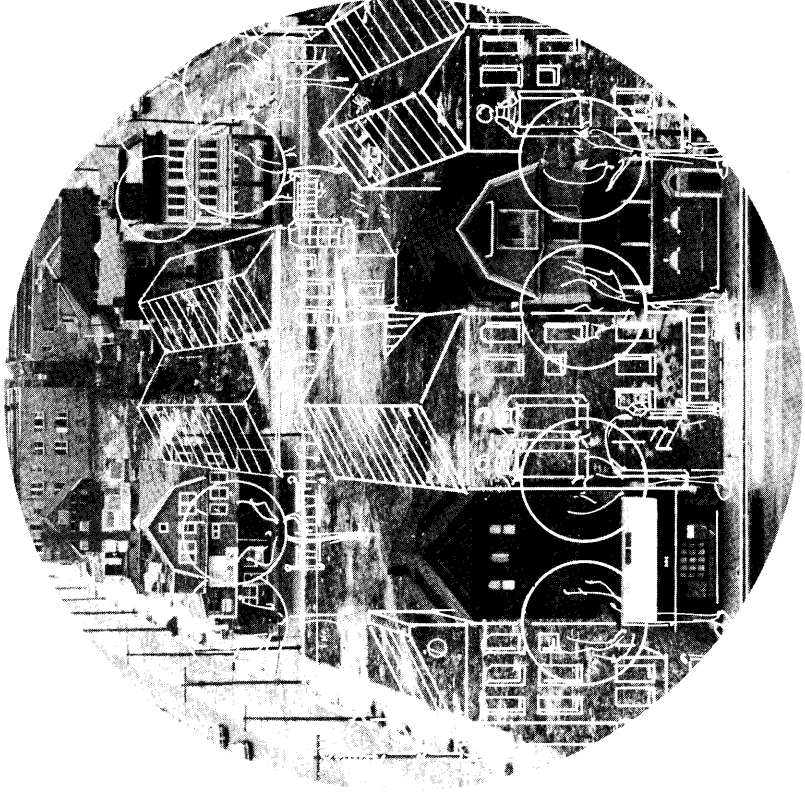


STATE OF NEW JERSEY
COUNTY AND MUNICIPAL GOVERNMENT
STUDY COMMISSION
A LEGISLATIVE AGENCY

Local Redevelopment In New Jersey



Structuring a New Partnership

REPORTS OF THE COUNTY AND MUNICIPAL GOVERNMENT STUDY COMMISSION

- Local Redevelopment in New Jersey: Structuring a New Partnership,
January 1987
- * The Structure of County Government: Current Status and Needs, July 1986
 - * Local Government Liability Insurance: A Crisis, May 1986
 - * Functional Fragmentation and the Traditional Forms of Municipal
Government in New Jersey, January 1986
 - * The Changing Structure of New Jersey Municipal Government, March 1985
 - * County Mandates: The State Judicial System and Human Services, October
1984
 - New Jersey's Local Infrastructure: An Assessment of Needs, September 1984
 - * New Jersey Water Supply Handbook, December 1983
 - Green Acres in the '80s: Meeting New Jersey's Needs for Open Space and
Recreation, June 1983
 - * Computer Use: A Guide for Local Officials in New Jersey, September 1981
 - Impact of Mandates on Counties, June 1981
 - * The Development of Libraries and Networks, June 1980
 - The Organization and Dynamics of Social Services in New Jersey, June 1979
 - Forms of Municipal Government in New Jersey, January 1979
 - * Local Highway and Road Programs: The Capacity of Federal and State Aid
Programs to Meet Increasing Needs, September 1978
 - * Flood Control Management: An Overview of Issues and Responses,
November 1977
 - * Bus Transportation: State-Local Roles and Responsibilities, May 1977
 - * Aspects of Law Enforcement in New Jersey, 1976
 - * Water Supply Management in New Jersey: Summary of Findings, 1975
 - Community Health Services: Existing Patterns, Emerging Trends, 1974
 - * Housing and Suburbs: Fiscal and Social Impact on Multifamily
Development, 1974
 - * Water Quality Management: New Jersey's Vanishing Options, 1973
 - Solid Waste: A Coordinated Approach, 1972
 - * Consolidation: Prospects and Problems, 1972
 - * Beyond Local Resources: Federal/State Aid & the Local Fiscal Crisis, 1971
 - * Joint Services: A Local Response to Area-Wide Problems, 1970
 - County Government: Challenge and Change, 1969
 - Creative Localism: A Prospectus, 1968
 - * Available upon request

DEPOSITORY COPY
Do Not Remove From Library

75

974.70
M255
12710
cop 1



State of New Jersey

County and Municipal Government
Study Commission

**LOCAL REDEVELOPMENT
IN NEW JERSEY:
STRUCTURING A
NEW PARTNERSHIP**

January 1987

COUNTY AND MUNICIPAL GOVERNMENT STUDY COMMISSION

SENATE

Carmen A. Orechio
Chairman

John A. Lynch Jr.

