrictions Upon Licensee; Contract Provisions for Payments in Installments. No licensee shall advertise, print, display, publish, distribute, telecast or broadcast, or permit to be advertised, printed, displayed, published, distributed, telecast or broadcast, any statement or representation which refers to the supervision by the State of the business licensed hereunder. No licensee or any other person shall knowingly in any such manner make or permit to be made any statement or representation with regard to the rates, terms, or conditions for making loans in the sum of $5,000.00 or less, which is false, misleading, or deceptive.

No licensee shall make any loan upon security of any assignment of or order for the payment of any salary, wages, commissions or other compensation for services earned, or to be earned, nor shall any such assignment or order be taken by a licensee at any time in connection with any loan, or for the enforcement of repayment thereof, and any such assignment or order hereafter so taken or given to secure any loan made by any licensee under this chapter shall be void and of no effect.

No licensee shall take a lien upon real estate as security for any loan under the provisions of this chapter, except such lien as is created by law upon the recording of a judgment.

No licensee shall conduct the business of making loans under the provisions of this chapter within any office, room, or place of business in which any other business is solicited or engaged in, or in association or conjunction therewith, except as may be authorized in writing by the commissioner.

No licensee shall transact such business or make any loan provided for by this chapter under any other name or at any other place of business than that named in the license.

No licensee which is a corporation shall publicly sell or offer for sale within this State any of its capital stock without the written approval of the commissioner first obtained.

Every loan contract, other than an open-end loan contract, shall provide for repayment of principal and interest combined in installments which shall be payable at approximately equal periodic intervals of time and which shall be so arranged that no installment

is substantially greater in amount than any preceding installment, except that the repayment schedule may reduce or omit such installments when necessary because of the seasonal nature of the borrower's income.

3. R. S. 17:10–14 is amended to read as follows:

Amount of loan; interest; other charges; effect of violations.

17:10–14. Amount of Loan; Interest; Other Charges; Effect of Violations. Every licensee hereunder may loan any sum of money not exceeding $5,000.00, repayable in installments, and may charge, contract for and receive thereon interest at an annual percentage rate not exceeding 24% on that part of the unpaid principal balance not exceeding $500.00, and 22% on that part of the unpaid balance in excess of $500.00 but not in excess of $1,500.00, and 18% on any remainder of such unpaid principal balance.

The interest and periodic payments for loans at these maximum rates shall be computed from standard tables based on the actuarial or annuity method which conforms to the so-called "United States Rule of Partial Payments," which provides that interest shall be calculated whenever a payment is made and the payment shall be first applied to the payment of interest and if it exceeds the interest due, the balance is to be applied to diminish principal. If the payment is insufficient to pay the entire amount of interest the balance of interest due shall not be added to principal, so as to produce interest thereon.

No interest shall be paid, deducted, or received in advance. Interest shall not be compounded and shall be computed only on unpaid principal balances. For the purpose of computing interest, whether at the maximum rate or less, all installment payments shall be applied no later than the next day, other than a public holiday, after the date of receipt, and interest shall be charged for the actual number of days elapsed at the daily rate of 1/365th of the yearly rate.

No licensee shall induce or permit any person nor any husband and wife, jointly or severally, to become obligated, directly or contingently or both, under more than one contract of loan at the same time for the purpose of obtaining a higher rate of interest than would otherwise be permitted by this section. This prohibition shall not apply to any loan made pursuant to any other law of this State.

In addition to the interest herein provided for no further or other charge, or amount whatsoever for any examination, service, broker-

age, commission, expense, fee, or bonus or other thing or otherwise shall be directly or indirectly charged, contracted for, or received, except (1) amounts for insurance obtained or provided by the licensee in accordance with the provisions of this chapter; and (2) on actual sale of the security in foreclosure proceedings or upon the entry of judgment. If any interest, consideration or charges in excess of those permitted by this chapter are charged, contracted for, or received, except as the result of a good faith error, the contract of loan shall be void and the licensee shall have no right to collect or receive any principal, interest, or charges whatsoever, and the borrower shall be entitled to recover from the lender any such sums paid or returned to the lender by the borrower on account of or in connection with the loan.

4. Section 1 of P. L. 1962, c. 159 (C. 17:10–14.1) is amended to read as follows:

C. 17:10-14.1 Life, health or disability insurance.

1. When the borrower consents thereto in writing, a licensee may obtain or provide insurance on the life and on the health or disability, or both, of one obligor, and on the lives of two obligors if spouses, pursuant to the provisions of "An act to provide for the regulation of credit life insurance and credit accident and health insurance as defined and supplementing Title 17 of the Revised Statutes" (P. L. 1958, c. 169), and may deduct from the principal of a loan and retain an amount equal to the premium lawfully charged by the insurance company. The amount so deducted and retained shall not be considered a prohibited charge or amount of any examination, service, brokerage, commission, expense, fee or bonus or other thing or otherwise. If a borrower obtains such insurance from or through a licensee, the statement required by Revised Statutes 17:10–15 shall show the amount of the charge therefor, and the licensee shall cause to be delivered to the borrower a copy of the policy, certificate or other evidence of such insurance when the loan is made. Nothing in the small loan law shall prohibit the licensee, or any employee, affiliate, subsidiary or associate of the licensee, from collecting the premium or identifiable charge for insurance permitted by this section and from receiving and retaining any dividend, or any other gain or advantage resulting from such insurance, nor shall the sale or provision of such insurance be deemed to require prior authorization under the provision of Revised Statutes 17:10–13.

5. (New section.)

C. 17:10-14.2 Definitions; open-end loans; payment of balance; variations; security interest; record-keeping.

a. As used in this amendatory and supplementary act:

(1) "Open-end loan" means a loan made by a licensee pursuant to an agreement between the licensee and the borrower whereby:

(i) The licensee may permit the borrower to obtain advances of money from the licensee from time to time or the licensee may advance money on behalf of the borrower from time to time as directed by the borrower;

(ii) The amount of each advance and permitted interest and charges are debited to the borrower's account and payments and other credits are credited to the same account;

(iii) Interest is computed on the unpaid principal balance or balances of the account from time to time;

(iv) The borrower has the privilege of paying the account in full at any time or, if the account is not in default, in monthly installments of fixed or determinable amounts as provided in the agreement; and

(v) The agreement expressly states that it covers open-end loans pursuant to this chapter.

(2) "Billing Cycle" means the time interval between periodic billing dates. A billing cycle shall be considered monthly if the closing date of the cycle is the same date each month or does not vary by more than 4 days from such date.

b. Open-end loans shall be subject to the following:

(1) A licensee may make open-end loans and may contract for and receive thereon interest as set forth in R. S. 17:10–14 of this chapter.

(2) A licensee shall not compound interest by adding any unpaid interest authorized by this section to the unpaid principal balance of the borrower's account; provided, however, the unpaid principal balance may include the additional charges authorized by R. S. 17:10–14 and P. L. 1962, c. 159 (C. 17:10–14.1).

(3) Interest authorized by this section shall be deemed not to exceed the maximum interest permitted by this chapter if such interest is computed in each billing cycle by any of the following methods:

(i) By converting each yearly rate to a daily rate and multiplying such daily rate by the applicable portion of the daily unpaid principal balance of the account, in which case

each daily rate is determined by dividing each yearly rate by 365; or

(ii) By multiplying one-twelfth of each yearly rate by the applicable portion of the average daily unpaid principal balance of the account in the billing cycle, in which case the average daily unpaid principal balance is the sum of the amount unpaid each day during the cycle divided by the number of days in the cycle; or

(iii) By converting each yearly rate to a daily rate and multiplying such daily rate by the applicable portion of the average daily unpaid principal balance of the account in the billing cycle, in which case each daily rate is determined by dividing each yearly rate by 365, and the average daily unpaid principal balance is the sum of the amount unpaid each day during the cycle divided by the number of days in the cycle.

(4) For all of the above methods of computation, the billing cycle shall be monthly and the unpaid principal balance on any day shall be determined by adding to any balance unpaid as of the beginning of that day all advances and other permissible amounts charged to the borrower and deducting all payments and other credits made or received that day.

c. The borrower may at any time pay all or any part of the unpaid balance in his account; or, if the account is not in default, the borrower may pay the unpaid principal balance in monthly installments, subject to minimum payment requirements set forth in this subsection.

Minimum monthly payments shall be in such amount as would result in the full repayment of the initial loan advance, exclusive of any interest, within the maximum term set forth for other loans of the same amount in section 6 of this amendatory and supplementary act. This minimum payment shall continue at that amount until such time as an additional advance to the borrower is made, other than for permitted charges, at which time the minimum monthly payment shall be determined and shall be in such amount as would result in the full repayment of the unpaid principal balance of the loan, after the advance and including the advance, within the maximum term set forth for the other loans of the same amount. Minimum payments after each subsequent advance shall be determined in the same manner. No minimum payment shall exceed the amount required to pay the balance in full, including unpaid interest and charges to date.

d. In addition to the interest permitted under subsection b., a licensee may contract for and receive the other charges permitted by this chapter on other loans, subject to all the conditions and restrictions set forth in those sections with the following variations:

(1) If credit life or disability insurance is provided and if the insured dies or becomes disabled when there is an outstanding open-end loan indebtedness, the insurance shall be sufficient to pay the total balance of the loan due on the date of the borrower's death in the case of credit life insurance, or all minimum payments which become due on the loan during the covered period of disability in the case of credit disability insurance. The additional charge for credit life insurance or credit disability insurance shall be calculated in each billing cycle by applying the current monthly premium rate for such insurance, as the rate may be determined by the Commissioner of Insurance, to the unpaid balances in the borrower's account, using any of the methods specified in subsection b. (3) for the calculation of interest.

(2) No credit life or disability insurance written in connection with an open-end loan shall be cancelled by the licensee because of delinquency of the borrower in the making of the required minimum payments on the loan unless one or more of the payments is past due for a period of 90 days or more; and the licensee shall advance to the insurer the amounts required to keep the insurance in force during that period, which amounts may be debited to the borrower's account.

e. A licensee may take a security interest in personal property to secure an open-end loan. Any security interest may be retained until the open-end account is terminated, provided that if the security interest covers consumer goods, then within 1 month or within 10 days following written demand by the borrower after there is no outstanding balance in the account and no commitment by the licensee to make advances, the licensee shall release the security interest. If the security interest covers personal property other than consumer goods, whenever there is no outstanding balance in the account and no commitment by the licensee to make advances, the licensee shall within 10 days following written demand by the borrower release the security interest. If a security interest is taken, the open-end loan agreement shall state the nature and extent of such security interest.

f. R. S. 17:10–15 shall not apply to open-end loans made under this chapter, except that no licensee shall take any confession of judgment or power of attorney in connection with an open-end

loan, or take any instrument in which blanks are left to be filled in after the loan is made.

g. The record-keeping systems used by licensees for open-end loans shall be reviewed on an individual basis to determine whether the records are adequate for the purposes of R. S. 17:10–12.

6. (New section.)

C. 17:10-14.3 Term of loans.

a. No loan in an amount of $1,000.00 or less shall be made for a greater period of time than 36 months and 15 days.

b. No loan in an amount in excess of $1,000.00, but not exceeding $2,500.00, shall be made for a greater period of time than 48 months and 15 days.

c. No loan in an amount in excess of $2,500.00 shall be made for a greater period of time than 60 months and 15 days.

7. R. S. 17:10–16 is amended to read as follows:

Amount of charges limited.

17:10–16. Amount of Charges Limited. No licensee shall directly or indirectly charge, contract for, or receive any interest, discount, or consideration greater than he would be permitted by law to charge if he were not a licensee hereunder upon the loan, use, or forbearance of money, goods, or things in action, or upon the loan, use, or sale of credit, of the amount or value of more than $5,000.00. The foregoing prohibition shall also apply to any licensee who permits any person, as borrower or as indorser, guarantor, or surety for any borrower, or otherwise, to owe directly or contingently or both under one or more loan contracts to the licensee at any time the sum of more than $5,000.00 for principal.

8. R. S. 17:10–17 is amended to read as follows:

Payment in consideration of assignment.

17:10–17. Payment in Consideration of Assignment. The payment of $5,000.00 or less in money, credit, goods or things in action, as consideration for any sale, assignment or order for the payment of wages, salary, commissions or other compensation for services, whether earned or to be earned, shall, for the purposes of this chapter, be deemed a loan secured by the assignment. The transaction shall be governed by and subject to the provisions of this chapter and any such sale, assignment or order hereafter made shall, for the purposes of this chapter, be void and of no effect.

9. R. S. 17:10–19 is amended to read as follows:

Payment in certain cases deemed a loan.

17:10–19. Payment in Certain Cases Deemed a Loan. The payment of $5,000.00 or less in money, credit, goods or things in action as consideration for any sale of personal property which is made on condition that the property be sold back at a greater price shall, for the purposes of this chapter, be deemed to be a loan secured by the property and the amount by which the repurchase price exceeds the original payment actually paid shall be deemed interest or charges upon the loan from the date the original payment is made until the date the repurchase price is paid. The transaction shall be governed by and be subject to the provisions of this chapter.

10. R. S. 17:10–20 is amended to read as follows:

Prohibited acts.

17:10–20. Prohibited Acts. No person, copartnership, association, or corporation, except as authorized by this chapter, shall directly or indirectly charge, contract for, or receive any interest, discount, or consideration greater than the lender would be permitted by law to charge if he were not a licensee hereunder upon the loan, use, or forbearance of money, goods, or things in action, or upon the loan, use, or sale of credit of the amount or value of $5,000.00 or less.

The foregoing prohibition shall apply to any person, copartnership, association, or corporation who or which, by any device, subterfuge, or pretense, shall charge, contract for, or receive greater interest, consideration, or charges than is authorized by this chapter for the loan, use, or forbearance of money, goods, or things in action or for the loan, use, or sale of credit.

No loans of the amount or value of $5,000.00 or less for which a greater rate of interest, consideration, or charge than is permitted by this chapter has been charged, contracted for, or received, whenever made, shall be enforced in this State and any person, copartnership, association or corporation in anywise participating therein in this State shall be subject to the provisions of this chapter. The foregoing shall not apply to loans legally made in any State which then has in effect a regulatory small loan law similar in principle to this chapter, but an action to enforce any loan made in any such State to a person then residing in this State may be maintained in this State only if the amount of interest, dis-

count, consideration or other charge for such loan, demanded to be paid in such action, does not exceed that permitted to a licensee by this chapter for a loan of the same amount repayable in the same manner.

11. R. S. 17:10–21 is amended to read as follows:

Violation a misdemeanor; contract void.

17:10–21. Violation a misdemeanor; contract void. A person, copartnership, association, or corporation and the several members, officers, directors, agents, and employees thereof, who shall violate or participate in the violation of any provision of sections 17:10–2, 17:10–12, 17:10–13, 17:10–14, 17:10–15 or 17:10–20 of this title, shall be guilty of a misdemeanor.

A contract of loan not invalid for any other reason, in the making or collection of which any act shall have been done which constitutes a misdemeanor under this section, shall be void and the lender shall have no right to collect or receive any principal, interest or charges unless the act was the result of a good faith error.

12. This act shall take effect on the sixtieth day following enactment.

Approved February 28, 1980.

CHAPTER 494

AN ACT concerning the estates of certain minors, supplementing Title 3A of the New Jersey Statutes and repealing N. J. S. 3A:6–31 and 3A:6–32.

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

C. 3A:6-32.1 Payment of amounts.

1. Any person under a duty to pay or deliver money or personal property to a minor may perform this duty, in amounts not exceeding $5,000.00 per annum, by paying or delivering the money or property to, (a) the minor, if he is married; (b) a parent or parents of the minor; (c) any person having the care and custody of the minor with whom the minor resides; (d) a guardian of the person of the minor; or (e) a financial institution incident to a

deposit in a Federally-insured savings account in the sole name of the minor and giving notice of the deposit to the minor. This act does not apply if the person making payment or delivery has actual knowledge that a guardian of the estate of the minor has been appointed or that an action for the appointment of a guardian of the estate of the minor is pending. The persons, other than the minor or any financial institution under (e) above, receiving money or property for a minor, are obligated to apply so much or all of the money or the income or proceeds of the property for the support, maintenance, education, general use and benefit of the minor in the manner, at the time or times and to the extent that such persons, in an exercise of reasonable discretion, deem suitable and proper, with or without court order, with or without regard to the duty or ability of themselves or of any other person to support the minor, and with or without regard to any other funds, income or property which may be available for any such purpose. But such persons may not pay themselves except by way of reimbursement for out-of-pocket expenses for goods and services necessary for the minor's support. Any excess sums shall be preserved for future support of the minor and any balance not so used and any property received for the minor must be turned over to the minor when he attains 18 years of age. Persons who pay or deliver in accordance with provisions of this act are not responsible for the proper application thereof.

C. 3A:6-32.2 Affidavit of receipt.

2. The persons making payment or delivery of money or personal property as provided in section 1 of this act shall obtain from the recipient thereof an affidavit in writing signed by the recipient acknowledging the receipt of the money or personal property, which affidavit shall set forth the recipient's status in relation to the minor, and the purpose for which the money or personal property are being used; the affidavit shall be filed in the office of the surrogate of the county wherein the minor resides.

Repealer.

3. N. J. S. 3A:6–31 and 3A:6–32 are hereby repealed.

4. This act shall take effect immediately.

Approved February 27, 1980.

CHAPTER 495

AN ACT concerning summer payment plans for employees of boards of education and amending N. J. S. 18A:29–3.

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

1. N. J. S. 18A:29–3 is amended to read as follows:

Summer payment plans; deductions.

18A:29–3. Whenever persons employed for an academic year by a board of education shall indicate in writing their desire to participate in a summer payment plan, and such board of education approves such participation, then, and thereupon, the proper disbursing officer of the board of education, under such rules as may be promulgated by the commissioner with the approval of the State board, is hereby empowered and directed to deduct and withhold an amount equal to 10% of each semimonthly or monthly salary installment, from the payments of the salaries made to such employees as shall participate in such plan and the accumulated deductions for any academic year shall be paid to the employee or his estate under such rules as may be established by the board of education in one of the following ways: (1) at the end of the academic year; (2) in one or more installments after the end of the academic year but prior to September 1; (3) upon death or termination of employment if earlier. Such deductions may be deposited by the board of education in an interest bearing account in any financial institution having its principal office in the State of New Jersey.

Any board of education which had in effect, prior to January 1, 1980, any payment plan which permitted funds to be raised in the next fiscal year is authorized to continue to raise funds in this manner.

2. This act shall take effect immediately.

Approved February 28, 1980.

CHAPTER 496

AN ACT concerning rooming houses, boarding houses and residential health care facilities, providing for inter-departmental cooperation in serving the needs of the residents thereof, amending the title of "An act requiring the approval, inspection and regulation of certain types of boarding homes, rest homes and other homes for the sheltered care of four or more adult persons, which provide personal care or service beyond food, shelter and laundry; providing for standards and regulations and penalties for violation thereof, and supplementing Title 30 of the Revised Statutes," approved July 2, 1953 (P. L. 1953, c. 212), as said title was amended by P. L. 1964, c. 147, so that the same shall read "An act requiring the approval, inspection and regulation of residential health care facilities for four or more adult persons, which provide personal care or service beyond food, shelter and laundry; providing for standards and regulations and penalties for violation thereof, and supplementing Title 30 of the Revised Statutes," amending the body of said act, amending and supplementing P. L. 1971, c. 136, amending P. L. 1977, c. 238 and P. L. 1972, c. 29, amending and supplementing P. L. 1973, c. 256, supplementing Title 30 of the Revised Statutes, and making an appropriation.

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

C. 55:13B-1 Short title.

1. This act shall be known and may be cited as the "Rooming and Boarding House Act of 1979."

C. 55:13B-2 Legislature's findings; declaration of policy.

2. The Legislature hereby finds and declares that:

WHEREAS, Numerous citizens of this State reside in rooming and boarding houses which are either infrequently supervised or

completely unsupervised, unlicensed and unregulated by the State and by other governmental bodies; and

WHEREAS, The residents of such facilities are predominantly elderly, disabled and poor, many of whom need social, personal and financial services, protection from building hazards and protection from unscrupulous and predatory neighbors; and

WHEREAS, There is a need to ascertain the costs and resources of facilities currently licensed by the State and known as boarding homes for sheltered care, so as to determine whether and under what conditions the number of such homes should be increased and their standards of care raised; and

WHEREAS, It is incumbent upon the government of this State to determine whether the residents of rooming houses, boarding houses, and currently licensed boarding facilities are in need of special services, care or treatment and might profit from referral to existing or available community agencies or alternative living arrangements; and

WHEREAS, Several State agencies have different yet appropriate responsibilities for protecting the health, safety and welfare of the residents of rooming houses, boarding houses and residential health care facilities and it is necessary that there be coordination among these agencies for the cost-effective fulfillment of their respective responsibilities.

This remedial legislation is therefore necessary to provide for the health, safety and welfare of all those who reside in rooming and boarding houses in this State, promote the growth and continued improvement of boarding homes for sheltered care, to be known henceforth as residential health care facilities, to ensure that all agencies of this State work in unison for the protection and care of the residents of rooming houses, boarding houses and residential health care facilities, and to ensure that needed social and remedial services are made available to the residents of such facilities through the efforts of county welfare boards.

C. 55:13B-3 Definitions.

3. (New section) As used in this act:

a. "Boarding house" means any building, together with any related structure, accessory building, any land appurtenant thereto, and any part thereof, which contains two or more units of dwelling space arranged or intended for single room occupancy, exclu-

sive of any such unit occupied by an owner or operator, and wherein personal or financial services are provided to the residents, including any residential hotel or congregate living arrangement, but excluding any hotel, motel or established guest house wherein a minimum of 85% of the units of dwelling space are offered for limited tenure only, any foster home as defined in section 1 of P. L. 1962, c. 137 (C. 30:4C–26.1), any community residence for the developmentally disabled as defined in section 2 of P. L. 1977, c. 448 (C. 30:11B–2) any dormitory owned or operated on behalf of any nonprofit institution of primary, secondary or higher education for the use of its students, any building arranged for single room occupancy wherein the units of dwelling space are occupied exclusively by students enrolled in a full-time course of study at an institution of higher education approved by the Department of Higher Education, and any facility or living arrangement operated by, or under contract with, any State department or agency, upon the written authorization of the commissioner.

b. "Commissioner" means the Commissioner of the Department of Community Affairs.

c. "Financial services" means any assistance permitted or required by the commissioner to be furnished by an owner or operator to a resident in the management of personal financial matters, including, but not limited to, the cashing of checks, holding of personal funds for safekeeping in any manner or assistance in the purchase of goods or services with a resident's personal funds.

d. "Limited tenure" means residence at a rooming or boarding house on a temporary basis, for a period lasting no more than 90 days, when a resident either maintains a primary residence at a location other than the rooming or boarding house or intends to establish a primary residence at such a location and does so within 90 days after taking up original residence at the rooming or boarding house.

e. "Operator" means any individual who is responsible for the daily operation of a rooming or boarding house.

f. "Owner" means any person who owns, purports to own, or exercises control of any rooming or boarding house.

g. "Personal services" means any services permitted or required to be furnished by an owner or operator to a resident, other than shelter, including, but not limited to, meals or other food services, and assistance in dressing, bathing or attending to other personal needs.

h. "Rooming house" means a boarding house wherein no personal or financial services are provided to the residents.

i. "Single room occupancy" means an arrangement of dwelling space which does not provide a private, secure dwelling space arranged for independent living, which contains both the sanitary and cooking facilities required in dwelling spaces pursuant to the "Hotel and Multiple Dwelling Law," P. L. 1967, c. 76 (C. 55:13A–1 et seq.), and which is not used for limited tenure occupancy in a hotel, motel or established guest house, regardless of the number of individuals occupying any room or rooms.

j. "Unit of dwelling space" means any room, rooms, suite, or portion thereof, whether furnished or unfurnished, which is occupied or intended, arranged or designed to be occupied, for sleeping or dwelling purposes by one or more persons.

C. 55:13B-4 Powers of commissioner.

4. (New section) The commissioner, to effectuate the provisions and purposes of this act, shall have the power to:

a. Promulgate and amend rules and regulations in accordance with the Administrative Procedure Act, P. L. 1968, c. 410 (C. 52:14B–1 et seq.);

b. Establish standards governing safety, security, record-keeping, living conditions and services in rooming and boarding houses;

c. Issue, suspend and revoke licenses for rooming and boarding houses;

d. Enter and inspect any such facility without prior notice and review such records as may be required pursuant to this act;

e. Establish standards for the building, conversion and renovation of all such facilities;

f. Enforce the provisions of this act by entering complaints against any person in violation thereof through administrative proceedings and civil actions in State and local courts for injunctive relief and for the assessment of penalties, compromise and settle any penalties in such amounts as he may determine to be equitable under the circumstances of the violation, and take such other action as he may deem necessary in accordance with the provisions of this act;

g. Issue subpenas to compel attendance at any hearing in any part of the State, and the presentation of such reports, documents, books and papers as he may deem necessary;

h. Institute an in rem action against property, or a quasi in rem action against the owner by attachment of a property followed

by service by publication, in connection with violations of the provisions of this act, in cases where the owner, after diligent effort, cannot be served; and

i. Hold and exercise all the rights and remedies available to a judgment creditor where a judgment is entered against an owner or operator as a result of a penalty action or administrative action taken pursuant to enforcement of this act.

C. 55:13B-5 Promulgation of regulations.

5. (New section) a. In promulgating any regulations pursuant to the provisions of this act, the commissioner may make distinctions among types of rooming and boarding houses according to the age, size, type of construction or nature of ownership of the facility and the type of services offered or limitations on occupancy therein.

b. Upon application of an owner, the commissioner may waive, modify or postpone the application of a regulation to the owner's facility, provided, however, that no such waiver, modification or postponement shall be granted unless the commissioner shall find that (1) Strict compliance with a regulation would result in undue hardship for residents of the facility, and (2) If granted, it would not unreasonably jeopardize the welfare of residents or of the public at large.

C. 55:13B-6 Establishment of standards.

6. (New section) The commissioner shall establish standards to ensure that every rooming and boarding house in this State is constructed and operated in such a manner as will protect the health, safety and welfare of its residents and at the same time preserve and promote a homelike atmosphere appropriate to such facilities, including, but not limited to, standards to provide for the following:

a. Safety from fire;

b. Safety from structural, mechanical, plumbing and electrical deficiencies;

c. Adequate light and ventilation;

d. Physical security;

e. Protection from harassment, fraud and eviction without due cause;

f. Clean and reasonably comfortable surroundings;

g. Adequate personal and financial services rendered in boarding houses;

h. Disclosure of owner identification information;

i. Maintenance of orderly and sufficient financial and occupancy records;

j. Referral of residents, by the operator, to social service and health agencies for needed services;

k. Assurance that no constitutional, civil or legal right will be denied solely by reason of residence in a rooming or boarding house;

l. Reasonable access for employees of public and private agencies, and reasonable access for other citizens upon receiving the consent of the resident to be visited by them; and

m. Opportunity for each resident to live with as much independence, autonomy and interaction with the surrounding community as he is capable of.

C. 55:13B-7 License; issuance; violations; penalty; separate categories; application; fee; validity; additional endorsement.

7. (New section) a. No person shall own or operate a rooming or boarding house, hold out a building as available for rooming or boarding house occupancy, or apply for any necessary construction or planning approvals related to the establishment of a rooming or boarding house without a valid license to own or operate such a facility, issued by the commissioner.

Any person found to be in violation of this subsection shall be liable for a civil penalty of not more than $5,000.00 for each building so owned or operated.

b. The commissioner shall establish separate categories of licensure for owning and for operating a rooming or boarding house, provided, however, that an owner who himself operates such a facility need not also possess an operator's license.

If an owner seeking to be licensed is other than an individual, the application shall state the name of an individual who is a member, officer or stockholder in the corporation or association seeking to be licensed, and the same shall be designated the primary owner of the rooming or boarding house.

Each application for licensure shall contain such information as the commissioner may prescribe and shall be accompanied by a fee established by the commissioner which shall not be less than $75.00 nor more than $150.00. If, upon receipt of the fee and a review of the application, the commissioner determines that the applicant will operate, or provide for the operation of, a rooming or boarding house in accordance with the provisions of this act, he shall issue a license to him.

Each license shall be valid for 1 year from the date of issuance, but may be renewed upon application by the owner or operator and upon payment of the same fee required for initial licensure.

c. Only one license shall be required to own a rooming or boarding house, but an endorsement thereto shall be required for each separate building owned and operated or intended to be operated as a rooming or boarding house. Each application for licensure or renewal shall indicate every such building for which an endorsement is required. If, during the term of a license, an additional endorsement is required or an existing one is no longer required, an amended application for licensure shall be submitted.

C. 55:13B-8 Operator; residency requirement; responsibilities; resignation; responsibilities of primary owner.

8. (New section) Each operator of a rooming or boarding house shall reside in the facility and shall be responsible for accepting service of any notices or orders issued by the commissioner pursuant to the provisions of this act. If an operator resigns, is dismissed or is otherwise unavailable to carry out his responsibilities, then the primary owner shall be deemed to be the operator of the facility until such time as the commissioner is notified of the appointment of a new operator, and shall have the same responsibilities and be subject to the same penalties otherwise prescribed for an operator under the provisions of this act.

C. 55:13B-9 Inspection; review of records; violations; compliance.

9. (New section) The commissioner shall ensure that each rooming or boarding house whose owner possesses a valid license is inspected and its records reviewed at least once each year for the purpose of determining whether the owner or operator is complying with standards promulgated pursuant to the provisions of this act. If the commissioner determines, as a result of any such inspection and review of records, that an owner or operator is in violation of such standards, he shall serve the owner or operator of the facility with a written notice thereof, which shall fix a date by which the owner or operator shall enter into compliance.