Henry P. McNamara

ASSEMBLY

Rodney P. Frelinghuysen

Garabed "Chuck" Haytaian

John A. Girgenti

MUNICIPAL

Fred G. Stickel III
Vice Chairman

Catherine B. Frank

John E. Trafford

COUNTY

Stephen Capestro

Guy E. Millard

Peter Shapiro

AT-LARGE

Robert F. Casey

Benjamin R. Fitzgerald

Leonard Lance

COMMISSION STAFF

David C. Mattek
Executive Director

Stanley C. Slachetka Jr.*
Research Assistant

Carol D. Howard
Research Assistant

Seth B. Benjamin
Research Assistant

Arlene K. Wilkinson
Secretary

*Project Director and Principal Author



State of New Jersey

COUNTY AND MUNICIPAL GOVERNMENT STUDY COMMISSION

115 WEST STATE STREET TRENTON, NEW JERSEY 08625
AREA CODE 609 292-6226; 292-6299

SENATOR CARMEN A. ORECHIO
CHAIRMAN

DAVID C. MATTEK
EXECUTIVE DIRECTOR

To His Excellency Governor Thomas H. Kean and Honorable Members of the Senate and General Assembly:

The County and Municipal Government Study Commission is pleased to submit its thirty-fourth report, *Local Redevelopment in New Jersey: Structuring a New Partnership*.

The report represents the culmination of an extensive research effort into the institutional and statutory framework within which local redevelopment activities are undertaken in New Jersey. As a result of the findings of this study, the Commission is recommending a complete restructuring of New Jersey's current local redevelopment enabling laws, including the *Local Housing Authorities Law*, the *Redevelopment Agencies Law*, and the *Blighted Areas Act*, as well as the various local property tax exemption and abatement statutes, including the *Fox-Lance Act*.

As presently constituted, these laws represent a confusing, ambiguous, and often redundant collection of statutes scattered throughout various Titles of State law. The problems inherent in using and interpreting these statutes have provided real constraints in implementing local redevelopment programs, particularly for municipalities which do not have the in-house planning and legal staffs of some of the larger urban centers.

A new comprehensive local redevelopment enabling law will do much to end the confusion and delays inherent in the present statutory base. With a clear and concise enabling act, municipalities will have sufficient flexibility and control over the local redevelopment process to more effectively work with the private sector in redeveloping their communities.

The Commission recommendations, as contained in this report, represent the most significant change in local enabling law since the enactment of the *Municipal Land Use Law* in 1975. Even so, the Commission recognizes that this is only one element of a comprehensive response to the needs of communities that are in need of redevelopment. Statutory authority alone will not ensure the redevelopment of New Jersey's distressed communities. New Jersey's State and local governments must continue to develop new and innovative ways to attract investment into the state's urban centers and distressed communities.

The Commission urges that the recommendations contained herein be enacted as quickly as possible, so that New Jersey's communities in need of

redevelopment have a clear, concise, and comprehensive local redevelopment enabling law. The members of the Commission pledge their support and assistance in the implementation of these recommendations, and look forward to working with the Governor and the Legislature in formulating and enacting such a law.

Respectively submitted by the members of the County and Municipal Government Study Commission.

/s/ Carmen A. Orechio, Chairman	/s/ Fred G. Stickel III, Vice Chairman
/s/ John A. Lynch Jr.	/s/ Robert F. Casey
/s/ Henry P. McNamara	/s/ Benjamin R. Fitzgerald
/s/ Rodney P. Frelinghuysen	/s/ Catherine B. Frank
/s/ John A. Girgenti	/s/ Guy E. Millard
/s/ Garabed "Chuck" Haytaian	/s/ Peter Shapiro
/s/ Leonard Lance	/s/ John E. Trafford
/s/ Stephen Capestro	

ACKNOWLEDGEMENTS

As with any Commission report, there are a number of individuals who merit special acknowledgement and thanks. In particular, the Commission would like to thank all those local housing and redevelopment officials who graciously took time to participate in interviews and answer our questions and surveys. Their responses, as well as their assistance and cooperation, proved invaluable as the Commission staff analyzed the statutory and institutional foundations of local redevelopment activities in New Jersey.

The Commission would especially like to acknowledge the leadership of Fred Stickel for recognizing the need to update the existing redevelopment statutes and his determination in moving the Commission forward in this critical area.

In addition, the Commission would like to acknowledge the staff members of the Department of Community Affairs, Commerce and Economic Development, Labor, and Treasury who provided the Commission with advice, assistance, and technical support during the development of this report. In particular, we would like to thank:

In the Department of Community Affairs: Sidney Willis, Assistant Commissioner, and James Jager, for their assistance in analyzing the current redevelopment enabling statutes.

In the Division of Housing and Community Development: Art Kondrup, Director; William Connolly, Deputy Director; Joseph Feinberg, Chief of the Bureau of Housing Services; and Stuart Bressler, former Chief of the Bureau of Housing and Community Development.

In the Division of Local Government Services: Howard Izes, Chief of the Bureau of Authority Regulation, and Frank Haines, III.

In the Department of Commerce and Economic Development: Henry Bleckicki, Assistant Commissioner; Stephen Brame, Director of Urban Programs; and Adam Broner, Director of the Office of Economic Policy.

In the Division of Planning in the Office of Management and Budget: Eugene Schneider, Manager of the Long Range Planning Unit, Dennis Jones, Dick Ginman, David Stern, and Thomas Sundstrum.

In the Governor's Office of Policy and Planning: Chuck Newcomb, Project Director.

James Logue, Executive Director, and the other members of the staff of the New Jersey Housing and Mortgage Finance Agency.

For their interest, support and advice, the Commission would like to acknowledge the following individuals and organizations:

Michael Cohan and the other members of the New Jersey Council for Urban Economic Development for their assistance and cooperation throughout this study.

Claudel Miller, Roy Cuneo, Carmen Valenti, and the other staff members of the Newark office of the U.S. Department of Housing and Community

Development, for their assistance in compiling information on federal housing and community development programs.

Alfred Faiella, Executive Director, and Alan Weisblatt, Legal Counsel, of the Newark Economic Development Corporation, for their assistance in the analysis of the local redevelopment laws and the Fox-Lance Act.

The Commission would also like to acknowledge the contributions made by the former staff persons and interns who participated in this project, including Wendy Weber, who did the initial research on municipal distress measures, Christiana Foglio, who collected and analyzed local redevelopment needs, and Marcia Arrastia, who prepared the initial summaries of the local redevelopment statutes. In particular, the Commission would like to acknowledge Abbie Landau, former member of the research staff, who did the initial research and project development for the report.

Special thanks are extended to Arlene Wilkinson for her work typing the drafts of this report, as well as related memos and correspondence. Without her patience and skill, this report literally would not have been possible.

While all the individuals who participated in the development of this study share the Commission's interest in seeing New Jersey's urban areas and distressed communities implement successful redevelopment programs, the responsibility for this report, its conclusions, recommendations, and implications rests solely with the Commission and its staff. However, without the assistance of the above named individuals, agencies, and organizations, this report would not have been possible.

TABLE OF CONTENTS

Letter of Transmittal	iii
Acknowledgements	v
Table of Contents	vii
List of Tables and Figures	ix
Executive Summary	xi
CHAPTER I: INTRODUCTION: STRUCTURING A	
NEW PARTNERSHIP	1
The Devolving Federal Role and the Increasing Importance	
of the Private Sector	1
Structuring a New Partnership	2
Purpose and Organization of the Report	3
A Comprehensive Redevelopment Response	3
CHAPTER II: THE NEED FOR REDEVELOPMENT	
IN NEW JERSEY	5
Urban Decline Within Growth	5
Economic Changes and Trends	5
Population Changes and Trends	11
Fiscal and Physical Impacts	11
Distress and Redevelopment Needs in Non-Urban	
Communities	14
Municipal Needs Index	14
Typology of Distressed Communities	14
Caveats and Cautions	16
Policy Implications	16
The Potential for Redevelopment	16
CHAPTER III: STATUTORY BASIS FOR REDEVELOPMENT:	
GOVERNMENT ADMINISTRATION OF LOCAL	
REDEVELOPMENT PROGRAMS	19
Historical Development and Current Provisions	20
Local Housing Laws	20
Local Redevelopment Laws	31
Local Utilization of Housing and Redevelopment Powers	39
Local Housing Programs	39
Local Redevelopment Programs	43
Commission Recommendations	52
A New Local Housing and Redevelopment Law	52
Basic Principles of a New Enabling Law	53
A Model for a New Enabling Law	54