C. 55:13B-10 Violations; penalty.

10. (New section) a. No person shall: (1) Obstruct, hinder, delay or otherwise interfere with any action of the commissioner in the exercise of any power or duty under the provisions of this act; (2) Prepare, utter or otherwise render any false statement, application, report or document which is permitted or required pursuant to this act; or (3) Refuse to comply with any ruling,

order, notice or action made by the commissioner pursuant to the provisions of this act.

b. Any person who violates any provision of subsection a. above shall be liable for a civil penalty of not less than $50.00 nor more than $5,000.00 for each violation. Each day during which any person violates any such provision after the date fixed for termination of the violation in any order for termination issued by the commissioner, shall constitute an additional, separate and distinct violation, except during the time an appeal from such an order is taken or pending. If an administrative penalty order has not been satisfied within 30 days of its issuance, the penalty may be sued for and recovered by the commissioner in a summary proceeding in the Superior Court under the Penalty Enforcement Law (N. J. S. 2A:58–1 et seq.).

c. The commissioner may suspend, cancel, revoke, or refuse to issue any endorsements to the license of any owner or operator who violates any provision of subsection a. above.

C. 55:13B-11 Violation of provisions of act; written order to owner; correction by owner; reinspection; reconsideration hearing; injunctive relief; powers of commissioner.

11. (New section) a. If, upon inspection of any rooming or boarding house, the commissioner shall discover any violation of the provisions of this act, or any rules or regulations promulgated thereunder, which constitutes an imminent hazard to the health, safety or welfare of the occupants or intended occupants thereof, or of the public generally, the commissioner may issue and cause to be served on the owner or operator thereof a written order directing: (1) that the rooming or boarding house be vacated forthwith or (2) that the violation be corrected within the period specified in the order. The written order shall state the nature of any violation, the date and hour by which the rooming or boarding house be vacated or the violation be abated and, if necessary, the manner in which the violation shall be abated. A copy of the written order to vacate shall be sent to relevant county and municipal officials within 24 hours of its issuance.

Upon the receipt by the commissioner of written notice from the owner or operator of any rooming or boarding house vacated or ordered to be vacated stating that the violation has been terminated, the commissioner shall reinspect the rooming or boarding house within one working day of the receipt of the notice. If, upon reinspection, the commissioner determines that the violation has been terminated, he shall rescind the order requiring the vacation

of the rooming or boarding house and occupancy may be resumed forthwith. If reinspection is not conducted by the commissioner within one working day of the receipt of the notice, occupancy of the rooming or boarding house may be resumed forthwith.

Where the owner or operator of any rooming or boarding house denies that any violation justifying an order to vacate exists, he may apply to the commissioner for a reconsideration hearing, which shall be afforded and a decision rendered by the commissioner within 48 hours of the receipt of the application for the hearing. If the commissioner decides adversely to the owner or operator, the owner or operator may petition the Superior Court of this State for injunctive relief against any order of the commissioner directing that the rooming or boarding house be vacated forthwith.

Relief may be sought by an order to show cause and may be granted ex parte pending a hearing de novo, except that the only issue to be determined in the hearing de novo shall be the existence of any violation of the provisions of this act, or rules and regulations promulgated thereunder, which constitutes an imminent hazard to the health, safety or welfare of the occupants or intended occupants of the rooming or boarding house, or to the public generally.

Where the owner or operator of any rooming or boarding house denies that any violation justifying an order to abate within a specific period exists, the owner or operator may seek injunctive relief by an order to show cause, and relief may be granted ex parte pending a hearing de novo. However, the only issue to be determined in the hearing de novo shall be the existence of any violation of the provisions of this act, or rules and regulations promulgated thereunder, which constitutes a hazard to the health, safety or welfare of the occupants or intended occupants of the rooming or boarding house, or to the public generally.

b. If an owner or operator is found to be in violation of any of the provisions of this act, and notice thereof has been served which also fixes a date by which any such violations shall be terminated, and such owner or operator fails to terminate such violations by such date, then the commissioner may take any of the following actions:

(1) Issue an order directing that the owner submit monthly reports to the commissioner, in a form prescribed by the commissioner, listing all payments received and expenditures made by him, in connection with the operation of any rooming and

boarding house owned by him, received and or made by the operator or any agent or employee of any such facility. In addition, the commissioner may require said owner to report such payments and expenditures for any past period which the commissioner shall determine, and to provide statements of personal or corporate assets and worth.

During the term of any such order, the owner shall not increase the amount of any payment due from, or require any new payment or charge from, any resident of any rooming or boarding house owned by him, without prior written approval from the commissioner.

During the term of any such order, the commissioner may direct that the owner make certain expenditures to terminate violations of any provisions of this act, or may prohibit any expenditure deemed by the commissioner to be not in the best interests of the residents of any rooming or boarding house belonging to the owner.

The commissioner shall rescind any such order whenever the violations which caused the order to be issued, and any other violations, have been terminated by the owner.

(2) Petition the Superior Court for an order appointing a receiver for the rooming or boarding house of such an owner. It shall be a sufficient defense to the proceeding if the owner establishes that the condition alleged in the petition of the commissioner does not in fact exist or that such condition has been remedied or that such condition, although periodically remedied, has not habitually existed as pattern and practice.

The court shall proceed in a summary manner and shall render a judgment either: (1) Dismissing the petition; (2) Granting the relief provided under subsection a. above or directing the commissioner to issue an order as provided under subsection b. above; or (3) Appointing a receiver from a list of nominees submitted by the commissioner or any other responsible person; provided, however, that the owner or operator of the home shall not be so appointed.

With the approval of the court, the receiver shall have the following powers: (1) To hire any consultants or to undertake any studies of the rooming or boarding house which he deems appropriate; (2) To make any repairs, improvements or expenditures he deems necessary to terminate conditions or violations specified

in the complaint; (3) To hire or discharge any employees, including the operator; (4) To receive or expend in a reasonable and prudent manner the revenues of the facility due on the date of, or subsequent to, the entry of the court's judgment; (5) To continue to operate the facility in accordance with all standards promulgated by the commissioner; (6) To perform all acts necessary or appropriate to conserve the facility and to promote the health, safety and welfare of its residents; and (7) To exercise such other powers as he deems necessary or appropriate to implement the court's judgment.

The receiver may, in his discretion, either: (1) Assume the role of operator; or (2) Direct the operator to take such actions as will eliminate or rectify the conditions specified in the petition.

The court shall require the filing at periodic intervals of reports of action taken by the receiver and of accounts itemizing revenues and expenditures. Such reports shall be open to inspection by all parties in the case. Upon motion of the court, the receiver, or the owner, the court may require a presentation or settlement of the accounts. Notice of a motion for presentation or settlement of accounts shall be served on the owner and any party holding an interest in such revenues and expenditures.

The commissioner, receiver or owner may make a motion to terminate the receivership on the grounds that the conditions complained of have been terminated. The court may thereupon immediately terminate the receivership or terminate it subject to such terms as it feels are necessary or appropriate to prevent the conditions complained of from recurring.

The court shall allow from the revenues of the rooming or boarding houses a reasonable amount of compensation for the expenditures and services of the receiver. The receiver may be required to furnish a bond, the amount and form of which shall be approved by the court, and the cost of which shall be borne by the owner.

During the time such receivership is in effect, the receiver shall give priority to the termination of violations when determining the expenditure of any income, and the court shall ensure that any creditor aggrieved is satisfied only to the extent consistent with the health, safety and welfare of the residents of the rooming or boarding house. The receivership order shall remain in effect for as long after the termination of any violations as is necessary for the receiver to satisfy any creditors to whom payments were deferred in order to make funds available to effect such termination.

During the period when the receivership order is in effect, any action for possession initiated by any mortgage holder shall be brought before the court having jurisdiction in the receivership case and shall only be granted if it shall appear that the mortgage holder, when in possession, will terminate or remove the violations which caused the receivership order to be issued, and will operate the facility in accordance with standards promulgated by the commissioner.

No provision of this act shall limit the right of any owner to sell or mortgage any facility subject to receivership under the provisions of this section, provided, however, that the approval of the court having jurisdiction shall first be required and shall be granted only if it shall appear that the purchaser will terminate the violations which caused the receivership order to be issued and will operate the facility in accordance with standards promulgated by the commissioner, or if it appears that the granting of a mortgage will materially contribute to the ability of the owner to terminate such violations.

During the period when the receivership order is in effect, the owner shall have the right to use assets not under the receiver's control to terminate such violations.

C. 55:13B-12 Notices or orders; service.

12. (New section) Notices or orders issued pursuant to this act shall be served upon the owner or operator by posting them by certified mail, return receipt requested, to the owner or operator of a rooming or boarding house or, if necessary, by leaving them with the owner or a person above the age of 14 at the owner's dwelling unit or place of business. The date of service shall be considered to be the third day after mailing or after the day the notice or order is left at the owner's dwelling unit or place of business.

C. 55:13B-13 Powers and duties of commissioner.

13. (New section) Nothing in this act shall be construed to abrogate or impair the powers and duties of the commissioner under the "Hotel and Multiple Dwelling Law," P. L. 1967, c. 76 (C. 55:13A–1 et seq.) with respect to any hotel, motel or established guest house, or any dormitory owned or operated by any nonprofit institution of primary, secondary or higher education to provide housing for its students, or any multiple dwelling except those defined herein as rooming or boarding houses.

C. 55:13B-14 Notice not to be served in retaliation.

14. (New section) No owner, operator or employee shall serve notice upon a resident to leave the premises, or take any other action in retaliation for: (a) The efforts of the resident or a person acting on his behalf to secure or enforce any rights under a contract, the laws of this State or any of its subdivisions, or the laws of the United States; or (b) The good faith complaint of a resident or a person acting on his behalf to a governmental authority concerning the owner, operator or employee's alleged violation of this act or any health or safety law, regulation, code or ordinance, or other law or regulation which has as its objective the regulation of rooming houses or boarding houses.

C. 55:13B-15 Authorization to perform inspection; report to commissioner.

15. (New section) a. Any county or municipality in this State may be authorized by the commissioner to perform such inspection within its corporate limits as may be necessary to carry out the provisions of this act, subject to the control and supervision of the commissioner and in accordance with any rules and regulations promulgated by him governing the conduct of such inspections. Every county or municipality so authorized shall furnish the commissioner with such reports and information as he may require.

b. No owner or operator subject to the provisions of this act shall also be subject to regulation by any county or municipality of this State for the same purpose or end, except for construction regulations issued by a municipality pursuant to the "State Uniform Construction Code Act," P. L. 1975, c. 217 (C. 52:27D–119 et seq.).

c. Any municipal tax assessor, tax collector, or official charged with responsibility for enforcing a housing or property maintenance ordinance or code, county recorder of deeds or local enforcing agency established pursuant to the "State Uniform Construction Code Act," shall, upon request of the commissioner provide him with such information as will assist him in determining the location of any building or structure subject to the provisions of this act.

C. 55:13B-16 Partial invalidity.

16. (New section) If any section, subsection, paragraph, sentence or other part of this act is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this act, but shall be confined in its effect to the section, subsection, paragraph, sentence or other part of this act directly involved in the controversy in which said judgment shall have been rendered.

17. Title 30 of the Revised Statutes is supplemented as follows:

C. 30:1A-2 Interdepartmental and interagency cooperation.

(New section) Every executive department or agency of this State charged with administering any licensing, inspection, enforcement, referral or placement program for residential health care facilities, rooming houses or boarding houses shall cooperate fully, and coordinate its programs to the greatest extent possible, with any other department or agency so charged.

In order to facilitate such cooperation and coordination, the Commissioner of the Department of Human Services shall convene quarterly meetings of a policy coordinating committee, which shall consist of said commissioner, the Commissioners of the Departments of Community Affairs and Health and the Ombudsman for the Institutionalized Elderly or their designated representatives, and to which the Public Advocate, and representatives of such other State and local agencies as may be designated by said commissioner, shall be invited to attend.

At meetings of the policy coordinating committee, and on a continuous basis:

a. The Commissioner of Human Services shall, at a minimum: (1) Provide the Commissioners of Community Affairs and Health with such information consistent with Federal law and regulations, concerning the disbursement of Supplemental Security Income checks under P. L. 1973, c. 256 (C. 44:7–85 et seq.), as may be necessary to implement their duties under the provisions of this act and prevent fraud and improper payment, and work with the Federal Government to ensure close supervision of the disbursement of such checks; (2) Refer complaints concerning services and conditions at residential health care facilities, rooming houses and boarding houses to said commissioners, as appropriate; and (3) Render services to residents of such facilities through its several divisions and by means of its responsibilities delegated to county welfare boards;

b. The Commissioner of Community Affairs shall, at a minimum, solicit recommendations from the Commissioners of Human Services and Health on the preparation of standards for rooming and boarding houses, and when such recommendations are not adopted, inform said commissioners of the reasons therefor, notify said commissioners concerning any waiver, modification or postponement granted under the provisions of section 5 of this act, and inform said commissioners as quickly as possible of any such

facilities that have relinquished their licenses or had their licenses revoked, and of any serious violations of standards for such facilities;

c. The Commissioner of Health shall, at a minimum, solicit recommendations from the Commissioners of Human Services and Community Affairs on the preparation of standards for residential health care facilities, and when such recommendations are not adopted, inform the commissioners of the reasons therefor, inform the commissioners as quickly as possible of any such facilities that have relinquished their licenses or had their licenses revoked, and of any serious violations of standards for such facilities; and

d. The Ombudsman for the Institutionalized Elderly shall, at a minimum, refer all complaints received concerning services and conditions at residential health care facilities, rooming and boarding houses to the Commissioners of Human Services, Community Affairs and Health.

18. P. L. 1971, c. 136 is supplemented as follows:

C. 26:2H-5.1 Revenues; collection of information; report.

(New section) The Commissioner of the Department of Health shall, on a continuous basis, collect information concerning all costs and revenues of residential health care facilities licensed pursuant to P. L. 1971, c. 136 (C. 26:2H–1 et seq.) so as to provide a means for the Legislature to determine whether it is advisable for the commissioner to set variable rates for payment to such facilities and whether payments for Supplemental Security Income under P. L. 1973, c. 256 (C. 44:7–85 et seq.) for eligible residents of such facilities should be supplemented in accordance with any such rates.

One year following the effective date of this act, the commissioner shall submit a report to the Legislature's Joint Appropriations Committee and Standing Reference Committees on Institutions, Health and Welfare containing the information required herein to be collected.

To collect information concerning the costs and resources of residential health care facilities, the commissioner is authorized to conduct such field visits and audits as may be necessary, and the owners of such facilities shall submit such reports, audits and accountings of cost as the commissioner may require by regulation; provided, however, that such reports, audits and accountings shall be the minimum necessary to implement the provisions of this section.

19. Section 1 of P. L. 1971, c. 136 (C. 26:2H–1) is amended to read as follows:

C. 26:2H-1 Declaration of policy.

1. It is hereby declared to be the public policy of the State that hospital and related health care services of the highest quality, of demonstrated need, efficiently provided and properly utilized at a reasonable cost are of vital concern to the public health. In order to provide for the protection and promotion of the health of the inhabitants of the State promote the financial solvency of hospitals and similar health care facilities and contain the rising cost of health care services, the State Department of Health, which has been designated as the sole agency in this State for comprehensive health planning under the "National Health Planning and Resources Development Act of 1974" (Federal Law 93–641), as amended and supplemented, shall have the central, comprehensive responsibility for the development and administration of the State's policy with respect to health planning, hospital and related health care services and health care facility cost containment programs, and all public and private institutions, whether State, county, municipal, incorporated or not incorporated, serving principally as residential health care facilities, nursing or maternity homes or as facilities for the prevention, diagnosis, or treatment of human disease, pain, injury, deformity or physical condition, shall be subject to the provisions of this act.

20. Section 2 of P. L. 1971, c. 136 (C. 26:2H–2) is amended to read as follows:

C. 26:2H-2 Definitions.

2. The following words or phrases, as used in this act, shall have the following meanings, unless the context otherwise requires:

a. "Health care facility" means the facility or institution whether public or private, engaged principally in providing services for health maintenance organizations, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, including, but not limited to, a general hospital, special hospital, mental hospital, public health center, diagnostic center, treatment center, rehabilitation center, extended care facility, skilled nursing home, nursing home, intermediate care facility, tuberculosis hospital, chronic disease hospital, maternity hospital, outpatient clinic, dispensary, home health care agency, residential health care facility and bioanalytical laboratory or central services facility serving

one or more such institutions but excluding institutions that provide healing solely by prayer.

b. "Health care service" means the preadmission, outpatient, inpatient and postdischarge care provided in or by a health care facility, and such other items or services as are necessary for such care, which are provided by or under the supervision of a physician for the purpose of health maintenance organizations, diagnosis or treatment of human disease, pain, injury, disability, deformity or physical condition, including, but not limited to, nursing service, home care nursing and other paramedical service, ambulance service, service provided by an intern, resident in training or physician whose compensation is provided through agreement with a health care facility, laboratory service, medical social service, drugs, biologicals, supplies, appliances, equipment, bed and board, but excluding services provided by a physician in his private practice or by practitioners of healing solely by prayer, and services provided first aid, rescue and ambulance squads as defined in the "New Jersey Highway Safety Act of 1971," P. L. 1971, c. 351.

c. "Construction" means the erection, building, or substantial acquisition, alteration, reconstruction, improvement, renovation, extension or modification of a health care facility, including its equipment, the inspection and supervision thereof; and the studies, surveys, designs, plans, working drawings, specifications, procedures, and other actions necessary thereto.

d. "Board" means the Health Care Administration Board established pursuant to this act.

e. "Commission" means the Hospital Rate Setting Commission established pursuant to this act.

f. "Government agency" means a department, board, bureau, division office, agency, public benefit or other corporation, or any other unit, however described, of the State or political subdivision thereof.

g. "Statewide Health Coordinating Council" means the Statewide Health Coordinating Council formed under the provisions of Federal Law 93–641, as amended and supplemented.

h. "Health Systems Agency" means an officially recognized health systems agency formed under the provisions of Federal Law 93–641 as amended and supplemented.

i. "Department" means the State Department of Health.

j. "Commissioner" means the State Commissioner of Health.

k. "Preliminary cost base" means that proportion of a hospi-

tal's current cost which may reasonably be required to be reimbursed to a properly utilized hospital for the efficient and effective delivery of appropriate and necessary health care services of high quality required by such hospital's mix of patients. The preliminary cost base initially may include costs identified by the commissioner and approved or adjusted by the commission as being in excess of that proportion of a hospital's current costs identified above, which excess costs shall be eliminated in a timely and reasonable manner prior to certification of the revenue base. The preliminary cost base shall be established in accordance with regulations proposed by the commissioner and approved by the board.

l. "Certified revenue base" means the preliminary cost base adjusted by the commission, as appropriate and necessary pursuant to regulations proposed by the commissioner and approved by the board, to provide for the financial solvency of a hospital which is properly utilized and which delivers, effectively and efficiently, appropriate and necessary health care services of a high quality required by its mix of patients.

m. "Provider of health care" means an individual (1) who is a direct provider of health care service in that the individual's primary activity is the provision of health care services to individuals or the administration of health care facilities in which such care is provided and, when required by State law, the individual has received professional training in the provision of such services or in such administration and is licensed or certified for such provision or administration; or (2) who is an indirect provider of health care in that the individual (a) holds a fiduciary position with, or has a fiduciary interest in, any entity described in subparagraph b (ii) or subparagraph b (iv); provided, however, that a member of the governing body of a county or any elected official shall not be deemed to be a provider of health care unless he is a member of the board of trustees of a health care facility or a member of a board, committee or body with authority similar to that of a board of trustees, or unless he participates in the direct administration of a health care facility; or (b) received, either directly or through his spouse, more than one-tenth of his gross annual income for any one or more of the following:

(i) Fees or other compensation for research into or instruction in the provision of health care services;

(ii) Entities engaged in the provision of health care services or in research or instruction in the provision of health care services;

(iii) Producing or supplying drugs or other articles for individuals or entities for use in the provision of or in research into or instruction in the provision of health care services;

(iv) Entities engaged in producing drugs or such other articles.

n. "Private long-term health care facility" means a nursing home, skilled nursing home or intermediate care facility presently in operation and licensed as such prior to the adoption of the 1967 Life Safety Code by the State Department of Health in 1972 and which has a maximum 50-bed capacity and which does not accommodate Medicare or Medicaid patients.

21. Section 15 of P. L. 1971, c. 136 (C. 26:2H–15) is amended to read as follows:

C. 26:2H-15 Violation of act by unlicensed facilities; penalties.

15. Whenever a residential health care facility, boarding house or rooming house, not licensed hereunder, by public or private advertising or by other means holds out to the public that it is equipped to provide postoperative or convalescent care for persons mentally ill or mentally retarded or who are suffering or recovering from illness or injury, or who are chronically ill, or whenever there is reason to believe that any such facility or institution, not licensed hereunder, is violating any of the provisions of this act, then, and in such case, the department shall be permitted reasonable inspection of such premises for the purpose of ascertaining whether there is any violation of the provisions hereof. If any such residential health care facility, boarding house or rooming house, shall operate as a private mental hospital, convalescent home, private nursing home or private hospital in violation of the provisions of this act, then the same shall be liable to the penalties which are prescribed and capable of being assessed against health care facilities pursuant to this act.

Any person, firm, association, partnership or corporation, not licensed hereunder, but who holds out to the public by advertising or other means that the medical and nursing care contemplated by this act will be furnished to persons seeking admission as patients, shall cease and desist from such practice and shall be liable to a penalty of $100.00 for the first offense and $500.00 for each subsequent offense, such penalty to be recovered as provided for herein.

22. Section 19 of P. L. 1971, c. 136 (C. 26:2H–19) is amended to read as follows:

C. 26:2H-19 Transfer of certain powers and duties to Department of Health.

19. All of the functions, powers and duties of the State Board of Control, the Commissioner of Institutions and Agencies and the Department of Institutions and Agencies and its Hospital Licensing Board related to administration of law governing and concerning residential health care facilities, private mental hospitals, convalescent homes, private nursing homes and private hospitals, and relating to the planning, construction and licensing of health care facilities as defined in this act and the power to receive, allocate, expend, and authorize the expenditure of Federal moneys available for health care facility construction and renovation are hereby transferred and assigned to, assumed by and devolved upon the State Department of Health. To effectuate such transfer there shall also be transferred such officers and employees as are necessary, all appropriations or reappropriations, to the extent of remaining unexpended or unencumbered balances thereof, whether allocated or unallocated and whether obligated or unobligated, and all necessary books, papers, records and property. All rules, regulations, acts, determinations and decisions in force at the time of such transfer and proceedings or other such matters undertaken or commenced by or before the Department of Institutions and Agencies or the Hospital Licensing Board pertaining to the planning, construction, licensing and operation of such health care facilities, and the administration of Federal moneys for health care facility construction, and renovation pending at the time of such transfer, shall continue in force and effect until duly modified, abrogated or completed by the Department of Health.

23. Section 20 of P. L. 1971, c. 136 (C. 26:2H–20) is amended to read as follows:

C. 26:2H-20 Transfer of certain employees to Department of Health.

20. Employees of the present Bureau of Community Institutions in the Department of Institutions and Agencies responsible for administration of laws governing and concerning residential health care facilities, private mental hospitals, convalescent homes, private nursing homes and private hospitals are hereby transferred to the State Department of Health. Persons so transferred shall be assigned such duties as the State Commissioner of Health shall determine.

24. Section 2 of P. L. 1977, c. 238 (C. 26:2H–37) is amended to read as follows:

C. 26:2H-37 Definitions.

2. As used in this act, and unless the context otherwise requires:

a. "Boarding or nursing home" or "home" means a private nursing home or convalescent home regulated under chapter 11 of Title 30 of the Revised Statutes or a facility or institution, private or public, regulated and licensed as an extended care facility, skilled nursing home, nursing home or intermediate care facility pursuant to P. L. 1971, c. 136 (C. 26:2H–1 to 26:2H–26) or a residential health care facility, as defined in section 1 of P. L. 1953, c. 212 (C. 30:11A–1) or licensed pursuant to P. L. 1971, c. 136 (C. 26:2H–1 to 26:2H–26).

b. "Owner" means the holder or holders of the title in fee simple to the property on which the home is located.

c. "Licensee" means the holder or holders of a license to operate a boarding or nursing home pursuant to chapter 11 of Title 30 of the Revised Statutes, P. L. 1953, c. 212 (C. 30:11A–1 to 30:11A–14) or P. L. 1971, c. 136 (C. 26:2H–1 to 26:2H–26).

d. "Department" means the State Department of Health.

25. The title of P. L. 1953, c. 212 is amended to read as follows:

Title amended.

An act requiring the approval, inspection and regulation of residential health care facilities for four or more adult persons, which provide personal care or service beyond food, shelter and laundry; providing for standards and regulations and penalties for violation thereof, and supplementing Title 30 of the Revised Statutes.

26. Section 1 of P. L. 1953, c. 212 (C. 30:11A–1) is amended to read as follows:

C. 30:11A-1 Definitions.

1. For purposes of this act, a residential health care facility is defined as any facility, whether in single or multiple dwellings, whether public or private, whether incorporated or unincorporated, whether for profit or nonprofit, operated at the direction of or under the management of an individual or individuals, corporation, partnership, society, or association, which furnishes food and shelter to four or more persons 18 years of age or older who are unrelated to the proprietor, and which provides dietary services, recreational activities, supervision of self-administration of medications, supervision of and assistance in activities of daily living and assistance in obtaining health services to any one or more of

such persons, excluding, however, any community residence for the developmentally disabled as defined in section 2 of P. L. 1977, c. 448 (C. 30:11B–2), any facility or living arrangement operated by, or under contract with, any State department or agency, upon the written authorization of the Commissioner of the Department of Health, and any privately operated establishment licensed under chapter 11 of Title 30 of the Revised Statutes.

A "resident" of a residential health care facility is defined as a person 18 years of age or older who is ambulant with or without assistive devices who has been certified by a licensed physician to be free from communicable disease and not in need of skilled nursing care, and who, except in the case of a person 65 years of age and over, is in need of dietary services, supervision of self-administration of medications, supervision of and assistance in activities of daily living, or assistance in obtaining health care services, but shall not be given skilled nursing care while a resident except as hereinafter provided. The foregoing definition shall not be construed to prevent care of residents in emergencies or during temporary illness for a period of 1 week or less and shall not be construed to prevent a licensed physician from ordering nursing or other health care services.

27. Section 2 of P. L. 1953, c. 212 (C. 30:11A–2) is amended to read as follows:

C. 30:11A-2 Certificate of approval for operation.

2. Residential health care facilities as defined in section 1, shall operate within this State pursuant to certificate of approval first had and obtained for that purpose from the Department of Health. No such certificate of approval shall be issued unless the commissioner shall be satisfied that the institution in question is adequately prepared to furnish facilities, care and service complying with standards, relating thereto, except that temporary permits, valid for a period not exceeding 6 months and not subject to renewal, may be issued under the circumstances specified in section 6 of this act. Boarding and rooming houses shall not be construed to be within the provisions of this act.

28. Section 3 of P. L. 1953, c. 212 (C. 30:11A–3) is amended to read as follows:

C. 30:11A-3 Rules and regulations.

3. The State Department of Health shall adopt, promulgate and enforce such rules, regulations and standards with respect to the

residential health care facilities to be approved hereunder as it may deem necessary to assure that: persons living in such facilities are afforded the opportunity to live with as much independence, autonomy and interaction with the surrounding community as they are capable of; such persons are afforded minimum standards of sanitation, housekeeping, heat, light, air, food, lodging, care, service, and fire safety which also preserve and promote a homelike atmosphere appropriate to such facilities; such persons are not deprived of any constitutional, civil or legal right solely by reason of their living in such facilities; and that employees of public and private agencies have reasonable access to such facilities and other citizens have reasonable access upon receiving the consent of the resident to be visited by them; but nothing in this chapter nor any rule or regulation promulgated hereunder shall be construed to mean that any residential health care facility may advertise, hold itself out or operate as a nursing home. The department may determine that the various establishments covered by this act are appropriately and reasonably classified into two or more classes, and may establish separate rules, regulations and standards for each such class. Such rules, regulations and standards shall in any event include, but need not be limited to, all requirements and limitations legally imposed upon any such establishment by any other municipal, county, or State office or officer having inspection, approval, licensing or regulatory authority with respect to such establishment.

29. Section 5 of P. L. 1953, c. 212 (C. 30:11A–5) is amended to read as follows:

C. 30:11A-5 Investigation of applicant; certificate of approval not transferable; display of certificate.

5. Upon receipt of an application for a certificate of approval, the department shall cause an investigation to be made of the applicant and the facilities, and shall issue a certificate of approval if it is found that the applicant is of good moral character and that the facilities comply with the provisions of this act and with the regulations and standards required by the department pursuant hereto. The certificate of approval shall not be transferable or assignable or applicable to any premises or proprietor other than those specified therein. The certificate shall be conspicuously displayed within the residential health care facility at all times.

30. Section 6 of P. L. 1953, c. 212 (C. 30:11A–6) is amended to read as follows:

C. 30:11A-6 Rules and regulations; compliance.

6. Any residential health care facility which is in operation on the effective date of this act, or at the time of promulgation of any applicable rules, regulations or standards under this act, may be given a reasonable time, not to exceed 2 years, within which to comply with such rules, regulations and standards, or subsequent amendments or supplements thereto.

31. Section 9 of P. L. 1953, c. 212 (C. 30:11A–9) is amended to read as follows:

C. 30:11A-9 Inspection of premises; submission of plans for approval prior to alterations, additions or improvements to facilities.

9. The department shall make or cause to be made such inspections of the premises of any residential health care facility from time to time as it may deem necessary to be assured that any such establishment is at all times complying with the provisions of this act and with the rules, regulations and standards promulgated hereunder. Any approved establishment, prior to making any alterations, additions or improvements to its facilities or prior to the construction of new facilities shall, before commencing such work, submit plans and specifications to the department for preliminary inspection and approval or recommendations with respect thereto.

32. Section 10 of P. L. 1953, c. 212 (C. 30:11A–10) is amended to read as follows:

C. 30:11A-10 Operation without certificate; liability; penalty; other violations; penalties.

10. (a) Any person, firm, corporation, partnership, society or association who shall operate or conduct a residential health care facility without first obtaining the certificate of approval required by this act, or who shall operate such establishment after revocation or suspension of a certificate of approval, shall be liable to a penalty of $10.00 for each day of operation in violation hereof for the first offense and for any subsequent offense shall be liable to a penalty of $20.00 for each day of operation in violation hereof.

The penalties authorized by this section shall be recovered in a summary proceeding, brought in the name of the State of New Jersey pursuant to the "penalty enforcement law" (N. J. S. 2A:58–1 et seq.). Money penalties, when recovered, shall be payable to the General State Fund.

The department may, in the manner provided by law, maintain an action in the name of the State of New Jersey for injunctive

relief against any person, firm, corporation, partnership, society or association, continuing to conduct, manage or operate a residential health care facility without a certificate of approval, or after suspension or revocation of such certificate.

The practice and procedure in actions instituted under authority of this section shall conform to the practice and procedure in the court in which the action is instituted.

No officer or agent of any municipal or county agency having responsibility for making payments of any form of public assistance under the provisions of Title 44 of the Revised Statutes, shall make such payments to or on behalf of a person residing in a residential health care facility as defined in this act, unless such establishment is, at the time of such payment, approved or provisionally approved pursuant to this act.

(b) No residential health care facility, licensed hereunder, shall by public or private advertisement or by any other means hold out to the public that it is equipped to provide postoperative or convalescent care for persons mentally ill or mentally retarded or who are suffering or recovering from illness or injury or who are critically ill. Any person, firm, association, partnership, society or corporation who violates the provisions of this subsection shall cease and desist from such practices and shall be liable to a penalty of $100.00 for the first and $200.00 for each subsequent offense, such penalties shall be recovered in the manner provided for in subsection (a) of this section.

(c) No residential health care facility licensed hereunder, shall operate as a private mental hospital, convalescent home, private nursing home, or private hospital, unless it is licensed pursuant to chapter 11 of Title 30 of the Revised Statutes. Whenever there is reason to believe that any such facility or institution is in violation of the provisions of this subsection, the department may conduct a reasonable inspection of the premises for the purpose of ascertaining whether there is any violation. Any facility or institution which violates the provisions of this subsection shall be liable to a penalty of $25.00 for each day of operation in violation of this subsection for the first offense and to a penalty of $50.00 for each day of operation for any subsequent offense. The Department of Health, with the approval of the Attorney General, is hereby authorized and empowered to compromise and settle claims for the monetary penalty in appropriate circumstances where it appears to the satisfaction of the department that payment of the full penalty will work severe hardship on any individual not having sufficient

financial ability to pay the full penalty but in no case shall the penalty be compromised for a sum less than $250.00 for the first offense and $500.00 for any subsequent offense; provided, however, that any penalty of less than $250.00 or $500.00, as the case may be, may be compromised for a lesser sum. The penalties authorized by this subsection shall be recovered in the manner provided for in subsection (a) of this section.

(d) No owner, operator or employee of a residential health care facility shall serve notice upon a resident to leave the premises, or take any other action in retaliation for: (a) The efforts of the resident or a person acting on his behalf to secure or enforce any rights under a contract, the laws of this State or any of its subdivisions, or the laws of the United States; or (b) The good faith complaint of a resident or a person acting on his behalf to a governmental authority concerning the owner, operator or employee's alleged violation of this act or any health or safety law, regulation, code or ordinance, or other law or regulation which has as its objective the regulation of residential health care facilities.

33. Section 12 of P. L. 1953, c. 212 (C. 30:11A–12) is amended to read as follows:

C. 30:11A-12 Limitation on authority of department to deny applications on certain grounds.

12. Nothing in this act shall vest authority or be construed to vest authority in the Department of Health to deny any application for a certificate of approval on the sole ground that adequate residential health care facilities are already available in the vicinity or area for which the certificate of approval is sought.

Nothing in this act shall be so construed as to give authority to supervise or regulate or control the remedial care or treatment of individuals who are adherents of any well-recognized church or religious denomination which subscribes to the art of healing by prayer and the principles of which are opposed to medical treatment and who are living in any home or institution operated by a member or members, or by an association or corporation composed of members of such well-recognized church or religious denomination; provided, that such home or institution admits only adherents of such church or denomination and is so designated; nor shall the existence of any of the above conditions alone militate against granting a certificate of approval to such establishment; and provided further, that such establishment shall comply with all rules, regulations and standards relating to sanitation and safety of the premises and be subject to inspection therefor.

34. Section 3 of P. L. 1973, c. 256 (C. 44:7–87) is amended to read as follows:

C. 44:7-87 Powers and duties of commissioner.

3. The commissioner shall:

a. Enter into agreements with the government to secure the administration of supplementary payments by the government for such time and upon such conditions as the commissioner may in his discretion deem appropriate.

b. Promulgate, alter and amend such rules, regulations and directory orders as are necessary and proper:

(1) To implement the terms of the agreement with the government for the administration by the government of supplementary payments; and

(2) To secure social services for eligible persons, and for such other aged, blind or disabled persons as the commissioner may designate.

c. Transfer State or welfare board funds, or both, currently appropriated for this State's participation in the Federal categorical assistance programs of "Old Age Assistance," R. S. 44:7–3 to R. S. 44:7–37, "Assistance for the Blind," P. L. 1962, c. 197 (C. 44:7–43 to 44:7–49) and "Permanent and Total Disability Assistance," P. L. 1951, c. 139 (C. 44:7–38 to 44:7–42) and any funds which may in the future be appropriated for the payment of supplementary payments, to the government in such amounts and at such times as the commissioner shall deem appropriate in order to provide for supplementary payments to eligible persons in this State.

d. Pay to the government such funds as are necessary to reimburse the government's expenses in collecting additional information needed for the State to make eligibility determinations for medical assistance under the New Jersey Medical Assistance and Health Services Act, P. L. 1968, c. 413 (C. 30:4D–1 to 30:4D–19).

e. Require welfare boards to perform such eligibility determinations as the commissioner may deem necessary for the continuation of the New Jersey Medical Assistance Program under the New Jersey Medical Assistance and Health Services Act, P. L. 1968, c. 413. The commissioner shall pay to the counties a reasonable amount to reimburse the welfare boards for their expenses in making such eligibility determinations.

f. Assess welfare boards at the beginning of each fiscal year in the same proportion that the counties currently participate in the

Federal categorical assistance programs in order to obtain the amount of each county's share of supplementary payments for eligible persons in this State based upon the number of eligible persons in the county. The assessment shall be made as of January 1, 1974 for fiscal year 1974. In the event that the assessment against welfare boards in any 1 year exceeds the amount annually transferred to the government for the counties' portion of supplementary payments, the commissioner shall return the excess to the welfare boards in the same proportion as that used by the commissioner in assessing the welfare boards for the fiscal year involved.

g. Take appropriate steps to secure maximum Federal financial participation in providing assistance to eligible persons residing in residential health care facilities.

h. Ensure that any eligible person residing in a rooming or boarding house or residential health care facility has reserved to him a monthly amount, from payment received under the provisions of the act to which this act is a supplement or from any other income, as a personal needs allowance. The personal needs allowance may vary according to the type of facility in which an eligible person resides, but in no case shall be less than $25.00 per month.

35. P. L. 1973, c. 256 is supplemented as follows:

C. 44:7-93 "Eligible resident" defined; services provided by county welfare boards; powers and duties of commissioner; immunity for witnesses.

(New section) a. As used in this section, "eligible resident" means a resident of a residential health care facility, rooming house or boarding house who is: eligible to receive services under the latest New Jersey Comprehensive Annual Services Program Plan for the use of funds appropriated under Title XX of the Federal Social Security Act; an "eligible person" under the act to which this act is a supplement; an otherwise aged, blind or disabled person; or a resident designated to be eligible by the Commissioner of the Department of Human Services.

b. County welfare boards shall provide services to eligible residents of residential health care facilities, rooming houses and boarding houses which shall include, but not be limited to, the following:

(1) Investigation and evaluation of reports of abuse or exploitation, as defined in section 36 hereunder, or of threats of such abuse or exploitation of eligible residents, at the direction of the Commissioner of Human Services;

(2) Visits to all such facilities having eligible residents, at regularly scheduled intervals to assess the needs of such residents, determine whether they are receiving needed services and appropriate levels of care, and to provide such services where appropriate;

(3) Provision of information to eligible residents concerning social service, welfare, mental health, home health and medical assistance programs available to them; referral of eligible residents to State, county and local agencies and organizations for any such services which county welfare boards cannot provide; and follow up to such referrals to determine whether such services are being provided;

(4) Reporting of any suspected violations of the provisions of this act and of any complaints received concerning services and conditions in such facilities to the commissioner and to appropriate State and local agencies for remedial action; and

(5) Provision of information to eligible residents whose continued residence in such facilities may be injurious or dangerous to their health concerning alternative housing and living arrangements available to them.

County welfare boards shall coordinate all services provided under this subsection with services provided to eligible residents by the State Divisions of Mental Health and Hospitals, Mental Retardation and Youth and Family Services, charitable institutions and other State and local agencies and service providers.

c. In order to fulfill their responsibilities under subsection b. above, county welfare boards shall be entitled to receive full and free access to residential health care facilities, rooming houses and boarding houses by the owners and operators of such facilities, and to receive cooperation and assistance from State and local law enforcement officials as needed.

d. The Commissioner of the Department of Human Services shall:

(1) Promulgate all necessary regulations to implement the provisions of this section;

(2) Maintain a central file of all complaints received concerning suspected violations of the provisions of this act and concerning services and conditions at residential health care facilities, rooming houses and boarding houses and shall maintain a record of the State and local agencies to which complaints have been referred by county welfare boards; refer any such complaints received by

the commissioner to State and local agencies for remedial action as necessary; and follow up all complaints to determine whether such action has been taken;

(3) Provide such training and educational programs to the operators of such facilities as will enable them to appropriately respond to the needs of their residents;

(4) Designate agencies to:

(a) Identify those residential health care facilities, rooming houses and boarding houses in which substantial numbers of persons reside who are in need of mental health or mental retardation services;

(b) Receive referrals and be responsible for the provision of mental health or mental retardation services, or both;

(c) Report any apparent violation of this act to the appropriate State and local officials and authorities;

(d) Coordinate their efforts with county welfare boards, charitable institutions, the State Divisions of Mental Health and Hospitals, Mental Retardation and Youth and Family Services, and other State and local entities and service providers.

(5) Periodically monitor and evaluate services provided to eligible residents by county welfare boards and community agencies serving the mentally ill and the mentally retarded.

(6) Issue a report to the Legislature's Standing Reference Committees on Institutions, Health and Welfare concerning the implementation of this section, 1 year following the effective date of this act.

e. Any person who submits or reports a complaint concerning a suspected violation of the provisions of this act or concerning services and conditions in residential health care facilities, rooming houses and boarding houses, or who testifies in any administrative or judicial proceeding arising from such a complaint, shall have immunity from any civil or criminal liability on account of such complaint, unless such person has acted in bad faith or with malicious purpose.

C. 30:1A-3 Certain words defined; reporting abuse or exploitation; contents; immunity; notification of Ombudsman for Institutionalized Elderly; evaluation; determination; central registry.

36. (New section) Title 30 of the Revised Statutes is supplemented as follows:

a. As used in this section "abuse" means the willful infliction of physical pain, injury or mental anguish; unreasonable confinement;

or, the willful deprivation of services which are necessary to maintain a person's physical and mental health; and "exploitation" means the act or process of using a person or his resources for another person's profit or advantage.

b. Any person who has reasonable cause to suspect that a resident of a residential health care facility, rooming house or boarding house is suffering or has suffered abuse or exploitation, shall report such information in a timely manner to the Commissioner of the Department of Human Services or to the person or agency within the department designated by the commissioner to receive such reports.

c. Such report shall contain the name and address of the resident, information regarding the nature of the suspected abuse or exploitation and any other information which might be helpful in an investigation of the case and the protection of the resident.

d. The name of any person who reports suspected abuse or exploitation pursuant to this section and the name of any person mentioned in such report shall not be disclosed unless the person who reported the abuse or exploitation specifically requests such disclosure or a judicial proceeding results from such report.

e. Any person who reports suspected abuse or exploitation pursuant to this section or who testifies in any administrative or judicial proceeding arising from such report or testimony shall have immunity from any civil or criminal liability on account of such report or testimony, unless such person has acted in bad faith or with malicious purpose.

f. Upon receiving a report that a resident of a residential health care facility, rooming house or boarding house may be suffering or may have suffered abuse or exploitation, the commissioner shall promptly notify the Ombudsman for the Institutionalized Elderly when the report involves an elderly person as defined in section 2 of P. L. 1977, c. 239 (C. 52:27G–2), and shall direct the appropriate county welfare board to make a prompt and thorough evaluation of the report, or refer the report for such an evaluation by another appropriate government agency.

g. The evaluation shall be based upon a visit with the resident and consultation with others who have knowledge of the particular case, and shall contain written findings and recommendations. The person who reported the suspected abuse or exploitation, the victim of the suspected abuse or exploitation, the owner of the residential health care facility, rooming house or boarding house wherein the suspected abuse or exploitation has occurred, the State

agency having a regulatory responsibility for the facility, and the Ombudsman for the Institutionalized Elderly when the case involves an elderly person as defined in section 2 of P. L. 1977, c. 239 (C. 52:27G–2), shall be promptly notified of such findings and recommended action.

h. If a determination is made that the resident may have suffered abuse or exploitation, the commissioner shall refer such findings, in writing, to the county prosecutor.

i. The commissioner shall maintain a central registry of all reports of suspected abuse or exploitation and all evaluations, findings and recommended action. No information received and compiled in such registries shall be construed to be a public record.

37. There is hereby appropriated $204,000.00* to the Department of Community Affairs and $46,000.00* to the Department of Health to implement the provisions of this act. In addition, from the revenue derived as fees pursuant to section 7b. of this act there is hereby appropriated to the Department of Community Affairs such additional amounts as may be necessary to implement the provisions of this act, subject to the approval of the Director of the Division of Budget and Accounting, but, in no case, more than $100,000.00.*

38. This act shall take effect 180 days following enactment.

Approved February 29, 1980.

* The $204,000.00, $46,000.00 and $100,000.00 items were eliminated in their entirety by line item veto of the Governor. See Statement following.

STATEMENT TO SENATE BILL NO. 3111 (3rd OCR)

To the Senate:

Pursuant to Article V, Section I, Paragraph 15 of the Constitution, I am appending to Senate Bill No. 3111 (3rd OCR) at the time of signing it, this statement of the items or parts thereof, to which I object so that each item, or part thereof, so objected to shall not take effect.

Senate Bill No. 3111 (3rd OCR) establishes a comprehensive system of licensing, inspection, coordination of services and centralization of complaints concerning boarding houses. This bill repre-

sents the culmination of nearly two years of investigation, analysis and discussion concerning unsafe and unsanitary conditions, abuse of residents and lack of services for residents of boarding houses and proposals to redress these problems. I fully endorse the goals of this bill.

Senate Bill No. 3111 (3rd OCR) would take the first step in providing a systematic solution to the problems of unsafe and unsanitary conditions and abuse and neglect of boarding house residents which continue to plague the State and threaten the lives of those living in boarding facilities.

This bill reflects some of the recommendations put forward by my Cabinet Task Force on Boarding Homes. The May 1978 Task Force report suggested the establishment of standards and licensing of currently unlicensed boarding facilities, the provision of services by county welfare agencies and the setting of variable rates in order to provide an incentive for boarding house owners or operators to upgrade their facilities.

Senate Bill No. 3111 (3rd OCR) would set standards and require licenses but instead of establishing a rate-setting program would require the Commissioner of Health to collect information concerning the costs and revenues of licensed boarding facilities.

The bill includes a $250,000.00 appropriation for one-half year of inspection and collection of cost data. Full-year implementation would require $500,000.00. The establishment of a rate-setting program would require an additional $1.7 million the first year, $4 million the second year, increasing to $11 million for the fifth year. I note the cost of setting variable rates even though Senate Bill No. 3111 (3rd OCR) does not require this, because that is what is necessary to assure any real improvement in the condition of boarding facilities.

I was reluctant to sign this bill because I could not in good conscience sign into law a new program, even a program as worthwhile as this one, knowing that the funds necessary to implement the program are not available. Some may argue that this bill could be funded by cutting other programs. Such a position is untenable in light of the entire budget shortfall. I cannot even fulfill existing mandates.

Nonetheless, in spite of the fact that I was unable to provide funds in my fiscal year 1981 budget proposal for this program, so many members of the Legislature have stressed the need to institute

a system of licensing and regulating boarding houses that I have agreed to sign this bill with the understanding that the Legislature will fund the necessary $500,000.00 for fiscal year 1981. Should the Legislature not be able to fund this program, then we should not confuse the public by continuing the statute on the books.

Since Senate Bill No. 3111 (3rd OCR), by its terms, does not become effective until 180 days after enactment, and since the appropriations in the bill exceed our State Cap, I am eliminating the appropriations contained in the bill, which were meant to provide funds for one-half year of implementation, I will direct the departments to provide the funds necessary to prepare for the start up expenses to implement the bill.

Accordingly,

On Page 34, Line 1: The $204,000.00 to the Department of Community Affairs is eliminated in its entirety.

On Page 34, Line 2: The appropriation to the Department of Health is eliminated in its entirety.

On Page 34, Line 9: The additional appropriation of up to $100,000.00 to the Department of Community Affairs from the revenue derived from licensing fees is eliminated in its entirety.

Respectfully,

/s/ BRENDAN BYRNE,
Governor.

[SEAL]

Attest:
/s/ HAROLD L. HODES,
Chief of Staff, Secretary.

CHAPTER 497

AN ACT to amend "An act concerning juvenile and domestic relations courts in certain counties, and supplementing chapter 4 of Title 2A of the New Jersey Statutes," approved June 1, 1964 (P. L. 1964, c. 97).

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

1. Section 4 of P. L. 1964, c. 97 (C. 2A:4–4.4) is amended to read as follows:

C. 2A:4-4.4 Appointment of judges of juvenile and domestic relations courts in certain counties.

1. The Governor, with the advice and consent of the Senate, shall appoint in each county of the fifth class, having a population in excess of 300,000 under the 1970 census, 4 attorneys-at-law to be judges of the juvenile and domestic relations court of the county. Each judge, so appointed, shall devote his entire time to his judicial duties, shall not engage in the practice of law, and shall be paid such salary as is provided by law.

Any such judge may be assigned by the Chief Justice of the Supreme Court to hold temporarily the Superior Court or county district court of his county and, upon such assignment, shall have all the power, authority and jurisdiction of a judge of the Superior Court or county district court.

The provisions of the chapter to which this act is a supplement in respect to a referendum on appointing a special juvenile court judge shall be inapplicable to any such county. Except as otherwise provided herein, the provisions of the chapter to which this act is a supplement shall be applicable to any judge appointed pursuant to this supplementary act.

2. This act shall take effect immediately.

Approved February 29, 1980.

CHAPTER 498

AN ACT to amend "The Check Cashing Law," approved June 7, 1951 (P. L. 1951, c. 187; C. 17:15A–1 et seq.), and repealing section 6 of said act.

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

1. Section 3 of P. L. 1951, c. 187 (C. 17:15A–3) is amended to read as follows:

C. 17:15A-3 Application for license; form and contents.

3. Application for such license shall be in writing, under oath, and in the form prescribed by the commissioner, and shall contain

the name and the address both of the residence and place of business of the applicant, and if the applicant is a copartnership or association, of every member thereof, and if a corporation, of each officer and director thereof; also if the business is to be conducted at a specific address, the address at which the business is to be conducted, and if the business is to be conducted from a mobile unit, the New Jersey State registration number or other identification of such mobile unit and the area in which the applicant proposes to operate such mobile unit; and also such further information as the commissioner may require.

2. Section 4 of P. L. 1951, c. 187 (C. 17:15A–4) is amended to read as follows:

C. 17:15A-4 Fees.

4. Such applicant at the time of making such application shall pay to the commissioner the sum of $100.00 as a fee for investigating the application and additional sum of $200.00 as a license fee for a period terminating on the last day of the then current calendar year. Any licensee requesting a change of address, shall at the time of making such request, pay to the commissioner the sum of $50.00 as a fee for investigating the new address; provided, however, that the commissioner may, in his discretion, waive such investigation fee if warranted.

3. Section 7 of P. L. 1951, c. 187 (C. 17:15A–7) is amended to read as follows:

C. 17:15A-7 Issuance of license in duplicate; conditions.

7. If the commissioner shall find that the financial responsibility, experience, character and general fitness of the applicant, and of the members thereof if the applicant be a copartnership or association, and of the officers and directors thereof if the applicant be a corporation, are such as to command the confidence of the community and to warrant the belief that such business will be operated honestly, fairly and efficiently within the purposes of this act; and if the commissioner shall find that the applicant has a capital or net worth of at least $5,000.00, and has available for the operation of such business liquid assets of $5,000.00, for each specified location or for each mobile unit; he shall thereupon issue a license in duplicate to permit the cashing of checks, drafts or money orders in accordance with the provisions of this act at the location or in the area specified in the application. The commissioner shall transmit one copy of such license to the applicant and file the other in the office of the department.

4. Section 8 of P. L. 1951, c. 187 (C. 17:15A–8) is amended to read as follows:

C. 17:15A-8 Specifications.

8. Each license issued by the commissioner shall specify:

a. The name and address of the licensee, the address so specified to be that of the licensee's principal place of business in this State.

b. The licensee's reference number, which may remain the same from year to year despite variations in annual license numbers which may result from the renewal of licenses by mechanical techniques.

c. Such other information as the commissioner shall require in order to carry out the purposes of this act.

5. Section 11 of P. L. 1951, c. 187 (C. 17:15A–11) is amended to read as follows:

C. 17:15A-11 Denial; notification.

11. If the commissioner shall find that the applicant fails to meet any of the conditions set forth in section 7 of this act, he shall not issue such license, and he shall notify the applicant of the denial. If an application is denied or withdrawn, the commissioner shall retain the investigation fee to cover the costs of investigating the application and return the license fee to the applicant.

6. Section 14 of P. L. 1951, c. 187 (C. 17:15A–14) is amended to read as follows:

C. 17:15A-14 Cashing checks; license requirement.

14. Any licensee may open and maintain, within this State, one or more limited stations for the purpose of cashing checks, drafts or money orders for the particular group or groups, specified in the license authorizing each such station. Such stations shall be licensed pursuant to and be subject to all the provisions of this act applicable to licensed cashers of checks.

7. Section 17 of P. L. 1951, c. 187 (C. 17:15A–17) is amended to read as follows:

C. 17:15A-17 Fees or charges.

17. The licensee shall not charge or collect in fees, charges, or otherwise, for cashing a check, draft, or money order drawn on a bank or other financial institution located in this State a sum or sums exceeding 1% thereof, and shall not charge or collect in fees, charges, or otherwise, for cashing a check, draft, or money order drawn on any other bank or financial institution a sum or sums

exceeding 1½% thereof, or $0.50, whichever is greater but in no event shall more than $8.00 be charged for cashing any check, draft or money order. In every location and upon every mobile unit licensed under this act, there shall be conspicuously posted and at all times displayed, a schedule of fees and charges permitted under this act.

8. Section 23 of P. L. 1951, c. 187 (C. 17:15A–23) is amended to read as follows:

C. 17:15A-23 Violation of act; penalty.

23. a. Any person who engages in the check cashing business in this State without having first obtained a license as required by section 2 of this act shall be liable for a penalty of not more than $1,000.00 for each offense. For the purpose of this subsection, each check cashed without a license shall constitute a separate offense.

b. Any person, including any licensee or any partner, officer, director, or employee, whether salaried or commissioned, of such licensee, or any other person representing a licensee, whether directly or indirectly, who violates any provision of this act or any rule or regulation promulgated in connection therewith, shall be liable for penalty, in addition to all other penalties or forfeitures imposed by this or any other law, of not more than $1,000.00 for each offense. Any person who shall aid or abet such a violation shall be equally liable for such a penalty as may be imposed upon a principal violator. For the purpose of this subsection, a violation of any section of this act or any rule or regulation promulgated pursuant thereto shall constitute a separate offense.

c. The commissioner, in his discretion, is hereby authorized and empowered to compromise and settle any claim for a penalty under this section for an amount that appears appropriate and equitable under all of the circumstances.

d. The penalties provided for in this section, if not voluntarily paid to the commissioner, shall be collected in a summary manner brought in the name of the commissioner pursuant to the provisions of the "Penalty Enforcement Law" (N. J. S. 2A:58–1 et seq.).

Repealer.

9. Section 6 of P. L. 1951, c. 187 (C. 17:15A–6) is repealed.

10. This act shall take effect immediately.

Approved February 29, 1980.

CHAPTER 499

AN ACT concerning county boards of taxation, amending sections 54:3–2, 54:3–5, 54:3–6, 54:3–7, 54:3–8, 54:3–9, 54:3–10, 54:3–11, 54:3–14, 54:3–16, 54:3–17, 54:3–18, 54:3–26, 54:3–30, 54:3–31, and 54:2–39 of the Revised Statutes, and section 1 of P. L. 1947, c. 93, supplementing chapter 3 of Title 54 of the Revised Statutes, and repealing R. S. 54:3–29.

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

1. R. S. 54:3–2 is amended to read as follows:

Board of taxation; membership; appointment; training certificates; vacancies.

54:3–2. Each board shall, as heretofore, be known as the ..... county board of taxation, and be composed of three members, except as hereinafter provided, to be appointed by the Governor by and with the advice and consent of the Senate. Each member shall be a resident and citizen of the county in and for which he is appointed. Members shall be chosen because of their special qualifications, knowledge and experience in matters concerning the valuation and taxation of property, particularly of real property. At no time shall more than two of the members belong to the same political party. In counties of the first class there shall be five members of whom no more than three shall belong to the same political party. Each member shall, within 18 months of appointment, furnish proof that he has received certificates indicating satisfactory completion of training courses designated in section 4 of P. L. 1967, c. 44 (C. 54:1–35.28) or that he possesses an assessor's certificate issued pursuant to P. L. 1967, c. 44, as supplemented. Each member serving on the effective date of this amendatory and supplementary act shall furnish such proof within 18 months of such effective date, if 18 months or more of his term are remaining thereafter.

If any member so required does not furnish such proof within said 18-month period, the county tax administrator shall immediately notify the president of the county board of taxation and the Director of the Division of Taxation. The director shall upon the receipt of such notification declare the position to be vacant, and shall notify the Governor of the existence of such vacancy. The Governor shall thereupon appoint, with the advice and consent of

the Senate, a different citizen and resident of the relevant county to fill such position for the unexpired term.

2. R. S. 54:3–5 is amended to read as follows:

President of board; election; responsibilities.

54:3–5. a. Each county board shall upon organization elect from its members a president.

b. The president shall have responsibility for overseeing the writing of the written memorandum of judgment required pursuant to R. S. 54:3–26, and each shall be under his signature, as well as the signature of any other member of the board who participated in the rendering of the county board judgment on the appeal.

3. R. S. 54:3–6 is amended to read as follows:

Salaries of members.

54:3–6. The salaries of the members of the several boards shall be paid biweekly in a biweekly amount by the State Treasurer upon warrants drawn by the Director of the Division of Budget and Accounting in the Department of the Treasury. Each biweekly payment shall be made at a time fixed by the State Treasurer and the Director of the Division of Budget and Accounting, but not later than the tenth working day following the biweekly period for which the salary is due. Salaries shall be as follows: In counties having a population of more than 500,000, an annual salary of $11,125.00; in counties having between 275,000 and 500,000 inhabitants, an annual salary of $9,250.00; in counties having between 200,000 and 275,000 inhabitants, an annual salary of $8,625.00; in counties having between 150,000 and 200,000 inhabitants, an annual salary of $8,000.00; except as hereinafter provided, in counties having between 75,000 and 150,000 inhabitants, an annual salary of $7,375.00; except as hereinafter provided, in counties having not more than 75,000 inhabitants, an annual salary of $6,750.00; in counties bordering upon the Atlantic ocean, and having not less than 50,000 nor more than 150,000 inhabitants, an annual salary of $8,000.00.

The president of each county board shall, in addition to the above, receive the further sum of $1,000.00 per annum.

4. R. S. 54:3–7 is amended to read as follows:

County tax administrator; appointment; term; assistants; full-time duties.

54:3–7. a. Each county board shall appoint a county tax administrator, who shall hold office for a term of 3 years, and who

shall, subject to the personnel policies adopted by the governing body of the county, appoint such clerical assistants as may be necessary.

b. After the effective date of this amendatory and supplementary act, any person holding the office of county tax administrator shall devote full-time to his duties; provided, however, that any person currently holding office as a county board secretary may, at the option of the appointing authority, continue to serve on a part-time basis provided he holds or obtains prior to January 1, 1981 a tax assessor certificate.

c. After the effective date of this amendatory and supplementary act, no person shall be newly appointed as county tax administrator unless he shall hold a tax assessor certificate issued by the Director of Taxation pursuant to P. L. 1967, c. 44 (C. 54:1–35.25 et seq.).

5. R. S. 54:3–8 is amended to read as follows:

Salaries.

54:3–8. The governing body of the county shall fix the annual salary to be paid to the county tax administrator and the annual compensation of any clerical assistants. The salary of the county tax administrator shall not be less than $20,000.00 per annum, or, in any county of the first class, $25,000.00 per annum; provided, however, that in any county in which the secretary to the county board of taxation is receiving, prior to the effective date of this amendatory and supplementary act, a salary which is more than $5,000.00 less than that to which he would be entitled as county tax administrator pursuant to this amendatory and supplementary act, the governing body may comply with the minimum salary required hereunder by increasing upon the effective date of this act the salary of such county tax administrator by $3,000.00 and by phasing in the remainder through incremental increases over a 3-year period; provided, further, that a county board secretary who continues to serve pursuant to subsection b. of R. S. 54:3–7 shall receive a salary to be fixed by the governing body at a rate commensurate with the time he devotes to his duties as secretary. Such salaries and compensation shall be paid by the county treasurer pursuant to the fiscal procedures established by the governing body of the county.

6. R. S. 54:3–9 is amended to read as follows:

County tax administrator; tenure.

54:3–9. Each county tax administrator hereafter appointed who shall have received two consecutive appointments for full terms as

county tax administrator, and each county tax administrator serving a full term as secretary on the effective date of this amendatory and supplementary act who shall thereafter be appointed to another consecutive full term as county tax administrator, and each county tax administrator who has heretofore acquired tenure as secretary pursuant to this section shall hold office as county tax administrator during good behavior, efficiency and residence in the county where employed, and shall not be removed for political reasons or for any cause other than incapacity, misconduct, nonresidence or disobedience of just rules or regulations established by the Director of the Division of Taxation.

For the purposes of this section any person holding the position of county board secretary on the effective date hereof shall be considered to be serving a full term as secretary if he was appointed to serve a full term of 3 years or 5 years, as the case may be, or to serve more than 2 years of an unexpired term.

7. R. S. 54:3–10 is amended to read as follows:

Removal of administrator; charges; trial; appeal.

54:3–10. No county tax administrator who has heretofore acquired, or shall hereafter acquire, tenure pursuant to the provisions of R. S. 54:3–9, shall be removed from office except for just cause, as provided in section 54:3–9 of this Title, and after a written charge or charges of the cause of complaint shall have been preferred against him, signed by the person making the charge, and filed with the president of the county board of taxation, and, after the charge has been publicly examined into by the board, upon such reasonable notice to the person charged and in such manner and examination as the rules and regulations of the board may prescribe. Every county tax administrator against whom a charge for any cause may be preferred hereunder, shall receive a fair trial upon the charge and have every reasonable opportunity to make a defense thereto. An appeal from a determination of the board may be taken to the Director of the Division of Taxation by filing a written petition for review within 45 days from the date of the board determination.

8. R. S. 54:3–11 is amended to read as follows:

Powers and duties of county boards.

54:3–11. The county boards of taxation shall have all the powers formerly exercised by commissioners of appeal and local boards charged with the duty of reviewing taxes on appeal, under such

rules as they may from time to time adopt, and shall perform all the duties formerly performed by county boards of equalization or other county boards charged with the review or equalization of tax assessments or tax lists, and all the duties formerly performed by the county boards of assessors, except as may be otherwise provided in this amendatory and supplementary act.

9. R. S. 54:3-14 is amended to read as follows:

Standardized petitions of appeal, rules, regulations and procedures; adoption; recording.

54:3-14. Each board shall adopt such standardized petitions of appeal, rules, regulations and procedures as are prescribed by the Director of the Division of Taxation, and issue such directions as may be necessary to carry into effect the provisions of this title. Each board shall record all proceedings before it involving tax appeals, and shall furnish a transcript of the record of any appeal to any party to that appeal upon request and upon payment of a reasonable fee to be fixed by the board.

10. R. S. 54:3-16 is amended to read as follows:

Responsibilities of tax administrator; rules; enforcement.

54:3-16. Each county tax administrator, under the supervision and control of the county board of taxation, shall be responsible for the administrative functions of the board, and, pursuant to such supervision and control, shall direct all officers charged with the duty of making assessments for taxes in every taxing district in the county. Such officers shall be subject to, and shall, in making assessments, be governed by directions issued by the county tax administrator pursuant to such rules and orders as shall be issued by the county board, in the enforcement of the objects of this title. Before making any such rules or orders, the county board shall submit them to the Director of the Division of Taxation, and no rule or order shall be considered adopted by the county board until approved by him. Each county board shall, within 90 days of the effective date of this amendatory and supplementary act, promulgate rules governing the conduct and performance of such officers. If such rules are not promulgated within the time set forth herein, the conduct and performance of such officers shall be governed by such rules as the Director of the Division of Taxation shall promulgate, which rules shall be enforced by the county board.

11. R. S. 54:3-17 is amended to read as follows:

General ratio or percentage of true value; determination; equalization table.

54:3–17. Each county tax administrator shall annually ascertain and determine, according to his best knowledge and information, the general ratio or percentage of true value at which the real property of each taxing district is in fact assessed according to the tax lists laid before the board. On or before March 1 of each year, he shall prepare and submit to the county board an equalization table showing, for each district, the following items:

(a) The percentage level established pursuant to law for expressing the taxable value of real property in the county;

(b) The aggregate assessed value of the real property, exclusive of class II railroad property;

(c) The ratio of aggregate assessed to aggregate true value of the real property, exclusive of class II railroad property;

(d) The aggregate true value of the real property, exclusive of class II railroad property;

(e) The amount by which the valuation in item (b) should be increased or decreased in order to correspond to item (d);

(f) The aggregate assessed value of machinery implements and equipment and all other personal property used in business;

(g) The aggregate true value of machinery, implements and equipment and all other personal property used in business;

(h) The aggregate equalized valuation of machinery, implements and equipment and all other personal property used in business, computed by multiplying the aggregate true value thereof by the lower of (1) that percentage level established pursuant to law for expressing the taxable value of real property in the county, or (2) the average ratio of assessed to true value of real property as promulgated by the director on October 1 of the pretax year, pursuant to chapter 86, laws of 1954, for State school aid purposes, as the same may have been modified by the Tax Court;

(i) The amount by which the valuation in item (f) should be increased or decreased in order to correspond to item (h).

A copy of the table shall be mailed to the assessor of each district, and to the Division of Taxation, and be posted at the courthouse, not later than March 1.

12. R. S. 54:3–18 is amended to read as follows:

Review of equalization table.

54:3–18. The county board of taxation in each county shall meet annually for the purpose of reviewing the equalization table prepared pursuant to R. S. 54:3–17 with respect to the several taxing districts of the county. At the meeting a hearing shall be given to

the assessors and representatives of the governing bodies of the various taxing districts for the purpose of determining the accuracy of the ratios and valuations of property as shown in the equalization table, and the board shall confirm or revise the table in accordance with the facts. The hearings may be adjourned from time to time but the equalization shall be completed before March 10. At the first hearing any taxing district may object to the ratio or valuation fixed for any other district, but no increase in any valuation as shown in the table shall be made by the board without giving a hearing, after 3 days' notice, to the governing body and assessor of the taxing district affected.

13. (New section) R. S. 54:3–26 is amended to read as follows:

Appeals; hearing and determination; record.

54:3–26. The county board of taxation shall hear and determine all such appeals within 3 months after the last day for filing such appeals, and shall keep a record of its judgments thereon in permanent form, and shall transmit a written memorandum of its judgments to the assessor of the taxing district and to the taxpayer, setting forth the reasons on which such judgment was based, and in all cases where the amount of tax to be paid shall be changed as the result of an appeal, to the collector of the taxing district. The Director of the Division of Taxation shall prescribe such procedures and forms for the setting forth of such written memorandums of judgments as may be necessary.

Whenever any review is sought of the determination of the county board of taxation, the complaint shall contain a copy of the memorandum of judgment of the county board.

Where no request for review is taken to the Tax Court to review the action or determination of the county board involving real property the judgment of the county board shall be conclusive and binding upon the municipal assessor and the taxing district for the assessment year, and for the 2 assessment years succeeding the assessment year, covered by the judgment, except as to changes in value of the property occurring after the assessment date. Where such changes are alleged the petition of appeal shall specifically set forth the nature of the changes relied upon as the basis for such appeal. However, the conclusive and binding effect of such judgment shall terminate with the tax year immediately preceding the year in which a program for a complete revaluation of all real property within the district has been put into effect.

14. R. S. 54:3–30 is amended to read as follows:

Permanent offices provided for boards; records.

54:3–30. The governing body of the county shall provide the county board of taxation, and county tax administrator with permanent offices for the transaction of the business of the county board and the preservation of its records and papers, and shall supply such equipment and supplies as may be necessary. The records shall be open to the inspection of the public during ordinary business hours.

15. R. S. 54:3–31 is amended to read as follows:

Payment of traveling expenses.

54:3–31. The governing body of the county shall defray the actual traveling expenses of the members of the county board of taxation and the county tax administrator and shall, consistent with such procedures as may be adopted by the governing body, pay the bills therefor when duly attested.

16. R. S. 54:2–39 is amended to read as follows:

Review of judgment.

54:2–39. Any party who is dissatisfied with the judgment of the county board of taxation upon his appeal may seek review of that judgment in the Tax Court by filing a complaint with the Tax Court, pursuant to rules of court within 45 days of the service of the judgment of the county board, and the Tax Court shall hear and determine all such matters and render its judgment thereon.

At the time that a complaint has been filed with the Tax Court, all taxes or any installments thereof then due and payable for the year for which review is sought must have been paid. No interest shall be due and payable by the appellant for the period from November 1 of the current tax year to the date of filing the complaint.

If the Tax Court shall determine that the appeal to the county board of taxation has been (a) withdrawn at the hearing, or previously thereto in writing by the appellant or his agent; (b) dismissed because of appellant's failure to prosecute the appeal at a hearing called by the county tax board; (c) settled by mutual consent of the taxpayer and assessor of the taxing district, there shall be no review. This provision shall not preclude a review by the Tax Court in the event that the appeal was "dismissed without prejudice" by the county board of taxation.

17. Section 1 of P. L. 1947, c. 93 (C. 54:3–21.3) is amended to read as follows:

C. 54:3-21.3 Fees.

1. Upon the filing of a petition of appeal by any taxpayer with the county board of taxation in any county pursuant to section 54:3–21 of the Revised Statutes, such taxpayer or the person acting on his behalf shall pay to the county treasurer, through the county tax administrator, a fee for each such petition according to the following schedule:

(a) If the assessed valuation of the property under appeal is:

Less than $150,000.00, the fee shall be $5.00

$150,000.00 or more but less than $500,000.00, the fee shall be $25.00

$500,000.00 or more but less than $1,000,000.00, the fee shall be $100.00

$1,000,000.00 or more, the fee shall be $150.00

(b) When the appeal shall involve only the classification of property, for each parcel of property sought to be reclassified the fee shall be $25.00.

(c) When the appeal shall involve both the assessed valuation of property and the classification of property, the fees shall be according to the provisions of (a) and (b) of this section.

(d) When the appeal shall involve a matter not covered by (a), (b) or (c), the full fee to be paid shall be $25.00.

(e) No filing fee shall be required hereunder to contest the denial of an application for a veteran's or veteran's widow's deduction under section 11 of P. L. 1963, c. 171 (C. 54:4–8.20), for a senior citizen's or disabled person's deduction under section 10 of P. L. 1963, c. 172 (C. 54:4–89), or for a homestead exemption under P. L. 1976, c. 72 (C. 54:4–3.80 et seq.).

Each county tax administrator shall be liable for all such fees paid into his hands and he shall pay over all such fees to the treasurer of the county, who shall receive, account and dispose of such fees as revenues of the county, subject to the provisions of section 18 of this amendatory and supplementary act.

C. 54:3-21.3a Disposition of revenues.

18. (New section) All revenues received by the county from fees, either established or increased pursuant to this amendatory and supplementary act, shall be used exclusively for the purposes of modernizing the record-retention capabilities of the county board of taxation, for defraying the costs incurred by the county board

of taxation in recording and transcribing appeal proceedings, setting forth memorandums of judgment and in providing copies thereof, and for paying any salary required to be paid by the county which is increased pursuant to this amendatory and supplementary act.

C. 54:3-5.1 Annual report; contents.

19. (New section) a. The president of each county board of taxation shall annually on or before August 15 report to the Director of the Division of Taxation in the Department of the Treasury. Such report shall be in such form as shall be prescribed by the director and shall contain such information and statistics as may be appropriate to demonstrate for the immediately preceding 3-month period during which tax appeals were heard by the county board: the total number of appeals filed with the county board; the disposition of the various appeals disposed of during that period; the character of appeals filed with regard to the classification of properties appealed; the total amount of assessments involved in those appeals; the number of appeals filed in each filing fee category during that period; and, the total amount of reductions and increases of assessed valuation granted by the board during that period.

b. The Director of the Division of Taxation shall annually review the reports required under subsection a. of this section, and shall include a summary of the information contained therein in the division's annual report.

Note to R. S. 54:3-7 Requirements inapplicable to incumbents; tenure unaffected.

20. (New section) Any person holding the office of secretary to the county board of taxation on the effective date of this amendatory and supplementary act shall have the title and hold the office of county tax administrator notwithstanding the fact that he may not meet the requirements set forth in R. S. 54:3–7.c. No provision of this amendatory and supplementary act shall terminate or affect in any way the tenure of any person holding the office of secretary to the county board of taxation on the effective date hereof, except that each such secretary who shall hold the position of county tax administrator after the effective date hereof shall comply with the provisions of R. S. 54:3–7.b.

C. 54:3-7.1 Certain references defined.

21. (New section) Whenever in any law, rule, regulation, order, contract, document, judicial or administrative proceeding, or otherwise, reference is made to the office of secretary of the county board of taxation, the same shall be considered to mean and refer to the

office of the county tax adminstrator established pursuant to this act.

Repealer.

22. R. S. 54:3–29 is repealed.

23. This act shall take effect January 1, 1980, except for section 3 which shall take effect July 1, 1980.

Approved February 29, 1980.

CHAPTER 500

AN ACT providing for the rights of residents of rooming houses, boarding houses and residential health care facilities, and supplementing P. L. 1979, c. 496.

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

C. 55:13B-17 Legislature's findings.

1. The Legislature hereby finds and declares that the well-being of residents of rooming houses, boarding houses and residential health care facilities in the State of New Jersey requires a declaration of a bill of rights for such residents.

C. 55:13B-18 "Boarding facility" defined.

2. For the purposes of this act, "boarding facility" means rooming house, boarding house or residential health care facility.

C. 55:13B-19 Rights of residents.

3. Every resident of a boarding facility shall have the right:

a. To manage his own financial affairs;

b. To wear his own clothing;

c. To determine his own dress, hair style, or other personal effects according to individual preference;

d. To retain and use his personal property in his immediate living quarters, so as to maintain individuality and personal dignity, except where the boarding facility can demonstrate that such would be unsafe, impractical to do so, infringes upon the rights of others and that mere convenience is not the facility's motive to restrict this right;

e. To receive and send unopened correspondence;

f. To unaccompanied access to a telephone at a reasonable hour and to a private phone at the resident's expense;

g. To privacy;

h. To retain the services of his own personal physician at his own expense or under a health care plan and to confidentiality and privacy concerning his medical condition and treatment;

i. To unrestricted communication, including personal visitation with any person of his choice, at any reasonable hour;

j. To make contacts with the community and to achieve the highest level of independence, autonomy, and interaction with the community of which he is capable;

k. To present grievances on behalf of himself or others to the operator, State governmental agencies or other persons without threat of reprisal in any form or manner whatsoever;

l. To a safe and decent living environment and considerate and respectful care that recognizes the dignity and individuality of the resident;

m. To refuse to perform services for the boarding facility, except as contracted for by the resident and the operator;

n. To practice the religion of his or her choice, or to abstain from religious practice; and

o. To not be deprived of any constitutional, civil or legal right solely by reason of residence in a boarding facility.

C. 55:13B-20 Written notice.

4. The operator of a boarding facility shall ensure that a written notice of the rights set forth in this act be given to every resident upon admittance to the boarding facility and to each individual already in residence. The operator shall also post this notice in a conspicuous public place in the boarding facility. This notice shall include the name, address and telephone numbers of the Office of the Ombudsman for the Institutionalized Elderly, county welfare agency and county office on aging.

C. 55:13B-21 Violation of rights; court action.

5. Any person or resident whose rights as defined herein are violated shall have a cause of action against any person committing such violation. The action may be brought in any court of competent jurisdiction to enforce such rights and to recover actual and punitive damages for their violation. Any plaintiff who prevails in any such action shall be entitled to recover reasonable attorney's fees and costs of the action.

6. This act shall take effect 180 days following enactment.

Approved February 29, 1980.

CHAPTER 501

AN ACT concerning fiduciaries' compensation, amending N. J. S. 3A:10–2 and supplementing chapter 10 of Title 3A of the New Jersey Statutes.

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

1. N. J. S. 3A:10–2 is amended to read as follows:

Computation of commissions; corpus commissions.

3A:10–2. a. On the settlement of accounts of executors, administrators, administrators with the will annexed, and fiduciaries appointed under chapter 40 of this Title for the property of an absentee, their commissions over and above their actual expenses shall be computed upon the following rates:

(1) On all income that comes into their hands, 6% without court allowance. For the purposes of this section, income which is withheld from payment to any such fiduciary pursuant to any law of this State, or of the United States, or any other state, country or sovereignty, or of any political subdivision or governmental unit of any of the foregoing, requiring such withholding for income tax or other tax purposes, shall be deemed to be income which comes into the hands of such fiduciary, and shall be subject to income commissions as provided in this section in the same manner as if actually received by such fiduciary.

(2) If there is but one fiduciary, 5% on all corpus that comes into the fiduciary's hands in cases where corpus receipts do not exceed $100,000.00, and in cases where corpus receipts exceed $100,000.00, 5% on the first $100,000.00 of corpus, and, on the excess over $100,000.00 of corpus, such percentage, not in excess of 5%, as the court may determine on the intermediate or final settlement of the fiduciary's accounts, according to actual services rendered.

(3) If there are two or more fiduciaries, their commissions on corpus shall be the same as herein provided in the case of one fiduciary, and, in addition thereto, the court may allow corpus commissions in excess of the commissions to which one fiduciary would be entitled under this section, at a rate not exceeding 1% of all corpus for each additional fiduciary.

b. The court may, on an intermediate or the final settlement of the fiduciary's accounts, allow corpus commissions in addition to

those provided by this section, on a showing that unusual or extraordinary services have been rendered by the fiduciary for which the fiduciary should receive extra compensation.

c. Fiduciaries may annually, without court allowance, take sums as follows on account of corpus commissions: if there is but one fiduciary, the amount so taken may equal ⅕ of 1% of the value of the corpus and, if there are two or more fiduciaries, the amount so taken may equal the commissions which may be taken pursuant to this subsection when there is but one fiduciary, plus ⅕ of such commissions for each fiduciary more than one. In computing the amount of commissions which may be taken annually pursuant to this subsection, the value of any item of corpus at the time when such item came into the hands of the fiduciary or fiduciaries, herein in this section referred to as the "presumptive value" of such item, may be used as the value of such item, or, at the option of the fiduciary, the value of such item at the end of the period for which such commissions are taken may be used. The failure of a fiduciary or fiduciaries to take commissions in any year as provided in this subsection shall not constitute a waiver of the right of such fiduciary or fiduciaries to take in a subsequent year the commissions not taken for such year. Commissions taken as provided in this subsection shall be subject to review on intermediate and final accountings, and to the extent that aggregate commissions so taken exceed the commissions allowable under paragraphs (2) and (3) of subsection a. of this section, they may be disallowed.

d. In the event of a dispute as to the value of corpus on the settlement of the account of a fiduciary or fiduciaries, the burden of proving that the value of any item of corpus differs from the presumptive value of such item shall be upon such fiduciary or fiduciaries or other party claiming such difference.

C. 3A:10-2.1 Commissions of trustees or guardians; commissions on corpus; value; amount; burden of proof.

2. (New section) On the settlement of accounts fiduciaries acting as trustees under a will or acting as a guardian shall be entitled to commissions over and above their actual expenses as in this section provided.

a. On all income that comes into their hands, commissions in the amount of 6% may be taken without court allowance. For the purposes of this section, income which is withheld from payment to the trustee pursuant to any law of this State, or of the United States, or any other state, country or sovereignty or of any political subdivision or governmental unit of any of the foregoing, for

income tax or other tax purposes, shall be deemed to be income to the trustee, and shall be subject to income commissions as if actually received by such trustee.

b. Fiduciaries may annually, without court allowance, take commissions on corpus (including accumulated income which has been invested by the fiduciary) in the amount of 5/10 of 1% of the first $100,000.00 of value of corpus, 3/10 of 1% of the next $100,000.00 of value and 2/10 of 1% of the value in excess of $200,000.00. The value of the corpus for the purpose of computing the commissions shall be the "presumptive value" or, at the option of the fiduciary, the value at the end of the period, as defined in paragraph c. of N. J. S. 3A:10–2.

The failure of a fiduciary to take commissions in any year shall not constitute a waiver by the fiduciary to take in a subsequent year the commissions not taken for such year.

c. In addition to the annual commissions on corpus, upon termination of the trust or guardianship, or upon distribution of assets from the trust or guardianship, the fiduciary may take a commission on corpus distributed, including accumulated income which has been invested by the fiduciary. The value of the corpus for the purpose of computing the commissions shall be the "presumptive value" or, at the option of the fiduciary, the value at the time of distribution, as defined in paragraph c. of N. J. S. 3A:10–2. The amount of the commissions to be taken are as follows:

(1) If the distribution of corpus occurs within 5 years of the date when such corpus came into the hands of the fiduciary, an amount equal to the annual commissions on corpus authorized pursuant to subsection b. of this section, but not actually taken by the fiduciary, plus an amount equal to 2% of the value of the corpus distributed.

(2) If distribution of the corpus occurs between 5 and 10 years of the date when the corpus came into the hands of the fiduciary, an amount equal to the annual commissions on corpus authorized pursuant to subsection b. of this section, but not actually received by the fiduciary, plus an amount equal to 1½% of the value of the corpus distributed.

(3) If the distribution of corpus occurs more than 10 years after the date the corpus came into the hands of the fiduciary, an amount equal to the annual commissions on corpus authorized pursuant to subsection b. of this section, but not actually received by the fiduciary, plus an amount equal to 1% of the value of the corpus distributed.

d. If there are two or more such fiduciaries, their corpus commissions shall be the same as for a single fiduciary plus an additional amount of ⅕ of such commissions for each additional fiduciary.

e. The court may, on an intermediate or the final settlement of fiduciaries, accounts, allow corpus commissions in addition to those provided by this section, on a showing that unusual or extraordinary services have been rendered by the fiduciary or fiduciaries for which he or they should receive additional compensation.

f. In the event of a dispute as to the value of corpus on the settlement of the account of a fiduciary or fiduciaries, the burden of proving that the value of any item of corpus differs from the presumptive value of such item shall be upon the party claiming such difference.

C. 3A:10-2.2 Commissions in excess of specifications.

3. (New section) No commissions in excess of those specified in section 2 of this act shall be paid to a fiduciary acting as a trustee under a will unless the testator, in his last will and testament or any codicil thereto, acknowledges that he is aware of the commissions specified in section 2 and expressly authorizes payment of commissions in excess thereof.

C. 3A:10-2.3 Applicability of rates; computation.

4. (New section) a. With respect to fiduciaries, annual corpus commissions, the rates set forth herein shall apply for all yearly periods ending after the effective date of this act.

b. With respect to the computation of corpus commissions pursuant to section 2 c. as to all corpus in the hands of a fiduciary on the effective date of this act, the commissions which may be taken shall be at the rate authorized as of the date the corpus came into the hands of the fiduciary, and the "annual commissions authorized" to be taken for yearly periods ending prior to the effective date of this act shall be at the rate authorized by the applicable law in effect during that yearly period.

5. This act shall take effect immediately.

Approved February 29, 1980.

JOINT RESOLUTIONS

(1877)

Joint Resolutions

JOINT RESOLUTION No. 1

A JOINT RESOLUTION designating the week of February 4 to February 10, 1979 as Catholic Schools Week.

WHEREAS, The Catholic schools of the State of New Jersey will be celebrating Catholic Schools Week in the State during the period February 4 to February 10, 1979; and

WHEREAS, The Catholic schools in the State of New Jersey have had over a century of service educating millions of Jerseyans in preparation for their responsibilities as citizens of this State and as members of society; and

WHEREAS, Parents who send their children to nonpublic schools assist the State in reducing the rising costs of public education; and

WHEREAS, The 577 Catholic schools in the State currently provide over 200,000 students with a well-rounded educational program in moral values and community services; and

WHEREAS, The welfare of the State requires that this and future generations of school age children be assured ample opportunity to develop to the fullest their intellectual capacities; and that in the exercise of their constitutional rights to choose nonpublic education for their children, parents who support such education make a major contribution to the public welfare; now, therefore,

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

1. That the week of February 4 to February 10, 1979 is designated as Catholic Schools Week in the State of New Jersey to be recognized as such by State and municipal agencies throughout New Jersey.

2. That the Governor and the Legislature of the State of New Jersey hereby call on all of the citizens of the State to recognize the contribution Catholic schools make to education in the State and commend their faculties, students and parents for their dedication and devotion to the quality education furnished the future citizens of this State.

3. This joint resolution shall take effect immediately.

Approved February 6, 1979.

JOINT RESOLUTION No. 2

A JOINT RESOLUTION to designate the year 1979 as the Thomas Alva Edison Centennial Year in this State and to authorize and direct the New Jersey Historical Commission in the Division of the State Library, Archives and History of the State Department of Education to coordinate a Statewide observance thereof.

WHEREAS, Thomas Alva Edison was one of the world's greatest inventors, who through his inventions profoundly changed the world and helped to create the age of science and technology in which we live; and,

WHEREAS, From the 1870's until his death in 1931, Thomas Alva Edison carried on his work in New Jersey, principally at his laboratories in Menlo Park and West Orange, wherein he invented the phonograph, the incandescent light bulb, the motion picture camera, and other things of lasting value; and,

WHEREAS, The year 1979 will mark the centennial of the invention of the incandescent light bulb and the 1980's will mark the centennial of the establishment of Edison's "invention factory" at West Orange; and,

WHEREAS, The New Jersey Historical Commission, through its Edison Centennial Committee, is planning commemorative and educational programs and publications for the observance of the Thomas Alva Edison Centennial in cooperation with other public and private agencies in New Jersey and the commission

is serving as a clearinghouse for information about Edison Centennial activities throughout the State; now, therefore,

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

1. The year 1979 is hereby designated and declared "The Thomas Alva Edison Centennial Year" in the State of New Jersey.

2. The New Jersey Historical Commission in the Division of the State Library, Archives and History of the State Department of Education shall plan, coordinate, and effectuate this State's commemorative observance in cooperation with other public and private agencies and states of the one hundredth anniversary of Thomas Alva Edison's career as an inventor.

3. The focus of said commemorative observance shall be on educational, cultural, and scholarly activities that advance public knowledge and appreciation of the career of Thomas Alva Edison and the history of scientific invention, technology, business, and industry in the United States.

4. The Governor by appropriate proclamation shall designate 1979 as "The Thomas Alva Edison Centennial Year" in the State of New Jersey.

5. This joint resolution shall take effect immediately.

Approved April 15, 1979.

JOINT RESOLUTION No. 3

A JOINT RESOLUTION declaring the week beginning December 10, 1979, as "Human Rights Week" in this State.

WHEREAS, On December 10, 1948, the General Assembly of the United Nations adopted the Universal Declaration of Human Rights; and,

WHEREAS, The said Declaration is a significant milestone in the progress of humanity towards the goals of defining, establishing, and protecting the basic rights inherent in all human beings by virtue of their humanity; and,

WHEREAS, The principles underlying the said Declaration have been more recently embodied in the Helsinki Agreement, entered into by 33 European nations, as well as the United States and Canada; which agreement has initiated a further phase in the struggle to establish basic human rights on a secure and universal basis; and,

WHEREAS, It is fitting that the continuing, worldwide effort to secure human rights should be accorded formal and appropriate public recognition and observance; now, therefore,

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

1. The week beginning December 10, 1979, is hereby declared and set aside as "Human Rights Week" in New Jersey; and all citizens and all public and private agencies and organizations in this State are urged to recognize the "Human Rights Week" by appropriate observances thereof.

2. This joint resolution shall take effect immediately.

Approved December 11, 1979.

JOINT RESOLUTION No. 4

A JOINT RESOLUTION designating 1979 as "New Jersey Department of Labor and Industry Year" in New Jersey to commemorate the department's Seventy-Fifth Anniversary.

WHEREAS, The New Jersey Department of Labor and Industry, established under Chapter 64 of the Laws of 1904, and charged with the task of "regulating the age, employment, safety, health and work hours of persons, employees and operatives" has contributed significantly toward the betterment of the New Jersey worker; and,

WHEREAS, The Department's Division of Workplace Standards, along with the Division of Income Security, have helped to protect New Jersey's workers from adverse working conditions and injury and have cushioned the economic setbacks to workers from the loss of work due to economic decline, illness or injury; and,

WHEREAS, The Department's Office of Human Resources, which directs its "Job Service," vocational rehabilitation efforts, and special programs for the deaf and for customized training, has enhanced the economic health of the State by assisting all potential workers to find and qualify for the best possible jobs; and,

WHEREAS, The Department's Division of Economic Development, through its comprehensive new programs of economic development services and State promotion in the fields of industrial development, advice to small business and economic research has helped to create a favorable business climate which has resulted in greater job opportunities and continued economic growth; and,

WHEREAS, For the last three-quarters of a century, the New Jersey Department of Labor and Industry has been in the forefront of maintaining an effective partnership between organized labor and the business community, which has contributed toward New Jersey becoming a State with one of the highest standards of living in the Nation; and,

WHEREAS, New Jersey State Department of Labor and Industry Commissioner John J. Horn has recognized September 1, 1979 as the Seventy-Fifth Anniversary of the Department; now, therefore,

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

1. That 1979 is formally designated as "New Jersey State Department of Labor and Industry Year" in honor of the Seventy-Fifth Anniversary of the Department so as to recognize its outstanding contributions in securing a healthier and more prosperous State work force and economy.

2. That the Governor shall issue his proclamation proclaiming the aforesaid designation and urging the appropriate observance thereof by the people of this State.

3. This joint resolution shall take effect immediately.

Approved December 24, 1979.

JOINT RESOLUTION No. 5

A JOINT RESOLUTION concerning the production of electricity at existing dams located throughout the State.

WHEREAS, This State, along with the nation, is facing an energy crisis and is in need of developing energy from every available source; and

WHEREAS, Hydroelectric power is the environmentally cleanest form of energy; and

WHEREAS, The Federal government is promoting the production of all forms of domestic energy and is, specifically, encouraging the generation of electricity from water power wherever feasible; now, therefore,

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

1. The Department of Energy shall utilize all available State funds and Federal aid to initiate small-scale hydroelectric projects throughout the State. The department, in cooperation with the owners, shall encourage the construction and operation of innovative and cost-effective hydroelectric projects at appropriate existing dams. The Department of Environmental Protection shall cooperate with the Department of Energy by preparing and delivering a list of all the existing dams in the State, which raise the waters of any river or stream more than 5 feet above their usual low water height, with the names and addresses of their owners and an assessment of their potential usefulness as hydroelectric projects.

2. This joint resolution shall take effect immediately.

Approved January 14, 1980.

JOINT RESOLUTION No. 6

A JOINT RESOLUTION designating the week of January 20 through January 26, 1980 as State Autistic Week.

WHEREAS, The National Society for Autistic Children celebrated National Autistic Week throughout the United States during the period December 2 to December 8, 1979; and

WHEREAS, The National Society for Autistic Children has addressed the problems of autistic children for almost 20 years; and presently serves over 3,000 autistic persons of this State; and

WHEREAS, The New Jersey Society for Autistic Children and Adults, an affiliate of the National Society, provides support and assistance to New Jersey's autistic children and their families as well as to Eden Institute and Princeton Child Development Institute in Princeton, and the Search Day Program in Ocean township; and

WHEREAS, These private nonprofit agencies, established by concerned parents and professionals, provide a meaningful learning and living experience for autistic children; and

WHEREAS, The New Jersey Council of Organizations and Schools for Autistic Children and Adults supports the efforts of those working on behalf of the autistic population; and

WHEREAS, Research has now established that autism is a disability that has a distinct and separate set of physiologically related characteristics and symptoms, for which services should be geared carefully to the distinctly individual needs of these children; and

WHEREAS, The welfare of the State requires that this and future generations of autistic children be assured ample opportunities to develop to the fullest of their capabilities; and

WHEREAS, It is fitting that this State do everything possible to assist the charitable activities of the National Society for Autistic Children, by drawing attention to the humane nature and worthiness of their activities; now, therefore,

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

1. That the week of January 20 through January 26, 1980 is formally designated as "State Autistic Week" in the State of New Jersey.

2. The Governor, by appropriate proclamation, so proclaim the said week of January 20 through January 26, 1980, as "State Autistic Week."

3. This joint resolution shall take effect immediately.

Approved January 21, 1980.

JOINT RESOLUTION No. 7

A JOINT RESOLUTION requesting the U.S. Army Corps of Engineers to undertake emergency flood control work in the Rockaway river and Passaic river region of north-central New Jersey in anticipation of the recurrence of serious flooding conditions in said region.

WHEREAS, The recent unseasonable flooding in the basins of both the Rockaway river and the Passaic river in north-central New Jersey has caused significant property damage and disruption in the lives of the citizens of this highly developed region; and,

WHEREAS, The seriousness of the present conditions in this region provides a foretaste of flooding conditions that may reasonably be anticipated as the normal spring rains common to this region fall upon already saturated land, full reservoirs and overburdened drainage systems; and,

WHEREAS, The U.S. Army Corps of Engineers, a Federal agency with extensive national experience in dealing with the ravages of flooding and other natural disasters, has developed a program known as "Operation Foresight," under which flood control activities may be undertaken in certain regions prior to flooding conditions which may reasonably be anticipated; and,

WHEREAS, It is altogether fitting and proper for the Government of the State of New Jersey to request the U.S. Army Corps of Engineers to select the Rockaway river and Passaic river region of north-central New Jersey as a suitable site for the implementation of anticipatory flood control measures pursuant to the "Operation Foresight" program; now, therefore,

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

1. The U.S. Army Corps of Engineers is hereby respectfully memorialized to select the Rockaway river and Passaic river region of north-central New Jersey as a suitable site for implementation of anticipatory flood control measures pursuant to the "Operation Foresight" program.

2. Duly authenticated copies of this resolution shall be transmitted to the President and Vice-President of the United States, to the Speaker of the United States House of Representatives, to each of the members of Congress elected from this State, and to the U.S. Army Corps of Engineers.

3. This joint resolution shall take effect immediately.

Approved February 8, 1980.

EXECUTIVE ORDERS

(1889)

Executive Orders

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT.

EXECUTIVE ORDER No. 69

WHEREAS, The redevelopment of the Hudson River Waterfront south of the George Washington Bridge presents an opportunity for New Jersey to create a unique urban, environmental, recreational and commercial resource for the citizens of New Jersey and the Nation; and

WHEREAS, The redevelopment of the Hudson River Waterfront south of the George Washington Bridge must be based on sound regional planning; and

WHEREAS, The analysis of comprehensive regional planning and redevelopment alternatives should be undertaken by public citizens and government officials representing a wide range of interests;

NOW, THEREFORE, I, Brendan Byrne, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby created a Commission to be known as the Hudson River Waterfront Study and Planning Commission consisting of the Commissioner of the Department of Community Affairs, the Commissioner of the Department of Environmental Protection, the Commissioner of the Department of Transportation or their designated representatives, and such members who may be appointed by and shall serve at the pleasure of the Governor. Among such members the Governor shall appoint two State legislators from Hudson County, one State legislator from Bergen County, one representative each of the governing bodies of Hudson and Bergen counties, and the mayors of Bayonne, Cliffside Park, Edgewater, Fairview, Fort Lee, Guttenberg, Hoboken, Jersey City,

Leonia, North Bergen, Palisades Park, Ridgefield, Union City, Weehawken and West New York. Other members shall be appointed by the Governor from a broad spectrum of the citizenry of the State. The members shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their duties subject to the availability of funds therefor.

2. The Governor shall designate a chairman and vice-chairman of the Commission from among the members of the Commission. The chairman shall preside over the meetings and affairs of the Commission and shall create an executive committee and such subcommittees as he deems appropriate to carry out the functions of the Commission. The chairman shall have such further powers and duties as may be conferred upon him by the Governor. In the absence of the chairman, the vice-chairman shall have all the powers and duties of the chairman. The Commission may retain or designate an executive director.

3. (a) The Commission shall conduct a thorough study and investigation of the various alternatives for the planning and redevelopment of the Hudson River Waterfront south of the George Washington Bridge. In conducting the study, the Commission shall fully consider the following:

(1) Appropriate regional governmental institutions for implementing the alternatives;

(2) Environmental, social and economic impact of the various alternatives;

(3) Impact of the various alternatives on existing transportation systems and requisite improvements that the various alternatives will require:

(4) Jurisdictional boundaries appropriate for comprehensive regional planning and development;

(5) Capital costs of the various alternatives;

(6) Operating costs of the various alternatives;

(7) Sources of funds available for capital and operating costs;

(8) Phasing of the development of the various alternatives;

(9) Compatibility with concerns of local governments and residents;

(10) Any legislative changes needed to implement the alternatives; and

(11) Such other factors as the Commission shall deem relevant.

(b) In conducting its study and investigation, the Commission shall review such reports and studies as may exist in connection with the Hudson River Waterfront. The Commission may conduct such further studies and hire such additional consultants as it shall deem necessary to fulfill its duties hereunder, subject to approval of financing arrangements by the Treasurer and the availability of funds.

(c) In conducting its study and investigation, the Commission shall fully consider the feasibility of private investment in redevelopment of the waterfront.

4. The Commission shall proceed promptly with its study and investigation and upon completion of its work the Commission shall render to the Governor a full report of its findings and recommendations. Said findings and recommendations shall be made as soon as practicable, consistent with the nature of the study and investigation to be undertaken.

5. In order to carry out its functions, the Commission shall conduct public meetings and hearings and shall solicit information from, and consult with, relevant public and private agencies and groups, including county and local governing bodies, planning boards, environmental, business, housing and transportation groups. Notice of public hearings shall be given in such manner as the chairman may direct to provide full opportunity for interested members of the public to be heard.

6. (a) The Commission is authorized to call upon any department, office, division or agency of the State to supply such data, program reports, and other information, personnel or assistance as it deems necessary to discharge its responsibilities under this Order.

(b) Each department, office, division or agency of the State is authorized and directed, to the extent not inconsistent with law, to cooperate with the Commission and to furnish it with such information, personnel and assistance as necessary to accomplish the purposes of this Order.

7. This Order shall take effect immediately.

Given, under my hand and seal this 11th day of
[SEAL] January, in the year of Our Lord, one thousand nine hundred and seventy-nine, and of the Independence of the United States, the two hundredth and third.

/s/ BRENDAN BYRNE,
Governor.

Attest:

ROBERT E. MULCAHY, III,
Chief of Staff, Secretary.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT.

EXECUTIVE ORDER No. 70

WHEREAS, It is the policy of the State of New Jersey to provide specialized transportation services for its elderly and handicapped persons in a coordinated and efficient manner; and

WHEREAS, Several State agencies, local agencies, and private organizations are involved in either the distribution of funds or in the provision of special transportation programs for the elderly and handicapped; and

WHEREAS, The Program Coordination subcommittee of the Title XX Advisory Committee (a citizen advisory committee with statewide representation) recommended better coordination of transportation resources and identified the major barriers to that coordination; and

WHEREAS, Various State agencies have been working with the State's counties to establish a coordinated, consolidated, efficient transportation delivery system for elderly and handicapped persons; and

WHEREAS, A comprehensive review and identification of the programs and agencies involved in providing transportation services would aid in eliminating inefficient services and improving transportation for the elderly and handicapped;

Now, THEREFORE, I, Brendan Byrne, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby created a Task Force on Transportation Services for Elderly and Handicapped Citizens ("the Task Force"). The members of the Committee shall be the Commissioners of the Departments of Transportation, Human Services, Health, Labor and Industry, Energy, Education, Community Affairs and the Treasury, or their designated representatives, and such other persons as the Governor may designate. A member of the Governor's Disabilities Council shall serve as an ex officio representative to the Task Force. The Commissioner of the Department of Transportation shall serve as the Chairperson of the Committee.

2. The objective of the Task Force will be to reduce the current inefficiencies in the utilization of effective and efficient transportation services for the elderly and handicapped and to assist in the establishment of coordinated transportation programs at the county level.

3. The Committee will identify all State agencies, local agencies, and private organizations involved in the distribution of funds, including the identification of the source of these funds, or in the provision of special transportation programs for the elderly and handicapped in order to establish a coordinated transportation program which consolidates funding and services and utilizes vehicles in a cost-effective manner.

4. The Committee shall review relevant legislation and administrative regulations concerning transportation services for the elderly and handicapped. The Committee shall advise the Governor on possible legislative or administrative revisions which would provide more effective and efficient transportation services for the elderly and handicapped.

5. The Committee or its representatives shall meet with county and local government officials and other interested public and private organizations and persons to discuss the possible coordination and consolidation of transportation programs for elderly and handicapped citizens.

6. The Committee shall:

(a) Review the impact of current federal laws and regulations relating to the provision of easier access to transportation facilities for handicapped persons;

(b) Assess the benefits which this program may provide to handicapped persons and the fiscal implications of its implementation to State, county and local governments and agencies;

(c) Recommend State policy concerning the current federal program;

(d) Recommend possible methods of implementation; and

(e) Identify existing or potential funding sources for full implementation.

7. The Committee shall render to the Governor a report of its findings and recommendations by October 15, 1979.

8. (a) The Committee is authorized to call upon any department, office, division or agency of the State to supply such data, program reports, and other information, personnel and assistance as it deems necessary to discharge its responsibilities under this Order.

(b) All departments and agencies are authorized and directed, to the extent not inconsistent with law, to cooperate with the Committee and to furnish it with such information, personnel, and assistance necessary to accomplish the purposes of this Order.

9. This Order shall take effect immediately.

Given, under my hand and seal this 23rd day of
[SEAL] January, in the year of Our Lord, one thousand nine hundred and seventy-nine, and of the Independence of the United States, the two hundredth and third.

/s/ BRENDAN BYRNE,
Governor.

Attest:

ROBERT E. MULCAHY, III,
Chief of Staff, Secretary.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT.

EXECUTIVE ORDER No. 71

Pinelands Planning Commission

Repeals Executive Order No. 56—March 10, 1979

WHEREAS, The New Jersey Pinelands, containing approximately 1,000,000 acres of pine-oak forest, extensive surface and ground water resources of high quality, and a wide diversity of rare plant and animal species, provides significant ecological, natural, cultural, recreational, educational, agricultural, and public health benefits; and

WHEREAS, There is a State and national interest in protecting and preserving these benefits for the residents of and visitors to the area; and

WHEREAS, A primary responsibility for protecting and enhancing these benefits resides with the State and the various local units of government having jurisdiction over the area; and

WHEREAS, In view of the longstanding Federal practice of assisting the States in creating, protecting, preserving, and enhancing areas of significant regional and urban importance, and in view of the national significance of this resource, the United States Congress on October 13, 1978 passed the National Parks and Recreation Act of 1978, P. L. 95-625, ("the federal act") to assist the State and its local units of government in fulfilling their responsibilities and in avoiding adverse federally approved or assisted impacts before these responsibilities can be undertaken; and

WHEREAS, There is a demonstrated need to protect, preserve, and enhance the land and water resources of the Pinelands area through a new program which combines the capabilities and resources of the local, state, and federal governments; and

WHEREAS, The Secretary of Interior on December 10, 1978, pursuant to the federal act, requested the Governor to establish the Pinelands planning entity as required by that act; and

WHEREAS, The Pinelands Review Committee, created by Executive Order 56 on May 28, 1977 has capably carried out its mandates; and

WHEREAS, As recognized by the Pinelands Review Committee, there is an immediate need to take strong decisive action to strictly control development of the Pinelands while planning required by federal law is under way; and

WHEREAS, Approximately 2,100 random and scattered housing units covering almost 3,900 acres have been approved in the Pinelands in 1978; and

WHEREAS, Such continuing random and scattered development and construction, if not controlled, pose a direct threat to the great variety of rare, threatened and endangered plant and wildlife in the region; and

WHEREAS, Despite the fact that the Pinelands is the region in the United States most highly threatened by forest fires, random and scattered development and construction continue to place increasing levels of population and property in potential significant danger; and

WHEREAS, The Pinelands contains several wild and scenic rivers which are presently threatened by development and construction which would significantly impair their aesthetic integrity and value; and

WHEREAS, The present rapidly increasing volumes of storm water runoff associated with development and construction, if not controlled, pose a significant threat to the lives and property of downstream residents and the integrity of the stream systems: and

WHEREAS, The degraded water quality resulting from such storm water runoff, if not controlled, poses a direct threat to the viability of New Jersey's multimillion dollar agricultural industry and to the only healthy shellfishery which remains in the State's coastal bays;

NOW, THEREFORE, I, Brendan Byrne, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. a. There is hereby established a Pinelands Planning Commission ("the Commission") consisting of seven members appointed by the Governor; one member each appointed by the governing bodies of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester and Ocean counties; and one member appointed by the

Secretary of Interior. This Commission shall serve to fulfill the requirements of the federal act with regard to the creation of a Pinelands planning entity. The membership of the Commission shall include residents of the Pinelands who represent economic activities such as agriculture in the area, as well as, residents of the State who represent conservation interests. Pursuant to the federal act, all appointments shall be made no later than March 10, 1979. The Governor shall designate the chairman of the Commission and shall appoint an Executive Director of the Commission who shall be the chief administrative officer.

b. The Commission is authorized to call upon any department, office, division or agency of the State to supply such data, program reports, and other information, personnel or assistance as it deems necessary to discharge its responsibilities under this Executive Order.

c. Each department, office, division or agency of the State is authorized and directed, to the extent not inconsistent with law, to cooperate with the Commission and to furnish it with such information, personnel and assistance as necessary to accomplish the purposes of this Executive Order.

2. A. The Commission shall prepare a comprehensive management plan for the approximately 1,000,000-acre area generally depicted on the map entitled "Pinelands National Reserve Boundary Map" numbered NPS/80,011A and dated September, 1978, as supplemented by the Pinelands Review Committee, January 11, 1979, the boundaries of which are attached hereto and made a part hereof. The plan shall conform to the requirements of the federal act, and shall include but not be limited to;

a. A resource assessment which:

(1) determines the amount and type of human development and activity which the ecosystem can sustain while still maintaining the overall ecological values described in this section with special reference to (i) ground and surface water supply and quality; (ii) natural hazards, including fire; (iii) endangered, unique, and unusual plants and animals and biotic communities; (iv) ecological factors relating to the protection and enhancement of blueberry, cranberry and other agricultural production and activity; (v) air quality; and (vi) other appropriate considerations affecting the ecological integrity of the area; and

(2) includes an assessment of scenic, aesthetic, cultural, open space, and outdoor recreation resources of the area together with

a determination of overall policies required to maintain and enhance these resources.

b. A map showing the detailed boundary of the Pinelands National Reserve as supplemented by the Pinelands Review Committee on January 11, 1979 ("Pinelands National Reserve, as supplemented"), such map to delineate:

(1) major areas within the boundary which are of critical ecological importance;

(2) major areas and resources adjacent to the boundary that have significance to the ecological integrity of the Pinelands National Reserve, as supplemented; and

(3) areas of scenic, open space, cultural, and recreational significance.

c. A land use capability map and a comprehensive statement of policies for land use management of the area which:

(1) consider and detail the application of a variety of land and water protection and management techniques, including but not limited to, zoning and regulation derived from State and local police powers, development and use standards, and permit systems, acquisition of conservation easements and other interests in land, public access agreements with private landowners, purchase of land for resale or lease-back, fee acquisition of public recreation sites and ecologically sensitive areas and any other method of land and water protection and management which will help meet the goals and carry out the policies of the management plan;

(2) include a policy for the use of State and local police power responsibilities to the greatest extent practicable to regulate the use of land and water resources in a manner consistent with the purposes of this section; and

(3) recognize existing economic activities within the area and provide for the protection and enhancement of such activities as farming, forestry, proprietary recreational facilities, and those indigenous industries and commercial and residential developments which are consistent with the findings and purposes of this section.

d. A coordination and consistency component which details the ways in which local, state, and federal programs and policies may best be coordinated to promote the goals and policies of the management plan, and which details how land, water, and structures managed by governmental or nongovernmental entities in the

public interest within the area may be integrated into the management plan.

e. A public use component including, among other items, a detailed program to educate the public concerning appropriate uses of the area.

f. A financial component, together with a cash flow timetable which:

(1) details the cost of implementing the management plan, including, but not limited to, payments in lieu-of-taxes, general administrative costs, and any anticipated extraordinary or continuing costs; and

(2) details the sources of revenue for covering such costs, including, but not limited to, grants, donations, and loans from local, state, and federal departments and agencies, and from the private sector.

g. A program to provide for the maximum feasible local government and public participation in the management of the Pinelands National Reserve, as supplemented.

h. A program for State and local governmental implementation of the comprehensive management plan in a manner that will insure the continued, uniform, consistent protection of this area in accord with the purposes of this section; and

i. In conjunction with existing state programs and planning processes, a plan to implement the provisions of the federal Clean Water Act and the federal Safe Drinking Water Act which pertain to the surface and ground water of the Pinelands National Reserve, as supplemented.

B. To the extent there exists any overlap between the geographic extent of the Pinelands National Reserve, as supplemented, and the geographic extent of the coastal area delineated in the Coastal Area Facility Review Act (CAFRA) (N.J.S. 13:19–1 et seq.) at N.J.S. 13:19–4, the Commission and the Commissioner of Environmental Protection shall make consistent their respective plans for such overlapping area.

C. The Commission, as a basis for the comprehensive management plan, shall review existing information and studies with due regard and consideration being given to the report and recommendations of the Pinelands Review Committee.

3. During the development of the management plan, the Commission shall:

(1) consult with appropriate officials of any local government or state or federal agency which has jurisdiction over lands and waters within the areas;

(2) consult with the officials of any local government which has jurisdiction over lands and waters within areas delineated in accordance with subsection 2A.b.(2);

(3) consult with interested professional, scientific, and citizen organizations;

(4) consult with a citizens advisory committee which may be established by the Governor; and

(5) conduct public hearings at places within the area, and at such other places as may be appropriate, for the purpose of providing interested persons with an opportunity to express their views with respect to matters covered by the management plan.

4. Until the enactment of State legislation which is consistent with this Executive Order, or the approval by the Secretary of Interior of the comprehensive management plan for the Pinelands as set forth in the federal act, or eighteen months from the date of this Executive Order, whichever is earlier, State approvals related to development and construction in the Pinelands shall be processed in the following manner:

(a) No State department or agency shall take final action on any application for financial assistance or for a grant, permit, certificate, license or other approval, now pending or hereafter submitted, for any development or construction within that area designated the Preservation Area by the Pinelands Review Committee on January 11, 1979 ("Preservation Area"), the boundaries of which are attached hereto and made a part hereof, generally known as the "Heart of the Pinelands," unless the applicant demonstrates to the Commission that: (1) there exists a compelling public need for the development or construction, or (2) the denial of an approval would result in extraordinary hardship and the Commission by a two-thirds vote of its total membership so certifies to the issuing department or agency.

(b) No State department or agency shall take final action on any application for financial assistance or for a grant, permit, certificate, license or other approval, now pending or hereafter submitted, for any development or construction within that area designated the Pinelands National Reserve, as supplemented, but excluding lands within the Preservation Area, unless the applicant demon-

strates to the Commission that: (1) there exists a compelling public need for the development or construction, or (2) the denial of an approval would result in extraordinary hardship or (3) the development or construction for which an approval is requested is consistent with the intent, goals and objectives of this Executive Order and with those of the federal act, and the Commission by a two-thirds vote of its total membership so certifies to the issuing department or agency.

(c) In no case shall the Commission certify an application where the development or construction for which a certification is requested could result in substantial impairment of the natural resources of the Pinelands.

(d) Until the Commission notifies a State department or agency that it has in place personnel and procedures to process certifications, the State department or agency in coordination with all other relevant departments and agencies shall process certifications in place of the Commission in accordance with the provisions of this section.

(e) In that portion of the Pinelands National Reserve, as supplemented, but excluding lands within the Preservation Area, which overlaps the coastal area as delineated in CAFRA, development and construction approvals shall be processed in accordance with the procedures, rules and regulations of CAFRA giving due consideration to the intent, goals and objectives of this Executive Order and those of the federal act. However, in that portion of the Preservation Area which overlaps the coastal area, development and construction approvals shall be processed in accordance with the certification process set forth in this section.

(f) The Commission shall develop criteria and procedures for, and may delegate to any State department or agency, the processing of certifications. The Executive Director is authorized to review and act on certifications on behalf of the Commission; provided, however, that the Commission shall take final action on appeals from actions by the Executive Director.

5. All municipalities and counties within the Pinelands National Reserve, as supplemented, are requested and encouraged to make all their actions consistent with the intent, goals and objectives of this Executive Order and with those of the federal act.

6. Executive Order 56 is repealed, effective March 10, 1979.

Given, under my hand and seal this 8th day of
[SEAL] February, in the year of Our Lord, one thousand nine hundred and seventy-nine, and of the Independence of the United States, the two hundredth and third.

/s/ BRENDAN BYRNE,
Governor.

Attest:
/s/ HAROLD L. HODES,
Deputy Chief of Staff, Acting Secretary.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT.

EXECUTIVE ORDER No. 72

WHEREAS, A basic tenet of democracy is the participation of its citizens in government; and

WHEREAS, There exists a disturbing trend of declining election turnout; both in New Jersey and throughout the nation; and

WHEREAS, This is demonstrated in the last statewide general election where only 39.3% of eligible citizens actually voted; and

WHEREAS, Over 1.6 million citizens do not have the right of franchise because of their failure to register to vote; and

WHEREAS, The State continues to have substantial interest in encouraging increased voter participation by its citizens;

NOW, THEREFORE, I, Brendan Byrne, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby created a Voter Registration Advisory Council which shall advise the Governor and recommend programs and other efforts the State shall engage in to increase State voter registration and participation.

a. The Council shall consist of 25 members appointed by the Governor for terms of 3 years, except that of the first 25 members,

13 shall be appointed for a term of 3 years, and 12 for a term of 2 years. The term of each of the members first appointed shall be designated by the Governor at the time of appointment.

b. The Secretary of State shall be appointed Chairman.

c. The Chairmen of the Republican and Democratic State Committees shall be appointed members of the Council.

d. The other 22 members shall be broadly representative of the citizens of the State and have a concern over the declining voter participation.

e. All members of the Council shall be residents of the State.

f. Each Council member shall hold office for the term of the appointment and until a successor shall have been qualified and appointed.

g. Council vacancies shall be filled by appointment of the Governor for the remainder of the unexpired term.

h. The Council shall organize itself pursuant to the terms of this Executive Order and enact bylaws as deemed necessary to carry forth the responsibilities of the Council.

2. The Council shall meet at the call of the Chairman and shall report annually to the Governor on its activities.

3. The Council members shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their duties, subject to the availability of funds therefor.

4. The Council may make recommendations to the Governor concerning review of current voter registration activities, implementation of new programs, promotional activities and other methods to reverse the declining rate of voter registration in the State of New Jersey.

5. This Order shall take effect immediately.

Given, under my hand and seal this 4th day of April,
[SEAL] in the year of Our Lord, one thousand nine hundred and seventy-nine, and of the Independence of the United States, two hundredth and third.

/s/ BRENDAN BYRNE,
Governor.

Attest:
/s/ ROBERT E. MULCAHY, III,
Chief of Staff, Executive Secretary.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT.

EXECUTIVE ORDER No. 73

WHEREAS, The Governor of the State of New Jersey is charged with the responsibility of protecting the health, safety and welfare of the citizens of this State; and

WHEREAS, In order to insure such protection it is necessary to provide for the uninterrupted treatment and disposal of sewage; and

WHEREAS, Twenty-two municipalities and sewerage agencies process fifty per cent of the sewage of the State; and

WHEREAS, As part of the sewage treatment and disposal process these municipalities and sewerage agencies produce a solid waste, commonly called sludge, which is transported in barges pulled to sea by tugboats and dumped into the ocean at a rate of over 4,000 tons per day; and

WHEREAS, The personnel who operate the tugboats necessary in the removal and disposal of sludge are members of Local Union 333, United Marine Division, International Longshoremen's Association/AFL-CIO, which Union and its members are engaged in a strike, as a result of which tugboat operations have been discontinued preventing the removal and disposal of the sludge by barges in the ocean; and

WHEREAS, Because of sludge accumulation, the sewage treatment plants will not be able to function properly, causing approximately 500 million gallons per day of raw sewage to flow into the waters of the Raritan Bay, Upper New York Bay, Arthur Kill, Newark Bay and the Hackensack and Passaic Rivers; and

WHEREAS, There is insufficient storage capacity to store accumulated sludge; and

WHEREAS, The management and control of this situation is beyond the capabilities of local authorities; and

WHEREAS, The continuing disposal of raw sewage and sludge into the various waterways, with its staggering pollution effects, will cause imminent danger, and significant and irreparable harm to the health and safety of the citizens of this State, its marine resources, and its shore areas;

Now, THEREFORE, I, Brendan Byrne, Govevrnor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER, PROCLAIM and DIRECT:

1. A state of emergency exists in the State.

2. Local Union 333, United Marine Division, International Longshoremen's Association/AFL-CIO and its members are urged and requested to operate immediately a sufficient number of tugboats to transport sludge barges to the legally designated dump site for the disposal of sludge.

3. This Order shall take effect immediately.

Given, under my hand and seal this 5th day of April,
[SEAL] in the year of Our Lord, one thousand nine hundred and seventy-nine, and of the Independence of the United States, the two hundredth and third.

/s/ BRENDAN BYRNE,
Governor.

Attest:
/s/ HAROLD L. HODES,
Chief of Staff, Executive Secretary.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT.

EXECUTIVE ORDER No. 74

WHEREAS, The development of Liberty State Park presents an opportunity for New Jersey to create a unique urban, environmental, recreational and commercial resource for the citizens of New Jersey and the Nation; and

WHEREAS, The development of Liberty State Park should include a forum for public participation; and

WHEREAS, the Liberty State Park Study and Planning Commission recommended the establishment of such a forum;

Now, THEREFORE, I, Brendan Byrne, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby created a commission to be known as the Liberty State Park Public Advisory Commission (hereinafter referred to as the "Commission") consisting of nine members to be appointed by and serve at the pleasure of the Governor. Of the nine members four shall be residents of counties in the State other than Hudson County, two shall be residents of Hudson County municipalities other than Jersey City, two shall be residents of Jersey City, and one shall be the mayor of Jersey City, ex officio. The members shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their duties subject to the availability of funds therefor.

2. The Governor shall designate a chairman and vice-chairman of the Commission from among the members of the Commission. The chairman shall preside over the meetings and affairs of the Commission and shall create such subcommittees as he deems appropriate to carry out the functions of the Commission. The chairman shall have such further powers and duties as may be conferred upon him by the Governor. In the absence of the chairman, the vice-chairman shall have all the powers and duties of the chairman.

3. The Commission shall be empowered to:

a. Request from the Commissioner of Environmental Protection (hereinafter referred to as the "Commissioner") such information concerning Liberty State Park as it may deem necessary;

b. Consider any matter relating to Liberty State Park and advise the Commissioner thereon;

c. From time to time submit to the Commissioner any recommendations which it deems necessary for the proper development of Liberty State Park;

d. Make recommendations to the Commissioner concerning implementation of the Master Plan;

e. Review and evaluate public and private proposals for facilities and programs in Liberty State Park to determine the consistency of such facilities and programs with the Master Plan and to make recommendations thereon to the Commissioner;

f. Make recommendations to the Commissioner for the financing of capital and operation and maintenance expenditures giving due consideration to existing studies and reports on such financing.

4. (a) In order to carry out its functions, the Commission shall develop and implement a comprehensive public participation pro-

gram which shall make available to public citizens significant and meaningful opportunity to make their views known on the development of Liberty State Park.

(b) As part of the public participation program the Commission shall conduct public meetings and hearings and shall solicit information from, and consult with, relevant public and private agencies and groups, including county and local governing bodies, planning boards, environmental, business, housing and transportation groups. Notice of public hearings shall be given in such manner as the chairman may direct to provide full opportunity for interested members of the public to be heard.

5. The Commission shall encourage and aid, to the extent not inconsistent with law, the establishment by a Statewide constituency of citizens concerned with future planning and development of Liberty State Park of a nonprofit, nongovernmental, tax-exempt, qualified organization to be known, perhaps, as "Friends of Liberty State Park." The primary tasks of this organization would focus on channelling public attitudes to park planners and facilitating the securing of grants from private foundations and corporations to benefit the park.

6. In carrying out its responsibilities under this Order, the Commission shall give due consideration to the local, State, regional and national significance of Liberty State Park.

7. (a) The Commission by official action is authorized to call upon the Department of Environmental Protection to supply such data, program reports, and other information, personnel or assistance as it deems necessary to discharge its responsibilities under this Order.

(b) The Department of Environmental Protection is authorized and directed, to the extent not inconsistent with law, to cooperate with the Commission and to furnish it with such information, personnel and assistance as necessary to accomplish the purposes of this Order.

8. This Order shall take effect immediately.

Given, under my hand and seal this 14th day of May, [SEAL] in the year of Our Lord, one thousand nine hundred and seventy-nine, and of the Independence of the United States, the two hundredth and third.

/s/ BRENDAN BYRNE,
Governor.

Attest:
ROBERT E. MULCAHY, III,
Chief of Staff, Secretary.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT

EXECUTIVE ORDER No. 75

WHEREAS, The Department of Energy Act, N.J.S.A. 52:27F–1 et seq., authorizes the Governor to proclaim by Executive Order a state of energy emergency for a period of up to six months, upon a finding by the Commissioner of the Department of Energy that there exists or impends an energy supply shortage of a dimension which endangers the public health, safety, or welfare in all or any part of the State; and

WHEREAS, The Commissioner of the Department of Energy has found that there impends a motor fuel supply shortage of a dimension which endangers the public health, safety and welfare throughout the entire State;

NOW, THEREFORE, I, Brendan Byrne, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby PROCLAIM:

1. A limited state of energy emergency with regard to the supply of motor fuel exists throughout the entire State.

2. The Commissioner of the Department of Energy is empowered during the duration of the State energy emergency to take such steps pursuant to N.J.S.A. 52:27F–17 to alleviate or terminate the state of energy emergency as he deems necessary.

3. This Order shall take effect immediately.

Given, under my hand and seal this 20th day of June,
[SEAL] in the year of Our Lord, one thousand nine hundred and seventy-nine, and of the Independence of the United States, the two hundredth and third.

/s/ BRENDAN BYRNE,
Governor.

Attest:
ROBERT E. MULCAHY,
Chief of Staff, Secretary.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT.

EXECUTIVE ORDER No. 76

WHEREAS, Development of a comprehensive system for the generation, storage, transport and ultimate safe disposal of hazardous waste generated in the State involves all segments of society including private citizens, local and State officials and representatives of the State's industrial and manufacturing companies which generate hazardous waste; and

WHEREAS, The development of a system of waste processing facilities and disposal sites to safely and economically handle the hazardous waste stream generated by New Jersey's industrial, manufacturing and business community is in the interest of the State and the long-term viability and stability of New Jersey's economic base; and

WHEREAS, The lack of such facilities is a significant factor in the indiscriminate and illegal dumping of hazardous waste; represents a significant danger to the public health, safety and welfare; threatens ground and surface water; causes unnecessary air pollution and results in a substantial burden on the public treasury for remedial action; and

WHEREAS, The technical, legislative and administrative solutions to this problem must involve the development of a partnership between the public and private sectors after open and frank public discussion and full participation of all segments of society;

Now, THEREFORE, I, Brendan Byrne, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. There is created an Advisory Committee on Hazardous Waste Control (hereinafter, "the Committee"), consisting of such members as are appointed by and shall serve at the pleasure of the Governor. The membership of the Committee shall include representatives of the industrial community, private citizens, an elected municipal official, an elected county representative, and members of the Legislature. The members of the Committee shall serve without compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties, subject to the availability of funds.

2. The Governor shall designate a Chairman and Vice-Chairman from among the members of the Committee. The Chairman shall preside over the meetings and affairs of the Committee. The Chairman shall have such further powers as may be conferred upon him by the Governor.

3. a. The Advisory Committee shall prepare a report to the Governor within six months of the effective date of this Order which shall include recommendations for administrative or legislative action for the development of a comprehensive hazardous waste management program. Such report shall specifically address the following issues in addition to any others the Advisory Committee deems appropriate:

1. Alternative administrative systems for the regulation of hazardous waste disposal, including siting requirements and site selection procedures for the following: (i) an exclusive State owned and operated hazardous waste authority that would process and dispose of all hazardous waste generated in the State, (ii) State licensing of privately owned facilities, (iii) a combination of i and ii which could include State ownership of land combined with lease agreements with private contractors who would build and operate processing or disposal facilities, and (iv) regional and interstate authorities.
2. Alternatives for financing hazardous waste facilities evaluated pursuant to paragraph a. including: revenue bonds, state regulation of rates, value added tax, and volume fees on generated waste.
3. Methods relating to discouraging to the greatest degree possible illegal dumping including: improved enforcement mechanisms, increased penalties and reduced cost or free processing to encourage use of treatment facilities.
4. Appropriate alternatives for long-term protection of the environment at generation, storage and disposal facilities including: monitoring systems, insurance bonds, escrow accounts and closure requirements.
5. Methods relating to reducing the quantity of hazardous waste requiring disposal, including: resource recovery, recycling, waste brokerage, fuel-from-waste and incentives for reducing the quantity of hazardous waste generated in the State.

6. Regional issues associated with hazardous waste disposal facilities, equalization of rates and the feasibility of an interstate compact for the disposal of such waste with Connecticut, New York, Pennsylvania, and Delaware or such other states as the Committee deems appropriate.
7. The legislative and administrative programs of other states or countries to determine their applicability to New Jersey.
8. A suggested timetable and work program for implementation of the recommendations made.

b. In the furtherance of these duties, the Committee may:

1. Review and evaluate matters related to the manufacture, storage, transportation, reuse or disposal of hazardous waste.
2. Request from the Department of Environmental Protection, Labor and Industry, Health, Treasury or any other department or agency of State government such information concerning hazardous waste as it may deem necessary.

4. The Committee shall develop and implement a public participation program which will make available to the public significant and meaningful opportunity to make its views known on the development of a comprehensive hazardous waste disposal program. As part of the public participation program the Committee shall conduct public meetings or hearings and shall solicit information from and consult with relevant public and private agencies and groups, including county and local government, environmental and industrial organizations and other interest groups.

5. The Departments of Environmental Protection, Health, Labor and Industry, and Treasury and all other State agencies are authorized and directed to the maximum extent possible, not inconsistent with law, to cooperate with the Committee and to furnish them with such information, personnel, and budgetary assistance as is necessary to accomplish the purposes of this Order. The Department of Environmental Protection shall provide technical staff to assist the Committee in its deliberations.

6. This Order shall take effect immediately.

Given, under my hand and seal this 15th day of
[SEAL] August, in the year of Our Lord, one thousand nine hundred and seventy-nine, and of the Independence of the United States, the two hundredth and fourth.

/s/ BRENDAN BYRNE,
Governor.

Attest:
ROBERT E. MULCAHY, III,
Chief of Staff, Secretary.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT.

EXECUTIVE ORDER No. 77

WHEREAS, The United States Geological Survey (USGS) has proposed to update its mapping of the State of New Jersey; and

WHEREAS, The USGS requires the establishment of a statewide mapping committee to determine mapping priorities as a prerequisite to its remapping program; and

WHEREAS, The establishment of such a committee consisting of state and county officials, representatives of higher educational institutions and private professionals will promote intergovernmental cooperation;

NOW, THEREFORE, I, Brendan Byrne, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. The establishment of the New Jersey Mapping Advisory Committee to be chaired by the Commissioner of the Department of Environmental Protection or her designee. The chairperson shall have the authority to appoint the remaining committee members. One representative shall be appointed from each of the following:

—Department of Environmental Protection, Division of Administration
—Department of Environmental Protection, Office of Coastal Zone Management
—Department of Environmental Protection, Office of Environmental Analysis
—Department of Environmental Protection, Division of Water Resources
—Department of Environmental Protection, State Topographic Engineer
—Department of Environmental Protection, State Geologist
—Department of Community Affairs, Division of State and Regional Planning
—Department of Transportation, Office of Planning and Research

—Department of Treasury, Division of Taxation

—Department of Labor and Industry, Division of Planning and Research

—Department of Agriculture

—Department of Defense

—Rutgers University, Department of Geography

—Princeton University, Interactive Computer Graphics Laboratory

—New Jersey Society of Professional Land Surveyors

In addition the Chairperson shall appoint:

—an aerial data consultant

—two representatives of public utilities

—two county government officials

—an interested private citizen

2. The objectives of the New Jersey Mapping Advisory Committee shall be to:

a. consolidate statewide mapping requirements into a single annual report to the USGS;

b. inform map users in New Jersey of the mapping program and the availability of map materials through the N.J. Bureau of Geology and Topography which is the National Cartographic Information Center state affiliate;

c. develop statewide support for coordinated and cost-effective financing of mapping programs including state mapping and aerial photography;

d. eliminate unnecessary duplication of mapping efforts among various state, federal and local agencies;

e. seek information from map users in formulating priorities for the federal and state mapping programs;

f. develop standards for mapping and aerial photography within the State;

g. act as an advisory body to the State Government for mapping problems and solutions;

h. serve as a focal point for federal, state and local mapping activities in New Jersey.

3. The committee shall adopt those rules of organization and procedure and shall elect those officers as it may deem useful in

carrying out its responsibilities. Staff support for the committee shall be provided by the Department of Environmental Protection, Division of Administration and State Topographic Engineer.

4. This Order shall take effect immediately.

Given, under my hand and seal this 27th day of
[SEAL] August, in the year of Our Lord, one thousand nine hundred and seventy-nine, and of the Independence of the United States, the two hundredth and fourth.

/s/ BRENDAN BYRNE,
Governor.

Attest:
ROBERT E. MULCAHY, III,
Chief of Staff, Secretary.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT.

EXECUTIVE ORDER No. 78

WHEREAS, The travel regulations promulgated by the Governor on August 1, 1974, with amendments thereto, have been in effect with little or no change; and

WHEREAS, Circumstances have necessitated certain changes in the methods for handling the travel procedures of the State; and

WHEREAS, In the interest of proper and efficient operation, it is necessary that the regulations be rewritten and revised;

NOW, THEREFORE, I, Brendan Byrne, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. The travel regulations promulgated August 1, 1974 and amendments thereto are rescinded as to all transactions occurring on and after July 1, 1979.

2. The regulations promulgated by the Department of the Treasury as of July 1, 1979 shall be the official State travel regulations and all requests for expenditures thereunder shall be made in accordance therewith. Said regulations shall be effective July 1,

1979 and the Director of the Division of Budget and Accounting in the Department of the Treasury is charged with the enforcement thereof.

3. This Order shall take effect immediately.

Given, under my hand and seal this 18th day of September, in the year of Our Lord, one thousand nine hundred and seventy-nine, and of the Independence of the United States, the two hundredth and fourth.

[SEAL]

/s/ BRENDAN BYRNE,
Governor.

Attest:
HAROLD L. HODES,
Chief of Staff, Secretary.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT.

EXECUTIVE ORDER No. 79

WHEREAS, Chapter 73, P. L. 1963, finds and declares it to be the public policy of this State that public records shall be readily accessible for examination by the citizens of this State for the protection of the public interests, except as otherwise provided in said law; and

WHEREAS, Said law provides that all records which are required by law to be made, maintained or kept on file by State and local governmental agencies are to be deemed to be public records, subject to inspection and examination and available for copying, pursuant to said law; and

WHEREAS, Said law provides that records which would otherwise be deemed to be public records, subject to inspection and examination and available for copying, pursuant to the provisions of Chapter 73, P. L. 1963, may be excluded therefrom by Executive Order of the Governor or by any regulation promulgated under the authority of any Executive Order of the Governor;

NOW, THEREFORE, I, Brendan Byrne, Governor of the State of New Jersey, by virtue of the authority vested in me by Chapter 73,

P. L. 1963, do hereby ORDER and DIRECT that the following specific categories of records, due to their confidential nature, shall not be deemed to be public records under the provisions of Chapter 73, P. L. 1963; and thus shall not be subject to examination, nor available to the public for copies or review:

1. *Procurement documents* of any State department or agency, concerning surveillance equipment and investigatory services, when disclosure of the equipment type and the subject matter of the services could make known to the target of an investigation the fact that an investigation is in progress.

2. *Procurement documents* of any State department or agency, concerning installation of intrusion and detection alarm systems, when disclosure could facilitate illegal entry.

3. *Procurement documents* of any State department or agency, concerning studies of computer system security, including final reports, when disclosure could facilitate fraudulent use of the information.

I further ORDER that the Department of the Treasury and the Department of Law and Public Safety annually review the list of records which have been excluded from public examination pursuant to this Executive Order and, when both agree, make available for public examination any records which no longer will impair law enforcement or security operations.

This Order shall take effect immediately.

Given, under my hand and seal this 1st day of
[SEAL] October, in the year of Our Lord, one thousand nine hundred and seventy-nine, and of the Independence of the United States, the two hundredth and fourth.

/s/ BRENDAN BYRNE,
Governor.

Attest:
HAROLD L. HODES,
Chief of Staff, Secretary.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT.

EXECUTIVE ORDER No. 80

WHEREAS, Richard J. Hughes, public servant extraordinary, former Chief Justice of the Supreme Court of New Jersey, former Governor, former judge of the Superior Court and former Assistant U.S. Attorney, has devoted his energies, his talents, his life to the people of the State of New Jersey and these United States; and

WHEREAS, This government wishes to express, through the dedication of this new structure to house the Supreme Court and the office of the Attorney General, its commitment to administer justice to the same high standard set by Richard J. Hughes; and

WHEREAS, It is fitting that future generation of judges, attorneys, public officials and citizens should recall the work of this remarkable man and find in it an inspiration for their own endeavors;

NOW, THEREFORE, I, Brendan Byrne, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and PROCLAIM that this structure shall hereafter be known as the Richard J. Hughes Justice Complex.

Given, under my hand and seal this 4th day of
[SEAL] October, in the year of Our Lord, one thousand nine hundred and seventy-nine, and of the Independence of the United States, the two hundredth and fourth.

/s/ BRENDAN BYRNE,
Governor.

Attest:
HAROLD L. HODES,
Chief of Staff, Secretary.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT.

EXECUTIVE ORDER No. 81

WHEREAS, The sport of thoroughbred racing for some time has provided exciting entertainment to the people of the State of New Jersey and has contributed significantly to the financial health of the State government;

WHEREAS, The spectator facilities at Garden State Racetrack, one of the State's premier racing facilities, were destroyed in an unfortunate fire; and

WHEREAS, Both public and private interests have put forth creative proposals for the reconstruction of the track which deserve careful consideration;

Now, THEREFORE, I, Brendan Byrne, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ESTABLISH a committee to assist me in the evaluation of the various proposals for the rehabilitation of the Garden State Racetrack and APPOINT the following State officials as its members:

President of the Senate, Joseph P. Merlino,
Assemblywoman Barbara Berman,
Assemblywoman Mary Keating Croce,
Counsel to the Governor, Daniel J. O'Hern,
Chairman of the New Jersey Racing Commission,
Charles C. Carella.

And I DIRECT that this committee report its findings to me upon completion of its study.

This Order shall take effect immediately.

Given, under my hand and seal this 11th day of
[SEAL] October, in the year of Our Lord, one thousand nine hundred and seventy-nine, and of the Independence of the United States, the two hundredth and fourth.

/s/ BRENDAN BYRNE,
Governor.

Attest:
HAROLD L. HODES,
Chief of Staff, Secretary.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT.

EXECUTIVE ORDER No. 82

WHEREAS, During the course of contractual negotiations this year, a commitment was made by me to declare the day after Thanksgiving as an additional day off;

NOW, THEREFORE, I, Brendan Byrne, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. November 23, 1979, the day following Thanksgiving, shall be granted as a day off to employees who work in the executive departments of State Government and who are paid from State funds, whose functions, in the opinion of their appointing authority permit such absence.

2. An alternative day off shall be granted to the aforementioned category of employees whose functions, in the opinion of their appointing authority, preclude such absence on November 23, 1979.

[SEAL] Given, under my hand and seal this 13th day of November, in the year of Our Lord, one thousand nine hundred and seventy-nine, and of the Independence of the United States, the two hundredth and fourth.

/s/ BRENDAN BYRNE,
Governor.

Attest:
HAROLD L. HODES,
Chief of Staff, Secretary.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT.

EXECUTIVE ORDER No. 83

WHEREAS, The Department of Energy Act, R. S. 52:27F–1 et seq., authorizes the Governor to proclaim by executive order a state of energy emergency for a period of up to six months, upon a finding by the Commissioner of Energy that there exists or impends an energy supply shortage of a dimension which endangers the public health, safety and welfare in all or any part of the State; and

WHEREAS, On June 20, 1979 I proclaimed by Executive Order 75 a state of energy emergency with regard to the supply of motor fuel throughout the entire State; and

WHEREAS, The state of energy emergency I proclaimed on June 20, 1979 expires on December 20, 1979 pursuant to R. S. 52:27F–17; and

WHEREAS, The Commissioner of Energy has found that there continues to exist a motor fuel supply shortage of a dimension which endangers the public health, safety and welfare throughout the entire State;

NOW, THEREFORE, I, Brendan Byrne, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby PROCLAIM:

1. A limited state of emergency with regard to the supply of motor fuel exists throughout the entire State.

2. The Commissioner of Energy is empowered during the duration of the state of energy emergency to take such steps pursuant to R. S. 52:27F–17 to alleviate or terminate the state of energy emergency as he deems necessary.

3. This Order shall take effect December 20, 1979.

Given, under my hand and seal this 19th day of
[SEAL] December, in the year of Our Lord, one thousand nine hundred and seventy-nine, and of the Independence of the United States, the two hundredth and fourth.

/s/ BRENDAN BYRNE,
Governor.

Attest:
HAROLD L. HODES,
Chief of Staff, Secretary.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT.

EXECUTIVE ORDER No. 84

WHEREAS, There has been established in the Department of the Treasury, Division of Purchase and Property, an Office of the State Fire Marshal; and

WHEREAS, The Office of the State Fire Marshal has the responsibility for the supervision of fire prevention, control and safety procedures in all State-owned, leased or occupied buildings; and

WHEREAS, The Office of the State Fire Marshal has the responsibility for conducting fire inspections and fire investigations in all such buildings; and

WHEREAS, The Office of the State Fire Marshal has been selected by the U.S. Fire Administration to implement a grant for the development of a statewide Fire Incident Reporting System; and

WHEREAS, In the interest of economy, efficiency and public safety, it appears that the aforementioned responsibilities and duties of the Office of the State Fire Marshal can more appropriately be undertaken by the Department of Law and Public Safety;

NOW, THEREFORE, I, Brendan Byrne, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. The Attorney General, acting under the authority of this Executive Order and the statutory powers conferred on him, shall establish an Office of State Fire Marshal in the Department of Law and Public Safety, shall assign to the said Office such employees of the Department of Law and Public Safety, as may be appropriately assigned thereto; and shall from time to time assign or appoint to the said Office such other employees as may be required.

2. All functions, powers, duties, personnel and appropriations pertaining to the Office of State Fire Marshal in the Department of the Treasury, Division of Purchase and Property, shall be and the same are hereby transferred with the Office of State Fire Marshal to the Department of Law and Public Safety.

3. The Office of State Fire Marshal shall supervise fire prevention, control and safety procedures in all State-owned, leased or

occupied buildings and shall continue to perform all related duties previously imposed by law or executive order under the direction of the Attorney General.

4. The Office of State Fire Marshal shall, in conjunction with the Division of Criminal Justice, the Division of State Police and the Division of Systems and Communications in the Department of Law and Public Safety, develop a Fire Incident Reporting System for the collection, analysis and dissemination of information and data relating to the causes and origins of fires in the State of New Jersey.

5. The Office of the State Fire Marshal shall cooperate with and assist other agencies and departments of the State and its political subdivisions in matters relating to fire prevention and control and shall perform such other duties as the Attorney General deems appropriate for the effective and efficient operation of said Office.

This Order shall take effect immediately.

Given, under my hand and seal this 26th day of
[SEAL] December, in the year of Our Lord, one thousand nine hundred and seventy-nine, and of the Independence of the United States, the two hundredth and fourth.

/s/ BRENDAN BYRNE,
Governor.

Attest:
HAROLD L. HODES,
Chief of Staff, Secretary.

INDEX

(1925)

INDEX

ADOPTION

Medical histories, child and natural parents, agencies, provide to prospective parents, required, C. 9:3–41.1, Ch. 292.

AGRICULTURE

Cranberries, gathering, certain, repealed, repeals R. S. 4:17–6 et seq., Ch. 342.

Open space, preservation, review, Ch. 234.

Seed starting plastic greenhouses, tax exempt, amends C. 54:4–23.12, Ch. 70.

ALCOHOLIC BEVERAGES

Possession, consumption, underage, penalty, C. 2C:33–15, Ch. 264.

Purchase, consumption, age 19, amends C. 9:17B–1, Ch. 260.

Purchase, underage, penalty, amends R. S. 33:1–81, Ch. 265.

Retail consumption licenses, municipality reduce, payment, to licensee, amends C. 40:48–2.41, Ch. 61.

ANIMALS

Dog census, report date changed, amends C. 4:19–15.15, Ch. 442.

Humane society, animal control facility, sodium pentobarbital, use, certain, amends C. 24:21–11, Ch. 204.

"N. J. Unretrieved Animal Act", C. 45:16–13 et seq., Ch. 354.

AMUSEMENT

"Carnival-Amusement Rides Safety Act", full-size railroads exempt, jurisdiction, amends C. 5:3–32, Ch. 2.

APPROPRIATIONS

Agent Orange Commission, $25,000, Ch. 443.

Agricultural open space, preservation, review, Dept. of Agriculture, $75,000, Ch. 234.

Annual, amends, supplements, $26,470,000, Ch. 336.

Annual, Ch. 119.

Bulk Commodities Transportation Act, implementation, $63,000, Ch. 145.

Cigarette license administration, $136,000, Ch. 481.

Clean Waters Fund, $1,200,000, Ch. 232; $125,000, Ch. 474; $3,100,000, Ch. 475.

Commission on Business Efficiency in the Public Schools, $20,000, C. 52:9T–1 et seq., Ch. 69.

Commission on Individual Liberty and Personal Privacy, $10,000, Ch. 22.

Dept. of Environmental Protection, fisheries management program, $500,000, Ch. 199.

Driver's licenses, color photograph implementation, $70,000, Ch. 262

Flood control, emergency fund, $10,000,000, Ch. 196.

Green Acres, $46,000,000, Ch. 60; $52,000,000, Ch. 444.

Handicapped Fund, school construction, $12,147,000, Ch. 117.

Institutional Construction Fund, $37,800,000, Ch. 144; $30,000,000, Ch. 185; $6,500,000, Ch. 195; $4,500,000, Ch. 279.

Judiciary, Superior Court judges, salaries, $600,000, Ch. 107.

APPROPRIATIONS (Continued)
"Life and Health Insurance Policy Language Simplification Act," administration, $25,000, C. 17B:17–17 et seq., Ch. 167.
Lifeline Credit Program, 1980 FY, $44,000,000; administration, $2,000,000, Ch. 197.
"Local Government Emergency Assistance Act of 1979," $22,369,000, distribution, Ch. 34.
Medical Ed. Facilities Fund, construction, $405,800, Ch. 333; $12,297,000, Ch. 348.
Mortgage assistance bond fund, $4,785,000, Ch. 213.
Mountain Lake weed control, $25,000, Ch. 81.
Municipal aid, supplement, $97,475, Ch. 269.
Parole Act of 1979, $70,000, Ch. 441.
Physician-Dentist Loan Redemption Program, $15,000, Ch. 272.
Pigeon Swamp State Park, $6,000,000, Ch. 55.
Shoreline restoration, N. Y. Harbor, $5,000,000, Ch. 80.
State Facilities for Handicapped Fund, $5,478,898, Ch. 276.
Supplemental, Ch. 120.
Water Conservation Fund, bond proceeds, municipalities and authorities, $5,238,574, Ch. 45.
Water Development Fund, $1,013,519, Ch. 310.
Youth employment, $2,000,000, Ch. 334.

ARMED FORCES
Agent Orange Act, Ch. 443.
N. J. Soldiers' and Sailors' Civil Relief Act of 1979, C. 38:23C–1 et seq., Ch. 317.

AUTHORITIES
County utilities authority, membership, certain, increase, amends C. 40:14B–4, Ch. 473.
Economic Development Authority, construction contracts, prevailing wage rates, affirmative action, required, C. 34:1B–5.1 et seq., Ch. 303.
Municipal utilities authority, facilities, certain, application, action required, timetable established, amends C. 40:14B–61, Ch. 418.
Port Authority of N.Y. and N.J., buses and ancillary bus facilities, use, certain routes, authorized, C. 32:2–23.27 et seq., Ch. 33.
Port Authority of N. Y. and N. J., urban industrial park projects, minutes filed with Legislature, amends C. 32:1–35.91, Ch. 154.

AVIATION
Hall of Fame and Museum of N. J., designated, C. 28:2–19, Ch. 123.

BANKING
Advertising, regulated, C. 17:16H–1 et seq., Ch. 193.
Advisory board, public membership increased, amends C. 17:9A–306, Ch. 397.
Check Cashing Law, sundry amendments, amends C. 17:15A–3 et al., repeals C. 17:15A–6, Ch. 498.
Consumer credit balances, abandoned, 5 years, escheat, C. 2A:37–30.1, amends N. J. S. 2A:37–30, Ch. 88.
Consumer credit balance, protects, C. 56:11–10 et seq., Ch. 87.
Decedent's account, transfer to surviving spouse, $5,000 maximum, without tax waiver, amends R. S. 54:35–19, Ch. 217.
Deposits, "unclaimed", newspaper notice, escheat, amends C. 17:9–21, Ch. 174.
Fidelity bonds, certain requirements waived, amends C. 17:9A–115, Ch. 138.
Fiduciary capacity, foreign bank, investments, common trust funds, certain, permitted, C. 17:9A–316.3, Ch. 389.

BANKING (Continued)
Loans, small businesses, maturities, interest rates, extended, amends C. 17:9A–59.25 et al., Ch. 319.
Loans to officers, regulated, insurance company stock, certain, permitted, C. 17:9A–24.9, amends C. 17:9A–22 et al., Ch. 226.
Mortgage applications, discrimination, certain, prohibited, amends C. 17:16F–2 et al., Ch. 148.
Mortgages, bonds, notes, difference eliminated, collection, C. 2A:50–2.1 et seq., amends N. J. S. 2A:50–2 et al., Ch. 286.
Mortgages, "graduated payment", authorized, C. 46:10B–12 et seq., Ch. 139.
Mortgages, interest rate, maximum, formula, amends R. S. 31:1–1 et al., Chs. 85, 253.
Mortgages, residential, nonresidential use, certain, prepayment terms, amends C. 46:10B–1 et seq., Chs. 85, 253.
Mortgages, "reverse annuity", "reverse direct payment", authorized, C. 46:10B–16 et seq., Ch. 140.
Multiple-party Deposit Account Act, C. 17:16I–1 et seq., amends C. 17:12B–82 et al., repeals C. 17:9A–216 et al., Ch. 491.
Nonprofit social service agencies and nonprofit consumer credit counseling agencies, licensing, auditing, required, C. 17:16G–1 et seq., Ch. 16.
Officer, director or employee, incorporator of another bank, certain, amends C. 17:9A–3, Ch. 300.
Savings & loan, certain checking accounts permitted, mortgage loan points prohibited, amends C. 17:12B–48, Ch. 258.
Savings institution tax, net income, rate, amends C. 54:10D–2 et seq., Ch. 160.
Small loan law, amount increased, open-ended permitted, C. 17:10–14.2 et seq., amends R. S. 17:10–2 et al., Ch. 493.
State-chartered, reserve funds, certain direct obligations of the U.S., permitted, amends C. 17:9A–48, Ch. 215.

BONDS
"N. J. Higher Education Facilities Construction Bond Act of 1979," $95,000,000, Ch. 206.
"Transportation Rehabilitation and Improvement Bond Act of 1979," $475,000,000, Ch. 165.

BRIDGES
Proposed Easton-Phillipsburg bridge, tolls, Delaware River Joint Toll Bridge Commission, construct and operate, certain, C. 27:12D–6, amends C. 27:12D–5, Ch. 214.

BUSES
Driver, nonprofit organizations, license, fees, examination, waive, C. 39:3–13.5, amends R. S. 39:3–10 et al., Ch. 97.
"Public Transportation Act of 1979," N. J. Transit Corporation, established, C. 27:25–1 et seq., amends C. 27:1A–5 et al., Ch. 150.

CEMETERIES
Litigation, Attorney General, necessary party, repealed, repeals N. J. S. 8A:3–21, Ch. 382.
Mausoleum construction, State Uniform Construction Code applicable, C. 8A:3–14.1, amends N. J. S. 8A:3–14 et al., Ch. 255.
Multiple burials, interment space, certain, prohibited, C. 8A:5–18.1 et seq., Ch. 200.

CHILDREN
Statutes, obsolete, certain, repealed, repeals R. S. 9:5–1 et al., Ch. 374.

CIGARETTES
Distributors, wholesalers, retailers, license application, information required, amends C. 54:40A–4 and 54:40A–5, Ch. 481.

CIVIL ACTIONS
Contracts under seal, certain, 16-year statute of limitations, amends N. J. S. 2A:14–4, Ch. 436.

CIVIL RIGHTS
Human Rights Week, beginning December 10, 1979, J. R. 3.
Law Against Discrimination, procedure, sundry amendments, C. 10:5–27.1, amends C. 10:5–13 et al., Ch. 404.

CIVIL SERVICE
Police and firemen, probationary period, entry level, extended, amends R. S. 11:12–1 and R. S. 11:22–6, Ch. 17.
Vacation leave, calculation, credit for previous service, amends C. 11:14–1.1, Ch. 24.
Unclassified positions, certain, established, amends R. S. 11:22–2, Ch. 290.

COLLEGES
Albert Einstein Chairs for Scholarly Studies, endowed, certain, C. 18A:72C–1 et seq., Ch. 39.
County, board of trustees, membership increase, amends N. J. S. 18A:64A–8, Ch. 252.
County, state aid, increases, amends N. J. S. 18A:64A–22, Ch. 110.
"Independent College and University Assistance Act," C. 18A:72B–15 et seq., Ch. 132.
Medicine and Dentistry, certain retired employees, eligible, State Health Benefits, C. 18A:64G–20.1, Ch. 1.
"N. J. Higher Education Facilities Construction Bond Act of 1979," $95,000,000, Ch. 206.
N. J. Institute of Technology, employees, eligible, N. J. health benefits program, amends C. 52:14–17.26, Ch. 90.
Physician-Dentist Loan Redemption Program, established, C. 18A:72D–1 et seq., Ch. 272.
Public, tuition, senior citizens, waiver, authorized, C. 18A:62–3, Ch. 31.
Residence, established, 12 months, tuition purposes, C. 18A:62–4, Ch. 361.
State, county, professional staff, interruption in service, probationary period, amends C. 18A:60–14, Ch. 21.
State scholarships, children, widowed spouses of police, firemen, first aid, rescue squad workers, killed in action, C. 18A:71–77 et seq., Ch. 229.

COMMISSIONS
Agent Orange Commission, established, Ch. 443.
Commission on Business Efficiency in the Public Schools, created, C. 52:9T–1 et seq., Ch. 69.
Commission on Children's Services, created, Ch. 238.
Commission on Individual Liberty and Personal Privacy, reporting date, extended, amends Sec. 2 of P. L. 1978, c. 12, Chs. 22, 134.
Commission to Study Sex Discrimination in the Statutes, extended, Ch. 270.
Commission to Study Teacher Preparation Programs, public members increased, Ch. 480.

COMMISSIONS (Continued)
Commission to Study Teacher Preparation Programs, reporting date extended, Chs. 11, 183, 480.
Corp. Law Revision Commission, extended, C. 1:14–11, Ch. 372.
Educational services, board membership, amends C. 18A:6–51 et al., Ch. 356.
State Commission of Investigation, extended, membership terms, procedure, C. 52:9M–1.1 et al., amends C. 52:9M–1 et al., Ch. 254.
Urban Colored Population repealed, repeals C. 52:9F–1 et seq., Ch. 341.
U. S. S. New Jersey Battleship Commission, established, C. 13:15A–1 et seq., Ch. 440.

COMMUNITY AFFAIRS
Local Finance Board, membership increased, amends C. 52:27D–18.1, Ch. 411.
Rooming and Boarding House Act of 1979, C. 55:13B–1 et seq., C. 30:1A–2 et al.; amends C. 26:2H–1 et al., Ch. 496.

CONSUMER AFFAIRS
Charities, under $50,000, annual independent public accountant opinion, waived, certain, amends Charitable Fund Raising Act, C. 45:17A–6, Ch. 188.
Credit balance, notice to consumer, refund, certain, C. 56:11–10 et seq., Ch. 87.
"Going out of business" sales, regulates, C. 56:8–2.8, Ch. 103.
Menus, misrepresent food, penalties, C. 56:8–2.9 et seq., Ch. 347.
Nonprofit social service agencies and nonprofit consumer credit counseling agencies, licensing, auditing, required, C. 17:16G–1 et seq., Ch. 16.

CORPORATIONS
Domestic, name, use of "corporation," amends C. 14A:2–2a, Ch. 141.
Financial business, net worth, net income, determine, amends C. 54:10A–4, Ch. 76.
Information searches, five free, eliminated, amends N. J. S. 14A:15–3, Ch. 295.

CORRECTIONS
County jails, certain, new inmates, restricted admission, C. 30:8–57 et seq., Ch. 472.
Parole Act of 1979, C. 30:4–123.45 et seq., amends C. 30:4–1.1 et al., repeals R. S. 30:4–106 et al., Ch. 441.
"State Facilities Education Act of 1979," children, education, C. 18A:7B–1 et seq., amends N. J. S. 18A:46–14 et al., repeals C. 30:4AA–1 et seq., Ch. 207.

COUNTIES
Airports, security officers, certain, appoint, C. 40:8–8, et seq., amends N. J. S. 2C:39–6, Ch. 332.
Appointive offices, certain, vacancies, determination, procedure, C. 40A:9–12.1, Ch. 302.
Appropriations, clinics of nonprofit hospitals in certain counties, authorized, amends R. S. 44:5–11 and R. S. 44:5–12, Ch. 14.
Assistant prosecutors, salary, maximum, raised, amends C. 2A:158–15.2, Ch. 355.
Boards of chosen freeholders, certain, filling vacancies, C. 40:20–35.10 et seq., repeals R. S. 40:20–4 et al., Ch. 340.
Boards of taxation, administrators, sundry amendments, C. 54:3–21.3a et al., amends R. S. 54:3–2 et al., repeals R. S. 54:3–29, Ch. 499.
Classification, annexation, determination of boundaries, adds chapters to Title 40A, N. J. S. 40A:6–1 et al., Ch. 181.
County Officers Association of New Jersey, contributions permitted, amends R. S. 40:23–6, Ch. 159.

COUNTIES (Continued)
Deeds, acknowledgment, notary public, outside N. J., seal, use, amends R. S. 46:14-7, Ch. 92.
Employees, members of Legislature, time off with pay, certain, C. 40A:9-7.2, Ch. 277.
Improvement authorities, bonds, certain, State aid, fund established, C. 40:48-8.29 et seq., amends C. 40:48-8.16 et al., Ch. 273.
Improvement authorities, housing projects, certain, powers, C. 40:37A-106 et al., amends C. 40:37A-45 et al., Ch. 275.
Insurance, Chapter 10 of Title 40A, new, N. J. S. 40A:10-1 et seq., amends N. J. S. 40A:14-37 et al., repeals Chapters 26 and 51 of Title 40 et al., Ch. 230.
Jails, workhouses, penitentiaries, substandard, restriction on admission of new inmates, C. 30:8-57 et seq., Ch. 472.
"Local Historians Enabling Act", positions of county "local historian" authorized, C. 40:10A-1 et seq., Ch. 59.
Moneys, depositories, certain, required, C. 40A:5-14.1, amends N. J. S. 40A:5-14, Ch. 315.
Prosecutors, assistant, part-time employment as teachers, permitted, amends C. 2A:158-15.1, Ch. 153.
Referendum, ordinances, certain, prohibited, amends R. S. 40:74-5 et al., Ch. 278.
Retired employees, certain, State Health Benefits, eligible, amends C. 52:14-17.38, Ch. 54.
Sheriff, county disaster control coordinator, simultaneous, permitted, amends N. J. S. 40A:9-108, Ch. 99.
Superintendent of public works, term increased, name changed to supt. of buildings and grounds, amends N. J. S. 40A:9-32, Ch. 433.
Water Supply Financing Law, C. 40:14C-1 et seq., repeals R. S. 40:36-1 et seq., Ch. 451.
Welfare boards, name change to county board of social services, authorized, C. 44:1-10.1 and C. 44:1-10.2, Ch. 9.

COURTS
Attorneys, licensing, FBI criminal history, Supreme Court use, C. 2A:1-12, Ch. 370.
Board of Public Utilities, orders, preference over civil actions, repeals R. S. 48:2-48, Ch. 343.
County district, jurisdiction, docketed judgments, certain, amends N. J. S. 2A:18-41, Ch. 416.
Division of Motor Vehicle records, abstracts, use as evidence, permitted, amends N. J. S. 2A:82-10, Ch. 210.
Juvenile and domestic relations, Monmouth Co., 2 additional judges, amends C. 2A:4-4.4, Ch. 497.
Municipal, judges, additional authorized in West Orange, Montclair and Teaneck, C. 2A:8-6.4, Ch. 357.
Municipal, judges, full-time, first appointment, term, amends N. J. S. 2A:8-5, Ch. 257.
Municipal, jurisdiction, "Code" crimes and offenses, certain, amends N. J. S. 2A:8-21 et seq., Ch. 184.
Sheriffs, fees and mileage, certain, amends N. J. S. 22A:4-8, Ch. 190.

CRIMES
Contraband, certain, forfeiture, procedure, amends N. J. S. 2C:64-1 et seq., C. 24:21-35, Ch. 344.

CRIMES (Continued)
Fines, restitution, collection, distribution; penalties, certain, victims of violent crimes account, C. 2C:43-3.1 et al., amends N. J. S. 2A:166-13, repeals N. J. S. 2A:8-33 et al., Ch. 396.
Homicide, prosecution, victim's death, time lapse, no bar, C. 2C:11-2.1, Ch. 363.
Motor fuels, tax violations, penalties, increased, amends R. S. 54:39-55, Ch. 367.
"N. J. Code of Criminal Justice," N. J. S. 2C:14-8 et al., amends N. J. S. 2C:1-1 et al., Ch. 178
Sentencing, probation, suspension, amends N. J. S. 2C:45-1 et seq., Ch. 180.
Weapons, possession, unlawful, certain, C. 2C:39-7 et al., amends N. J. S. 2C:39-2 et al., repeals N. J. S. 2A:151-10 et seq., Ch. 179.

CRIMINAL PROCEDURE
Newsperson's privilege, information subpenaed, hearing, procedure, C. 2A:84A-21.1 et seq., Ch. 479.
Search and seizure, news media, documentary materials, limited, C. 2A:84A-21.9 et seq., Ch. 488.

DEFENSE
Department, Chief of Staff, powers, C. 38A:3-6.1, Ch. 240.

DOMESTIC RELATIONS
"Displaced Homemakers Act", C. 52:27D-43.18 et seq., Ch. 125.
Parental liability, age and monetary limit, raised, amends C. 2A:53A-15, Ch. 318.
"Shelters for Victims of Domestic Violence Act," C. 30:14-1 et seq., Ch. 337.
"Uniform Child Custody Jurisdiction Act", C. 2A:34-28 et seq., Ch. 124.

DRUGS
Pharmaceutical Assistance to Aged program, reimbursements, certain cases, authorized, C. 30:4D-34 and C. 30:4D-35, Ch. 27.
Prescription, labeling, brand or generic name included. certain cases, amends R. S. 45:14-15 and C. 24:21-17, Ch. 146.

EDUCATION—See Colleges, Schools or Teachers

ELECTIONS
Ballots, public questions, arrangement, amends R. S. 19:14-13 et seq., Ch. 191.
Dual candidacies, certain, prohibited, C. 19:3-5.1, Ch. 467.
"Municipal Vacancy Law", N. J. S. 40A:16-1 et seq., amends R. S. 40:84-11 et al., Ch. 83.
Political party committees, local, vacancies, certain, change of residence, amends R. S. 19:5-2 and 19:5-3, Ch. 458.
Political party platforms, adoption, time extended, amends R. S. 19:5-6, Ch. 423.
School elections, absentee ballots, single application, C. 18A:14-26.1, Ch. 49.
Voter registration, high school students, conduct, month of March, amends R. S. 19:31-2, Ch. 393.

ENERGY
Hydroelectric projects, Department encourage, initiate, J. R. 5.
Municipal courts, jurisdiction, violations of emergency regulations, amends C. 52:27F-24, Ch. 187.

ENVIRONMENT
"Aid for Urban Environmental Concerns Act", C. 13:1H-8 et seq., Ch. 56.
DEP, Divisions, Councils, certain, name changed, C. 13:1D-18.2, amends C. 13:1D-3 et al., repeals C. 13:1A-29, Ch. 386.
Green Acres, acquisition, $46,000,000, Ch. 60.
Marine patrolmen, powers, motor vehicles, ice-covered waters, C. 12:7E-1 and C. 12:7E-2, Ch. 58.

ENVIRONMENT (Continued)
Mountain Lake weed control, $25,000, Ch. 81.
"N. J. Conservation Restriction and Historic Preservation Restriction Act," C. 13:8B–1 et seq., Ch. 378.
"Pinelands Protection Act", C. 13:18A–1 et seq., Ch. 111.
Riparian grants, Natural Resources Council jurisdiction, extended, amends R. S. 12:3–12 et al., repeals R. S. 12:3–17, Ch. 311.
Rockaway and Passaic rivers region, anticipatory flood control, memorialize U. S. Army Corps of Engineers, J. R. 7.
Shoreline restoration, N. Y. Harbor, $5,000,000, Ch. 80.
Soil conservation districts law, sundry amendments, C. 4:24–17.6 et al., amends C. 4:24–41 et al., repeals C. 4:24–12.1, Ch. 459.
Spill Compensation & Control Act, sundry amendments, "Fund" increases, amends C. 58:10–23.11b et al., Ch. 346.
"State Flood Control Facilities Act," DEP jurisdiction, C. 58:16A–4.1, amends C. 58:16A–1 et al., repeals R. S. 58:16–1 et al., Ch. 358.
Stream encroachment program, flood hazard area control programs, integrated, C. 58:16A–55.2 et seq., amends C. 58:16A–50 et al., Ch. 359.

ESCHEAT
Abandoned credit balances, C. 2A:37–30.1, amends N. J. S. 2A:37–30, Ch. 88.
Abandoned property, waiting period, reduce, amends N. J. S. 2A:37–30, Ch. 63.
Unclaimed bank deposits, certain, repealed, repeals, C. 17:9–27 et seq., Ch. 373.
Unclaimed pension payments, defined, waiting period, 5 years, C. 2A:37–48 et seq., repeals C. 2A:37–46 et seq., Ch. 298.

ESTATES
Absent persons, property conserve, trustee's powers, duties, C. 3A:39–5 et seq., amends N. J. S. 3A:39–1 et seq., repeals N. J. S. 3A:39–3 et seq., Ch. 487.
Decedent's account, less than $5,000, surviving spouse, transfer, without waiver, amends R. S. 54:35–19, Ch. 217.
Decedents', self-proved will, sundry other amendments, C. 3A:2A–48.1 et al., amends C. 3A:2A–6 et al., Ch. 221.
Disclaimers, devisees or beneficiaries, heirs, appointees, permitted, C. 3A:25–39 et seq., Ch. 484.
Dower, curtesy, abolished prospectively, C. 3A:35–5, Ch. 485.
Elective share, surviving spouse, right of election granted, C. 3A:38A–1 et seq., Ch. 483.
Fiduciaries, compensation, determination, C. 3A:10–2.1 et seq., amends N. J. S. 3A:10–2, Ch. 501.
Fiduciaries, guardians, administrators included, assets, powers, amends C. 3A:6–16.1 et seq., Ch. 489.
Guardians, minors, mental incompetents, powers, duties, C. 3A:6–16.10 et seq., amends N. J. S. 3A:9–8 et al., repeals N. J. S. 3A:6–21 et al., Ch. 482.
Inter vivos transfers, disclaimers permitted, C. 46:2E–1 et seq., Ch. 492.
Intestate, increases to $10,000 spouse's right to take without administration, amends N. J. S. 3A:6–5 et seq., Ch. 316.
Minors, payment or delivery, money or property, method, C. 3A:6–32.1 et seq., repeals N. J. S. 3A:6–31 et seq., Ch. 494.

ESTATES (Continued)
Multiple-party Deposit Account Act, C. 17:16I–1 et seq., amends C. 17:12B–82 et al., repeals C. 17:9A–216 et al., Ch. 491.
Protective arrangements, minors, mental incompetents, permitted, C. 3A:20–12 et seq., Ch. 486.
Transfer inheritance tax, exclusion, cooperative housing membership, certain, surviving spouse, amends R. S. 54:34–1, Ch. 413.
Transfer inheritance tax exempt, testamentary trust, annuity, certain, amends R. S. 54:34–4, Ch. 137.
Transfer inheritance tax lien, 15 years, amends R. S. 54:35–5 and C. 54:35–5.1, Ch. 417.
Trust estate, investments by fiduciaries and administrators, amends C. 3A:15–36, Ch. 490.
Trusts, trustee's acts, approval by holder of general power of appointment, C. 3A:2A–29.1, Ch. 219.

EXECUTIVE ORDERS
Advisory Committee on Hazardous Waste Control, No. 76, p. 1911.
Committee on evaluation of various proposals for rehabilitation of Garden State Racetrack, No. 81, p. 1920.
Day off to State employees, No. 82, p. 1921.
Hudson River Waterfront Study and Planning Commission, No. 69, p. 1891.
Liberty State Park Public Advisory Commission, No. 74, p. 1907.
New Jersey Mapping Advisory Committee, No. 77, p. 1914.
Office of State Fire Marshal, No. 84, p. 1923.
Official State travel regulations, No. 78, p. 1916.
Pinelands Planning Commission, No. 71, p. 1897.
Public records, confidentiality, No. 79, p. 1917.
Richard J. Hughes Justice Complex, No. 80, p. 1919.
State of emergency, No. 73, p. 1906.
State of emergency, limited, No. 75, p. 1910; No. 83, p. 1922.
Task Force on Transportation Services for Elderly and Handicapped Citizens, No. 70, p. 1894.
Voter Registration Advisory Council, No. 72, p. 1904.

FIRE DISTRICTS
Board of fire commissioners, county or municipal land, private sale to, permits, amends C. 40A:12–21, Ch. 305.
Budgets, adoption, procedure, paid positions permitted, C. 40A:14–81.1 et al., amends N. J. S. 40A:14–79 et al., Ch. 453.
Establishment, dissolution, voter assent required, amends N. J. S. 40A:14–70 et al., Ch. 381.
Real, personal property, certain, sell, authorized, amends N. J. S. 40A:14–70, Ch. 325.
Township of Howell, county of Monmouth, established, Ch. 30.

FIREMEN
Fire police orders, failure to obey, penalty increased, amends R. S. 15:18–4, Ch. 53.
Probationary period, entry level, classified civil service, extended, amends R. S. 11:12–1 and R. S. 11:22–6, Ch. 17.
Volunteer companies, increased annual municipal appropriation authorized, amends N. J. S. 40A:14–34, Ch. 151.
Volunteer, motor vehicle emergency warning lights, certain, amends C. 39:3–54.7 et al., Ch. 71.

FIRST AID, RESCUE SQUADS

Local Health Services, "Standards of Performance", exempt, certain, amends C. 26:3A2–10, Ch. 73.

Volunteer, motor vehicle emergency warning lights, certain, amends C. 39:3–54.7 et al., Ch. 71.

FISH and GAME

Deer, wild birds, animals, dead, disposal, C. 23:4–63.7, amends R. S. 23:4–43, Ch. 304.

Delaware bay, commercial eel fishing license, fee, established, C. 23:3–72 et seq., Ch. 227.

Hawks, owls, protected, penalty, increased, amends R. S. 23:4–25 et al., Ch. 212.

License fees, revised, amends R. S. 23:3–4 et al., Ch. 239.

"Marine Fisheries Management and Commercial Fisheries Act," C. 23:2B–1 et seq., amends C. 34:1B–3 et al., repeals R. S. 23:3–42 et al., Ch. 199.

Net fishing, certain tidal waters, license required, amends C. 23:5–24.1, Ch. 10.

Shellfish, shellfish beds, condemned, penalties, certain, C. 58:24–1 et seq., repeals R. S. 24:14–1 et al., Ch. 321.

Shooting preserves, license fees, pre-season liberation, tagging, certain, regulated, amends R. S. 23:3–29 et al., repeals R. S. 23:3–30 et al., Ch. 220.

Violations, certain, penalties, increased, amends C. 23:2A–10 et al., Ch. 385.

FOOD

Commercial poultry dealers, license requirement, eliminated, repeals C. 4:11–38 et al., Ch. 306.

Fluid milk products, freshness dating, established, containers, marked, required, amends C. 24:10–57.23, Ch. 330.

Meat, packaging, local regulations superseded, amends C. 24:15A–4, Ch. 289.

Menus, misrepresentation, unlawful, penalties, C. 56:8–2.9 et seq., Ch. 347.

Poultry sales, State Superintendent of Weights and Measures, subpena power, amends C. 4:11–43, Ch. 307.

GAMES and GAMBLING

Bingo, workers, authorized, affiliated licensees, C. 5:8–34.1, Ch. 77.

"Casino Control Act," sundry amendments, amends C. 5:12–5 et al., Ch. 282.

Casinos, gross revenues, tax, slot machines, license fee, increased, amends C. 5:12–140 et al., Ch. 198.

Lottery equipment, certain, exemption from State laws, C. 2C:37–6.1, Ch. 129.

HANDICAPPED PERSONS

Developmental Disabilities Council, established and continued, C. 30:1AA–1 et seq., Ch. 105.

Sheltered workshops, waiting period for financial support, removed, amends C. 34:16–40 et al., Ch. 335.

Transportation, school buses, permitted, amends C. 18A:39–22 et seq., Ch. 403.

HEALTH

Alcohol abuse, statistics, system, develop; advisory council on alcoholism, membership increased, amends C. 26:2B–10 and 26:2B–13, Ch. 452.

Autistic Week, January 20-26, 1980, J. R. 6.

Community Mental Health Citizens Advisory Board, membership, services, amends C. 30:9A–1 et seq., Ch. 331.

Dental Plan Organization Act, C. 17:48D–1 et seq., Ch. 478.

HEALTH (Continued)
Local Health Services Act, "Standards of Performance," volunteer first aid, rescue and ambulance squads, exempt, amends C. 26:3A2–10, Ch. 73.
Vital statistics, birth certificates, foreign adoptions, certain, amends C. 26:8–40.10, Ch. 236.

HIGHWAYS
State and interstate, rest areas, right of way, vendors, prohibited, C. 39:4–216, Ch. 66.

HOSPITALS
Mobile intensive care units, permanent programs, amends C. 26:2K–2, Ch. 116.
Nonprofit, clinics, appropriations by certain counties, authorized, amends R. S. 44:5–11 and R. S. 44:5–12, Ch. 14.
Peer review committees, immunity, C. 2A:84A–22.10, Ch. 128.
Utilization review records, access, insurers, certain, amends C. 2A:84A–22.8, Ch. 68.

HOTELS AND MULTIPLE DWELLINGS
Smoke detectors, required, C. 55:13A–7.1 et seq., Ch. 419.

HOUSING
N. J. Housing Finance Agency, formulate income limits, certain projects, amends C. 55:14J–10, Ch. 74.
Projects, certain, county improvement authorities, powers, C. 40:37A–106 et al., amends C. 40:37A–45 et al., Ch. 275.
Rooming and Boarding House Act, of 1979, C. 55:13B–1 et seq., C. 30:1A–2 et al.; amends C. 26:2H–1 et al., Ch. 496.
Rooming, boarding house residents, bill of rights, C. 55:13B–17 et seq., Ch. 500.
Tenant's security deposit, transferred to new owner in case of sale, amends C. 46:8–19 et al., Ch. 28.

HUMAN SERVICES
Children, Div. of Youth and Family Services, "maintenance," necessary expenditures in emergency domestic situations, amends C. 30:4C–2, Ch. 208.
Developmental Disabilities Council, established and continued, C. 30:1AA–1 et seq., Ch. 105.
Institutional Construction Fund, mental health and retardation, $37,800,000 appropriation, Ch. 144.
"State Facilities Education Act of 1979," children, education, C. 18A:7B–1 et seq., amends N. J. S. 18A:46–14 et al., repeals C. 30:4AA–1 et seq., Ch. 207.
"Youth facility aid", DYFS, public, private, voluntary agencies, amends C. 30:4C–1 et al., Ch. 309.

INSURANCE
Agency termination, certain, commissions, amends C. 17:22–6.14a., Ch. 75.
Agents, brokers, solicitors, testing, licensing, certain, C. 17:22–6.9a et al., amends C. 17:22–6.6 et al., Ch. 312.
Dental service benefits, regulated, C. 17:48D–1 et seq., Ch. 478.
Fire policy form, certain, commissioner approve, amends C. 17:36–5.20, Ch. 64.
Fire, rates reduced for structures with smoke detectors, amends C. 17:29A–4, Ch. 149.

INSURANCE (Continued)
Group health, elective surgery, second opinion, benefits, provided, C. 17B:27–46.2 et seq., Ch. 329.
Group health, reimbursement rates for dental services, certain cases, C. 17B:27–51.8 et seq., Ch. 158.
Health, other than group, elective surgery, second opinion, benefits, provided, C. 17B:26–2.2 et seq., Ch. 328.
Health, other than group, reimbursement rates for dental services, certain cases, C. 17B:26–44.1 et seq., Ch. 161.
Health, policies, sale, minimum standards, C. 17B:26–45 et seq., Ch. 78.
Homeowners' policy, workers' comp. coverage, included, C. 17:36–5.29 et seq., amends R. S. 34:15–78 et al., Ch. 380.
Insolvencies, liquidation, priority of claims, disbursement of assets, C. 17:30C–31, amends C. 17:30C–26, Ch. 470.
"Life and Health Insurance Policy Language Simplification Act," C. 17B:17–17 et seq., Ch. 167.
Medical Service Corp. (Blue Shield), elective surgery, second opinion, benefits, provided, C. 17:48A–6.1 et seq., Ch. 327.
Medical Service Corp., experience rating, groups of 50, amends C. 17:48A–7.9, Ch. 177.
Premium finance agreements, charges, increased, amends C. 17:16D–10, Ch. 287.
Premiums, unearned, return required, penalty, amends C. 17:16D–14 et al., Ch. 299.
Property-Liability Insurance Guaranty Association Act, sundry amendments, C. 17:30A–20, amends 17:30A–2 et al., Ch. 448.
Special Joint Underwriting Associations, liability, certain, limited, amends C. 17:30B–4, Ch. 449.

INTEREST
Rate charged by national banking associations, certain cases, established by Commissioner of Banking, C. 31:1–1.1, Ch. 156.
Rate, maximum, legal, amends R. S. 31:1–1 et al., Chs. 85, 253.

JOINT RESOLUTIONS
Catholic Schools Week, February 4 to February 10, 1979, J. R. 1, p. 1878.
Department of Labor and Industry Year, J. R. 4, p. 1882.
Emergency flood control in Rockaway river and Passaic river region, J. R. 7, p. 1886.
Human Rights Week, beginning December 10, 1979, J. R. 3, p. 1881.
Production of electricity, J. R. 5, p. 1884.
State Autistic Week, January 20 through January 26, 1980, J. R. 6, p. 1885.
Thomas Alva Edison Centennial Year, J. R. 2, p. 1879.

JUDGES
Monmouth Co. Juvenile and Domestic Relations Court, 2 additional judges, amends C. 2A:4–4.4, Ch. 497.
Municipal court, full-time, first appointment, term, amends N. J. S. 2A:8–5, Ch. 257.
Pension, eligibility, certain, C. 43:6A–9.6, Ch. 259.

JURIES
Commissioners, compensation, amends N. J. S. 2A:68–7, Ch. 127.
Lists, motor vehicle driver licensees added, C. 2A:70–4.1, amends N. J. S. 2A:70–4, Ch. 271.

LABOR
Minimum wage increased, $2.90 per hr., C. 34:11–56a4.5, amends C. 34:11–56a4, Ch. 32.
Minors, employment in hotels, certain, permitted, amends C. 34:2–21.17, Ch. 202.
Minors, maximum hours of work requirement, exempt, certain, amends C. 34:2–21.3, Ch. 228.
N. J. Department of Labor and Industry, Year, designated, J. R. 4.

LANDLORD and TENANT
Displaced tenant, certain, security deposit, return, amends C. 46:8–21.1, Ch. 115.
Hotel and multiple dwelling, building regulations exceptions, written notice, occupants, amends C. 55:13A–11, Ch. 65.
Seasonal rental, warrant for removal, certain, issuance, C. 2A:42–10.17, amends N. J. S. 2A:18–57, Ch. 392.
Tenant's security deposit, transferred to new owner in case of sale, amends C. 46:8–19 et al., Ch. 28.

LEGAL ADVERTISING
Newspaper, qualified, relocate, certain, qualification continue, amends R. S. 35:1–2.2, Ch. 84.

LEGISLATURE
Apportionment, Interim Act, repealed, repeals C. 52:10B–1 et seq., Ch. 431.
"Legislative Services Law of 1978," C. 52:11–54 et seq., amends C. 52:13B–3 at al., Ch. 8.
Member, county employee, time off with pay, certain, C. 40A:9–7.2, Ch. 277.
Sessions, outside of Trenton, certain, ceremonial, amends R. S. 52:1–1, Ch. 209.

MARRIAGES
Authorized, religious organization marrying nonmembers, amends R. S. 37:1–13, Ch. 166.
Solemnization, county district court judge, authorized, amends R. S. 37:1–13, Ch. 93.
Solemnization, judge of superior court, authorized, amends R. S. 37:1–13, Ch. 38.

MECHANIC'S LIENS
Rights, certain, waiver, requirements, C. 2A:44–124.1, Ch. 301.

MOTOR VEHICLES
Accidents, police reports, copies, fees, limits, C. 39:4–131.1, amends R. S. 39:4–131, Ch. 412.
Autocabs, limousines, livery services, definition, regulation, C. 39:3–19.5, amends R. S. 48:4–1 et al., repeals R. S. 48:16–15, Ch. 224.
Bulk commodities, definition, waste haulers removed, amends C. 39:5E–3, Ch. 462.
Driver's license, certain, photo required, issuance, fees, C. 39:3–10f et seq., amends R. S. 39:3–10, Ch. 261.
Driver's license, reexamine, vision test required, certain cases, C. 39:3–10e, Ch. 136.
Emergency warning lights, volunteer fire, first aid, rescue squad members, certain, amends C. 39:3–54.7 et al., Ch. 71.
Frozen dessert (ice cream) trucks, safety equipment, operating procedures, regulated, C. 39:4–128.3 et seq., Ch. 438.
License plate, counterfeit, penalties, amends R. S. 39:3–38, Ch. 173.
Motorcycle handle bar grips, shoulder height permitted, amends C. 39:3–76.3, Ch. 434.

New Jersey State Library

MOTOR VEHICLES (Continued)
Motorcycles, handholds, certain, eliminated, amends C. 39:3–76.5, Ch. 57.
Railroad grade crossing stops, certain, exempt, amends R. S. 39:4–128, Ch. 48.
Registration fees, Congressional Medal of Honor holders, exempt, amends C. 39:3–27.1, Ch. 122.
Registration fees, passenger automobiles, revised, amends R. S. 39:3–8, Ch. 3.
Removal, towing operators, municipal regulation, C. 40:48–2.49, Ch. 101.
Road test, school bus and omnibus drivers, waiting period reduced, amends R. S. 39:3–13, Ch. 360.
"Security-Responsibility Law," amends concerning proof of financial responsibility, amends C. 39:6–35 et al., repeals C. 39:6–31 et al., Ch. 169.
"Solid waste" vehicles, registration, gross weight, fee, amends R. S. 39:3–20, Ch. 162.
Special ID lights, planned development community security, certain, permitted, C. 39:3–54.14, Ch. 314.
Special learner's permit, waiting period eliminated, completion of driver education course, amends C. 39:3–13.2a, Ch. 13.
Special plates, Disabled Vet, C. 39:3–27.15 et seq., Ch. 457.
Special plates, first aid or rescue squad members, authorized, amends C. 39:3–27.8 et seq., Ch. 447.
Special plates, National Guard, C. 39:3–27.13 et seq., Ch. 456.
Summer camp drivers and vehicles, certain, regulated, C. 39:3–19.4, amends R. S. 39:3–10.1, Ch. 147.
Violations, hit and run penalties increased, amends R. S. 39:4–129 and 39:5–30, Ch. 463.
Vision examination, doctor of medicine certify, permitted, amends C. 39:3–10c, Ch. 446.

MUNICIPALITIES
"Aid for Urban Environmental Concerns Act", C. 13:1H–8 et seq., Ch. 56.
Alcoholic beverage retail consumption licenses, reduce, payment to licensee, amends C. 40:48–2.41, Ch. 61.
Apartments, certificates of inspection or occupancy, ordinances permitted, C. 40:48–2.12m, Ch. 476.
Appointive offices, certain, vacancies, determination, procedure, C. 40A:9–12.1, Ch. 302.
Appropriations, fire protection, adjoining municipalities, authorized, amends N. J. S. 40A:14–35, Ch. 41.
Borough of Ocean Grove, incorporation, referendum, Ch. 455.
Budget "cap", increase, referendum, date; budget introduction, publication, dates, C. 40A:4–45.3a, Ch. 268.
Budget reserves, uncollected taxes, computation, nontenured teachers, contract review, amends N. J. S. 40A:4–14 et al., Ch. 23.
Cedar Grove, authorizes sale of school lands, certain, senior citizen housing, Ch. 175.
Cities, 1st class, "Mayor-Council Plan C", police chief, mayor appoint, C. 40:69A–60.7, Ch. 163.
Classification, annexation, determination of boundaries, adds chapters to Title 40A, N. J. S. 40A:6–1 et al., Ch. 181.
Clerks, twp. and municipal, salary reductions during term prohibited, amends R. S. 40:145–3 and N. J. S. 40A:9–165, Ch. 25.

MUNICIPALITIES (Continued)
Construction code officials, tenure, rights, certain, amends C. 52:27D–126, Ch. 394.
Fire districts, established, twp. of Howell, Monmouth Co., Ch. 30.
Governing body, compensation, determined, C. 40A:9–165.1, Ch. 131.
Insurance, chapter 10 of Title 40A, new, N. J. S. 40A:10–1 et seq., amends N. J. S. 40A:14–37 et al., repeals chapters 26 and 51 of Title 40 et al., Ch. 230.
Interim zoning ordinances, validity extended, May 31, 1979, amends C. 40:55D–90, Ch. 7.
Judges, additional appointment, authorized in West Orange, Montclair and Teaneck, C. 2A:8–6.4, Ch. 357.
Judges, full-time, first appointment, term, amends N. J. S. 2A:8–5, Ch. 257.
Land on which tax sale certificate held, assessment in name of owner, amends R. S. 54:5–39, Ch. 142.
Liens, fire damaged property, certain, insurance, amends C. 17:36–8 et al., Ch. 369.
"Local Government Emergency Assistance Act of 1979," $22,369,000 appropriated, distribution, Ch. 34.
"Local Historians Enabling Act", positions of local historian authorized. C. 40:10A–1 et seq., Ch. 59.
Mayor-Council Plan C, councilman's aide, salary limit, amends C. 40:69A–60.5, Ch. 469.
Moneys, depositories, certain, required, C. 40A:5–14.1, amends N. J. S. 40A:5–14, Ch. 315.
Motor vehicles, towing operators, regulation, C. 40:48–2.49, Ch. 101.
Municipally owned waterworks, certain, exempt, jurisdiction Bd. of Public Utilities, amends C. 40:62–85.2, Ch. 12.
Municipal services, State property, State payments in lieu of taxes, minimum, amends C. 54:4–2.2e, Ch. 26.
"Municipal Vacancy Law", N. J. S. 40A:16–1 et seq., amends R. S. 40:84–11 et al., Ch. 83.
Proceedings, demolition, condemned buildings, amends R. S. 40:48–1 et al., Ch. 43.
Public moneys, bank designated as receiving agency, tax collector supervise, amends C. 54:4–122.9, Ch. 402.
Public utility gross receipts, taxes, portion, appropriate, nuclear emergency response plans, certain, C. 40:48–9.13, Ch. 231.
Railroad property, use, ownership, State aid, C. 54:29A–7.1, amends C. 54:29A–24.3, Ch. 95.
Redevelopment projects, bonding power, funds, loans, allowed, C. 55:14B–4.2, amends R. S. 55:14B–1 and C. 55:14B–4.1, Ch. 345.
Referendum, ordinances, certain, prohibited, amends R. S. 40:74–5 et al., Ch. 278.
Retired employees, certain, State Health Benefits, eligible, amends C. 52:14–17.38, Ch. 54.
"Safe and Clean Neighborhoods Act of 1979", C. 52:27D–118.1 et seq., Ch. 118.
School crossing guards, qualifications, C. 40A:9–154.1 et seq., Ch. 82.
Sewerage plants, loss of real estate taxes, compensation provided, amends R. S. 58:14–15, Ch. 40.
Special emergency appropriations, authorized, update ordered, revaluation program, amends N. J. S. 40A:4–53, Ch. 15.
Tax collectors, certification, examination, C. 40A:9–145.1 et seq., amends N. J. S. 40A:9–141 et al., repeals N. J. S. 40A:9–144.1, Ch. 384.

MUNICIPALITIES (Continued)
Tax liens, redemptions, installments, 3-year period, amends R. S. 54:5–68, Ch. 133.
Tax sale certificates, redemption, interest rate determined, amends R. S. 54:5–59, Ch. 143.
Taxes, delinquent, interest rate increased, amends R. S. 54:4–67 et al., Ch. 435.

NEWSPAPERS
Criminal proceeding, information subpenaed, privilege, hearing, procedure, C. 2A:84A–21.1 et seq., Ch. 479.
Documentary materials, search and seizure, limited, C. 2A:84A–21.9 et seq., Ch. 488.
Legal advertising, qualified, relocate, certain, qualification continue, amends R. S. 35:1–2.2, Ch. 84.

PARKS
Pigeon Swamp, additional land, State acquire, Ch. 55.
State, admission free, age 62, amends C. 13:2–11, Ch. 126.

PENSIONS
City of Newark, terms, certain, clarified, amends C. 43:13–22.3 et al., Ch. 281.
County detectives, second class counties, cost of living adjustments, amends C. 43:10–29.4, Ch. 135.
County police, certain, widow's pension, maximum, amends R. S. 43:10–39, Ch. 168.
First Class County, certain, commission secretary, tenure, amends R. S. 43:10–10, Ch. 351.
Hudson County Pension Fund, surviving spouse, eligibility, amends R. S. 43:10–1, Ch. 242.
PERS, death benefit, coverage, purchase period, reopened, Chs. 72, 390.
PERS, school crossing guards, certain, membership termination permitted, amends C. 43:15A–7, Ch. 430.
PERS, TPAF, contribution rates, male and female, equalization, C. 43:15A–19.1, C. 18A:66–58.1, amends C. 43:15A–16 et al. and N. J. S. 18A:66–5 et al., Ch. 106.
PFRS, benefits formula, revises, C. 43:16A–15.5, amends C. 43:16A–15 et al., Ch. 109.
PFRS, surviving spouse, married time reduced, survivor's benefits, amends C. 43:16A–1, Ch. 407.
Sheriffs' employees, second class county, certain, cost of living adjustment, permitted, C. 43:10–72.4 et seq., Ch. 400.

PLANNING and ZONING
Municipal Land Use Law, technical changes, clarification, C. 40:55D–10.1 et al., amends C. 40:55D–2 et al., Ch. 216.
Municipal zoning ordinances, interim, validity extended, May 31, 1979, amends C. 40:55D–90, Ch. 7.
Victims of domestic violence, shelters, location, residential districts, permitted, amends C. 40:55D–66.1 et seq., Ch. 338.

POLICE
Appointment, certain former police, age, eligibility, C. 40A:14–127.1 et seq., Ch. 461.
Appointment, Union City, Ch. 237.
Chief, mayor, certain first class cities, appoint, C. 40:69A–60.7, Ch. 163.

POLICE (Continued)
Fire police orders, failure to obey, penalty increased, amends R. S. 15:18–4, Ch. 53.
Motor vehicle accident reports, copies, fees, limits, C. 39:4–131.1, amends R. S. 39:4–131, Ch. 412.
Probationary period, entry level, classified civil service, extended, amends R. S. 11:12–1 and R. S. 11:22–6, Ch. 17.
State, Superintendent of, statutory term, serve, clarified, amends C. 53:5A–8, Ch. 203.
Training Commission, high speed chases, information to training schools, required, amends C. 52:17B–71, Ch. 102.

PROFESSIONS and OCCUPATIONS
Attorneys, licensing, FBI criminal history, Supreme Court use, C. 2A:1–12, Ch. 370.
Board of Nursing, membership, amends C. 45:11–24, Ch. 339.
"Dental Auxiliaries Act," C. 45:6–48 et seq., amends R. S. 45:6–1 et al., Ch. 46.
Funeral director, multiple remains, caskets, certain, prohibited, C. 45:7–65.4 et seq., Ch. 201.
Marriage counselors, educational requirement, alternate degree added, amends C. 45:8B–18, Ch. 425.
Master plumber, certain plumbing inspectors, exempt from license fee, amends C. 45:14C–16, Ch. 62.
Notaries Public Act of 1979, C. 52:7–10 et seq., repeals R. S. 52:7–1 et al., Ch. 460.
Ophthalmic dispensers, technicians, qualifications, examination, licensure, C. 52:17B–41.9a et al., amends C. 52:17B–41.9, Ch. 155.
Public accountants, registration period, extended, Ch. 308.
Veterinarian, boarding kennel, disposal of unretrieved animals, C. 45:16–13 et seq., Ch. 354.
Well drillers, law, technical amendments, pump installers, licensed, regulated, C. 58:4A–20.1, amends C. 58:4A–1 et al., Ch. 398.

PROPERTY
Transfers, nontestamentary, disclaimers, permitted, C. 46:2E–1 et seq., Ch. 492.

PUBLIC CONTRACTS
Award without advertising for bids, amount increased, amends C. 40A:11–3 et al., Ch. 350.
Deposit of negotiable bearer bonds as security, authorized, certain cases, C. 40A:11–16.1, Ch. 152.
Local, certain, partial payments, C. 40A:11–16.2 et seq., Ch. 464.
Local, joint purchasing, cooperative pricing system established, amends C. 40A:11–11, Ch. 420.
Public auctions, local govt. units, purchase materials, authorized, certain, C. 40A:11–40, Ch. 222.
State, certain, amounts, award without advertising for bids, amends C. 52:34–7 et seq., Ch. 422.
State, contractors, certain, expanded opportunities, amends C. 10:5–36, Ch. 266.
State, small, certain, bond requirements, waive, amends N. J. S. 2A:44–143, Ch. 408.

PUBLIC EMPLOYEES
Classified or unclassified service, vacation leave, calculation, credit for previous service, amends C. 11:14–1.1 et al., Ch. 24.

PUBLIC EMPLOYEES (Continued)
College of Medicine and Dentistry, certain retired, eligible, State Health Benefits. C. 18A:64G–20.1, Ch. 1.
PERS, death benefit, coverage, purchase period, reopened, Chs. 72, 390.
Unions, representation fee in lieu of dues, permitted, C. 34:13A–5.5 et seq., amends C. 34:13A–5.4, Ch. 477.

PUBLIC UTILITIES
Electric, Utility Rate Stabilization Fund, gross receipts tax, certain, C. 54:30A–80 et seq., Ch. 235.
Excise taxes, franchises, advance payments, C. 54:30A–18.4 and C. 54:30A–18.5, Ch. 35.
Excise taxes, gross receipts, advance payments, C. 54:30A–54.4 and C. 54:30A–54.5, Ch. 36.
"Lifeline Credit Program," $100 credit on gas and electric bills of customer, certain, C. 48:2–29.15 et seq., repeals C. 48:2–29.6 et seq., Ch. 197.
Municipally owned waterworks, certain, exempt, jurisdiction Bd. of Public Utilities, amends C. 40:62–85.2, Ch. 12.

RACING
Parimutuel handle, distribution formula, revises, temporary, Ch. 94.

RAILROADS
Full-size, exempt, jurisdiction, "Carnival-Amusement Rides Safety Act," amends C. 5:3–32, Ch. 2.
Grade crossings, certain, exempt from vehicle stops, amends R. S. 39:4–128, Ch. 48.
Property, use, ownership, State aid, municipalities, C. 54:29A–7.1, amends C. 54:29A–24.3, Ch. 95.

REAL ESTATE
Acknowledgments, notary public, seal, use, outside N. J., amends R. S. 46:14–7, Ch. 92.
Assessment, income-producing property, procedures, amends R. S. 54:4–34, Ch. 91.
Brokers, referrals, certain, permitted, C. 45:15–3.1, Ch. 322.
Condominium agreements, unconscionable provisions, eliminated, C. 46:8B–31 et seq., Ch. 297.
Condominium association, administration rights established, C. 46:8B–12.1 et seq., amends C. 46:8B–3, Ch. 157.
Deed, recording fee, exempt, transfer from a decedent's estate, amends C. 46:15–10, Ch. 293.
Foreclosures, in rem, service of notice required, amends C. 54:5–104.42 and 54:5–104.48, Ch. 414.
Notice of settlement, form, filing, effect, C. 46:16A–1 et seq., Ch. 406.
Public sale, advertisement, concise description, diagram, permitted, amends N. J. S. 2A:61–1, Ch. 364.
Sheriff sales, realty transfer fee, computation, C. 46:15–6.1, Ch. 225.

RECREATION
Ski areas, responsibilities and liabilities, operators and skiers, defined, C. 5:13–1 et seq., Ch. 29.

SCHOOLS

Absentee ballots, all school elections, single application, C. 18A:14–26.1, Ch. 49.

Aid, Additional State School Building, certain districts, receive within 1 year, C. 18A:58–33.41, Ch. 349.

Alcohol-related problems, programs, curriculum guidelines, C. 18A:35–4a et al., amends N. J. S. 18A:35–4 et al., Ch. 263.

Assault on teachers, school employees, by a pupil, suspension pending explusion, C. 18A:37–2.1, amends N. J. S. 18A:37–2, Ch. 189.

Boards, appointed, appointment date, amends N. J. S. 18A:12–8 and 18A:12–17, Ch. 284.

Budgets, tabular form required, transfers, adjustments, procedure, C. 18A:22–8.1 et seq., amends N. J. S. 18A:22–8, Ch. 294.

Buildings, certain, lease, bd. of education, authorized, amends C. 18A:20–8.2, Ch. 47.

Buses, handicapped persons transportation, permitted, amends C. 18A:39–22 et seq., Ch. 403.

Catholic Schools Week, February 4 to February 10, 1979, J. R. 1.

Commission on Business Efficiency in the Public Schools, created, $20,000 appropriated, C. 52:9T–1 et seq., Ch. 69.

Compensatory ed. programs, after school, during summer, certain, amends C. 18A:7A–3, Ch. 353.

County special services district board, mental health board ex officio member, designee, permitted, amends C. 18A:46–35, Ch. 352.

Crossing guards, qualifications, C. 40A:9–154.1 et seq., Ch. 82.

Elections, 1980, date changed, March 25, Ch. 288.

Employee payment plan, 12-month, certain, fiscal plan continued, amends N. J. S. 18A:29–3, Ch. 495.

Expenditure warrants, district comptroller, countersign, eliminate, amends N. J. S. 18A:19–1 et al., Ch. 98.

"Gifted Child Development Act," Ch. 192.

Group insurance, local board powers, C. 18A:16–12 et seq., amends N. J. S. 18A:16–8, repeals N. J. S. 18A:16–10, Ch. 391.

Handicapped pupil transportation, State aid, extended to other than daily, amends N. J. S. 18A:46–23, Ch. 429.

Hearing examination of pupils, required, amends N. J. S. 18A:40–4, Ch. 427.

Hearing handicapped children, study teams, in-service training, Ch. 405.

High school, graduation standards, program, establish, C. 18A:7C–1 et seq., Ch. 241.

Parents Rights to Conscience Act, instruction, physical examination, certain, excused, C. 18A:35–4.6 et seq., Ch. 428.

Regional, bds. of education, membership determination, revised, amends N. J. S. 18A:13–8, Ch. 37.

Regional districts, federal aid, municipal tax credit, certain, phase out, C. 18A:13–24.3, repeals C. 18A:13–24.1 et seq., Ch. 424.

Retired employees, certain, State Health Benefits, eligible, amends C. 52:14–17.38, Ch. 54.

Sexual assault prevention education program, establishment, authorized, C. 18A:35–4.3 et seq., Ch. 42.

Student activities, voluntary associations, membership by bds. of education, commissioner regulate, C. 18A:11–3 et seq., Ch. 172.

SCHOOLS (Continued)
Summer school enrichment program, noncredit, tuition, C. 18A:54B–1 et seq., Ch. 104.
Textbooks, public, nonpublic, state aid, formula, C. 18A:58–37.6a, amends C. 18A:58–37.5 et seq., Ch. 194.

SENIOR CITIZENS
"Homeowner's Income Security Act," "reverse annuity" and "reverse direct payment" mortgages, authorized, C. 46:10B–16 et seq., Ch. 140.
Pharmaceutical Assistance program, copayment, technical correction, amends C. 30:4D–34, Ch. 383.
Pharmaceutical Assistance program, reimbursements, certain cases, authorized, C. 30:4D–34 and C. 30:4D–35, Ch. 27.
Pre-retirement education demonstration program, Division on Aging establish, C. 52:27D–29.10 et seq., Ch. 450.
Public institutions, higher education, free tuition, C. 18A:62–3, Ch. 31.
State parks, reserves, admission free, age 62, amends C. 13:2–11, Ch. 126.

SEWERAGE
Passaic Valley Sewerage District boundary, Kearny included, amends R. S. 58:14–1, Ch. 426.
Passaic Valley Sewerage District, municipalities, certain, compensated, amends R. S. 58:14–15, Ch. 40.

SOLID WASTE
Disposal facilities, hazardous or special, Dept. of Environmental Protection, inspections, assessments, C. 13:1E–42.1 et seq., Ch. 186.
Hazardous, violations, relief, penalties, amends C. 13:1E–9 et al., Ch. 395.
Motor vehicle registration, gross weight, fee, amends R. S. 39:3–20, Ch. 162.

STATE
Employee compensatory time, certain, prohibited, vacation leave, offices closed, unexpected, C. 52:14–17.13a, Ch. 399.
"Legislative Services Law of 1978," C. 52:11–54 et seq., amends C. 52:13B–3 et al., Ch. 8.
Real property, certain, surplus, sale authorized, Chs. 362, 375, 376, 377, 410, 466.
Real property management, information, current or future uses, amends C. 52:9S–3, Ch. 320.
Riparian grants, Natural Resources Council, jurisdiction, extended, amends R. S. 12:3–12 et al., repeals R. S. 12:3–17, Ch. 311.
Uniform Construction Code Revolving Fund, established, C. 52:27D–124.1 et al., amends C. 52:27D–124, Ch. 121.

STATUTES
Code of Criminal Justice, re gambling devices, amends N. J. S. 2C:21–18 et al., Ch. 176.
Omnibus corrections act, amends C. 10:5–5 and 12, 13:19–9; N. J. S. 14A:12–2, 17B:26–2; C. 17:48A–1; N. J. S. 18A:14–35 and 36; C. 24:21–26 and 27; title of C. 27:1A–1 et seq.; C. 30:6AA–11, 40:8B–5, 40:14B–49; N. J. S. 40A:9–175; C. 43:16A–1; R. S. 43:21–4; C. 46:10B–3; R. S. 48:2–23; C. 52:27D–84, 54:10A–4, 54:32B–3 and 8; title of C. 39:6–62, P. L. 1969, c. 127, s. 19; repeals N. J. S. 40A:14–69, Ch. 86.
Omnibus corrections act, amends N. J. S. 2A:37–30, 2C:51–2; C. 18A:7A–3, 24:21–29, 26:2H–2, 27:1A–5, 27:12B–20, 40:48C–41, 40A:12–13, 46:10B–3, 54:10A–4; repeals C. 2A:142A–1 et seq., Ch. 388.

STATUTES (Continued)
Repealers, R. S. 52:16–3, Secretary of State's salary, obsolete, Ch. 465.
Repealers, Title 40, municipalities: R. S. 40:171–110 et seq., Ch. 18; R. S. 40:113–1 et al., Ch. 19; R. S. 40:103–1 et al., Ch. 20; C. 40:156A–1 et seq., Ch. 96; R. S. 40:171–1 et al., Ch. 130; R. S. 40:169–1 et seq., Ch. 243; R. S. 40:171–198 et seq., Ch. 244; R. S. 40:172–1 et seq., Ch. 245; R. S. 40:171–189 et al., Ch. 246; R. S. 40:171–1 et al., Ch. 247; R. S. 40:171–139 et al., Ch. 248; R. S. 40:175–2 et al., Ch. 249; R. S. 40:171–222 et al., Ch. 250; R. S. 40:168–1 et al., Ch. 251; R. S. 40:174–62 et al., Ch. 326.
Repealers, Title 40A, Mun. & Co., N. J. S. 40A:9–36 et seq., Ch. 323; N. J. S. 40A:14–104 et al., Ch. 326.
Repealers, Titles 45 and 52, professional and occupational boards, sundry repealers of superseded or outmoded sections, R. S. 45:3–8 et al., Ch. 432.
Repealers, Title 51, Weights and Measures, obsolete, certain, R. S. 51:1–19 to 51:24.1, Ch. 409.

TAXATION
Abatement, property taxes, rehabilitated multiple dwellings, extends, C. 54:4–3.121 et seq., amends C. 54:4–3.73 et al., Ch. 233.
Assessed property value, certain, direct appeal to tax court, amends R. S. 54:3–21, Ch. 113.
Boxing, wrestling exhibitions, TV, radio revenues intrastate, tax, amends R. S. 5:2–12, Ch. 171.
Casino gross revenue tax, slot machine license fee, increased, amends C. 5:12–140 et al., Ch. 198.
Collectors, certification, examination, C. 40A:9–145.1 et seq., amends N. J. S. 40A:9–141 et al., repeals N. J. S. 40A:9–144.1, Ch. 384.
Corporation income tax rate, 9%, amends C. 54:10A–5, Ch. 280.
Corporations, certain, net worth, net income, determine, amends C. 54:10A–4, Ch. 76.
County boards, administrators, sundry amendments, C. 54:3–21.3a et al., amends R. S. 54:3–2 et al., repeals R. S. 54:3–29, Ch. 499.
Emergency transportation tax act, conformed to N. Y. personal income tax, amends C. 54:8A–6.4 et al., repeals C. 54:8A–37.1, Ch. 437.
Excise taxes, gross receipts, public utilities, advance payments, C. 54:30A–54.4 and C. 54:30A–54.5, Ch. 36.
Excise taxes, franchises, public utilities, advance payments, C. 54:30A–18.4 and C. 54:30A–18.5, Ch. 35.
Gross income, exclusion, certain, gain on sale of a principal residence, amends N. J. S. 54A:6–9, Ch. 218.
Gross income exempt, lump-sum distribution, certain, amends N. J. S. 54A:6–10, Ch. 79.
Land on which tax sale certificate held, assessment in name of owner, amends R. S. 54:5–39, Ch. 142.
"Local Tax Authorization Act," extended to January 1, 1982, amends C. 40:48C–5 et al., Ch. 256.
Luxury tax, sales tax exemption, phase out, amends C. 54:32B–8, Ch. 273.
Mobile homes, certain, assessment, real property, moratorium, C. 54:4C–1 et seq., Ch. 366.
Motor fuels tax violations, penalties, increased, amends R. S. 54:39–55, Ch. 367.
Motor Fuels Use Tax, fees increased, certain trucks, amends C. 54:39A–10, Ch. 4.

TAXATION (Continued)
Municipal, delinquent, interest rate increased, amends R. S. 54:4–67 et al., Ch. 435.
Municipal liens, redemption, installments, 3-year period, amends R. S. 54:5–68, Ch. 133.
Municipal tax sale certificates, redemption, interest determined, amends R. S. 54:5–59, Ch. 143.
Property, income-producing, assessment, procedures, amends R. S. 54:4–34, Ch. 91.
Real and personal property, educational television and educational radio corps., exempt, amends C. 54:4–3.6a, Ch. 50.
Real estate tax assessments, correction of errors, Division of Tax Appeals, procedure, amends R. S. 54:2–41, Ch. 44.
Real property, tax exempt, applications, certain, retroactive, Ch. 471.
Real property, tax exempt, exemption extended to newly acquired property, C. 54:4–3.6b, Ch. 454.
Real property, tax sale certificate, right of redemption, amends R. S. 54:5–78 et seq., Ch. 182.
Sales and Use Tax Act, excepts, boxing, wrestling match admissions, amends C. 54:32B–3, Ch. 170.
Sales and use tax, cargo containers, exempt, amends C. 54:32B–8, Ch. 291.
Sales, coin-operated vending machines, food and beverage, certain, sales tax imposed, amends C. 54:32B–3, Ch. 274.
Savings Institution Tax Act, net income, rate, amends C. 54:10D–2 et seq., Ch. 160.
State property, State payments in lieu of taxes, municipal services, minimum, amends C. 54:4–2.2e, Ch. 26.
Tax appeals, definition, "average ratio" of assessed to true value, amends C. 54:1–35a and C. 54:1–35b, Ch. 51.
Tax court established, Division of Tax Appeals eliminated, C. 2A:3A–4.1 et seq., amends R. S. 54:2–33 et al., Ch. 114.
Taxpayer's agent, authorization required to examine State records, C. 54:50–2.1, Ch. 67.
Temporary plastic greenhouses, assessment, exempt, amends C. 54:4–23.12, Ch. 70.
Transfer inheritance tax, exclusion, cooperative housing membership, certain, surviving spouse, amends R. S. 54:34–1, Ch. 413.
Transfer inheritance tax exempt, testamentary trust, annuity, certain, amends R. S. 54:34–4, Ch. 137.
Transfer inheritance tax lien, 15 years, amends R. S. 54:35–5 and C. 54:35–5.1, Ch. 417.
Utility Rate Stabilization Fund, electric sales, certain, gross receipts tax, C. 54:30A–80 et seq., Ch. 235.

TEACHERS
Nontenured, contract review, notification date, amends N. J. S. 40A:4–14 et al., Ch. 23.
Preparation programs, commission to study, reporting date extended, Sept. 1, 1979, amends P. L. 1978, c. 25, s. 5, Ch. 11.

TRANSPORTATION
Comprehensive state master plan, commissioner revise and update every 5 years, amends C. 27:1A–5, Ch. 164.

TRANSPORTATION (Continued)
"Public Transportation Act of 1979," N. J. Transit Corporation, established, C. 27:25–1 et seq., amends C. 27:1A–5 et al., Ch. 150.

UNEMPLOYMENT COMPENSATION
Mutual benefit association, wholly commissioned agents, exempt, amends R. S. 43:21–19, Ch. 379.

VALIDATING ACTS
Deeds and conveyances, certain, Chs. 89, 445.
Fire district bond proceedings, Ch. 100.
Marriages, religious organization marrying nonmembers, Ch. 166.
Municipal bond proceedings, Ch. 52.
Municipal lands, sale, certain, Ch. 211.
School bond proceedings, Chs. 5, 108, 112, 205, 296, 371, 387.

WATER POLLUTION
Spill Compensation and Control Act, tax, owner of hazardous substances liable, amends C. 58:10–23.11h, Ch. 6.

WATER SUPPLY
County Water Supply Financing Law, C. 40:14C–1 et seq., repeals R. S. 40:36–1 et seq., Ch. 451.
District bonds, extends authorized duration, amends C. 40:62–105.33, Ch. 223.
"Safe Drinking Water Act," amends C. 58:12A–4 to conform to Federal requirements, Ch. 313.

WATERWAYS
Ice-covered waters, operation, motor vehicles, regulate, C. 12:7E–1 and C. 12:7E–2, Ch. 58.

WEAPONS
Possession, certain, airport security, permitted, amends N. J. S. 2C:39–6, Ch. 332.
Possession, purchase, firearms, certain, lawful, C. 2C:39–7 et al., amends N. J. S. 2C:39–2 et al., repeals N. J. S. 2A:151–10 et seq., Ch. 179.

WEIGHTS AND MEASURES
Solid fuel dealers, State license, local agents eliminated, amends R. S. 51:8–5, Ch. 421.

WELFARE
Counties, authorized, change name, county welfare board to county board of social services, C. 44:1–10.1 and C. 44:1–10.2, Ch. 9.
Food stamps, issuers, outreach program, Ch. 439.
Legally responsible relatives, child under age 18, amends R. S. 44:1–140 et al., Ch. 401.
Liens, 20-year effect as a judgment, amends R. S. 44:7–15, Ch. 415.
Medicaid funds, eligibility, false claims, recovery, C. 30:4D–7.1 et al., amends C. 30:4D–2 et al., Ch. 365.
Municipal directors, public work assignments, "workfare", certain, permitted, amends C. 44:8–114, Ch. 267.
Old-age assistance, burial, funeral expenses, certain, payment, amends R. S. 44:7–13, Ch. 324.

WORKERS' COMPENSATION
Law, sundry amendments, C. 34:15–7.2, amends R. S. 34:15–7 et al., Ch. 283.
Occupational hearing loss, compensable, determination, C. 34:15–35.10 et seq., Ch. 285.
Referee, formal hearings, service credit, amends R. S. 34:15–49, Ch. 368.
Temporary disability claim, payment delay, certain, penalty, C. 34:15–28.1, Ch. 468.