CHAPTER IV: STATUTORY BASIS FOR REDEVELOPMENT:
PROPERTY TAX EXEMPTIONS FOR
REDEVELOPMENT

Early State Enabling Legislation	63
The Redevelopment Companies Law	63
The Urban Redevelopment Law	65
The 1947 Constitution	66
Current Tax Exemption Statutes: Comparative Provisions and Commission Recommendations	66
Private Entities Eligible for Tax Exemptions	70
Types and Locations of Projects	73
Project Review and Approval	77
State Regulatory Role	79
Written Agreements	80
Length of the Tax Exemption Period	82
Payment in-lieu of Taxation Formulas	83
Phase-in of in-lieu of Tax Payments	85
Limitations on Profits and Dividends	86

CHAPTER V: TAX ABATEMENTS AND EXEMPTIONS FOR
REHABILITATION

Homeowner Improvements	91
Commercial and Industrial Projects	95
Exemptions	96
Abatements	96
Multiple-Dwellings	98
Exemptions	98
Abatements	98
Local Utilization	99
Commission Recommendations	105
Provisions of a New Statute	106

LIST OF TABLES AND FIGURES

TABLES

	Page
II-1 New Jersey Employment by Sector 1970-1982	7
II-2 Private Sector Covered Employment in New Jersey 1946-1985	8
II-3 Covered Employment Trends in New Jersey	9
II-4 New Jersey Population Trends: 1950-1980	12
III-1 Major Federal Housing and Redevelopment Laws	23
III-2 Chronological Development of New Jersey's Housing and Redevelopment Enabling Laws	25
III-3 Status Reports of New Jersey's Low Rent Public Housing Program: Totals 1957-1983	40
III-4 New Jersey Assisted Housing Inventory: Occupied or Under Construction—1983	42
III-5 Status Reports of Urban Renewal Projects: Cumulative 1958-1972	46
III-6 Urban Renewal Project Reuses: 1970	47
IV-1 Provisions of New Jersey's Property Tax Exemption Statutes	68
V-1 Provisions of the Five-Year Tax Abatement and Exemption Statutes	92
V-2 Statewide Total of Assessed Value of Exemptions and Abatements Under Chapters 104, 12 and 233: 1982-1985 ..	101
V-3 Assessed Value of Chapter 104 Tax Exemptions and Abatements for Home Improvements by County: 1982-1985	103
V-4 Assessed Value of Chapter 12 Tax Exemptions and Abatements for Commercial and Industrial Projects by County: 1982-1985	104

FIGURES

S-1 Current and Proposed Structure of New Jersey's Local Redevelopment Enabling Laws	xii
II-1 New Jersey's Growth Corridors	10
II-2 Change in Population Density: 1970-1980	13
II-3 Levels of Community Distress: 1983	15
III-1 Procedures for Declaring an Area Blighted Under NJSA 40:55-21.1 <i>et seq.</i>	34
III-2 New Jersey Municipalities with Local Housing Authorities	44

III-3	New Jersey Municipalities Under the Jurisdiction of County Housing Authorities	45
III-4	Community Development Block Grant Entitlement Municipalities in New Jersey	49
III-5	Urban County Entitlement Grantees	50
V-1	Municipalities with Areas in Need of Rehabilitation for Home Improvement Abatements and Exemptions	100
V-2	Municipalities with Areas in Need of Rehabilitation for Commercial and Industrial Abatements and Exemptions ...	102

EXECUTIVE SUMMARY

STRUCTURING A NEW PARTNERSHIP:

New Jersey's urban areas and other communities that are in need of redevelopment represent a vital resource to the state and should benefit fully from the growth and development now occurring throughout New Jersey. It is clear, however, that the renewal and redevelopment of these communities can not succeed without the full participation of the private sector. Given the reduction in available federal funding, the private sector will play an increasingly important role in this process.

The Commission believes it is time to recognize the new realities in local redevelopment and to formulate a new public response accordingly. Therefore, the Commission recommends the structuring of a new partnership between the public and private sectors to redevelop and rehabilitate New Jersey's urban centers, older suburbs, and other communities that are in need of redevelopment. As such, it should be the recognized policy of this State, whether embodied in State programs or enabling law, to encourage the maximum participation of the private sector in the redevelopment of the state's distressed communities.

THE NEED FOR REDEVELOPMENT IN NEW JERSEY:

The need for redevelopment in New Jersey is broad based, with many different types of municipalities having redevelopment needs. While the overall magnitude of local redevelopment needs is greatest in the state's urban centers, older suburban municipalities and rural centers also have significant redevelopment needs. Even relatively "well-off" communities may have areas which are in need of rehabilitation or redevelopment.

It is apparent from the distribution of redevelopment needs, that the problems evident in one municipality, along with the resources to address these problems, will differ from other municipalities. As such, local enabling statutes should be structured to provide municipalities with a wide range of powers so they will have the flexibility to develop those redevelopment strategies and programs most appropriate to their own unique situation.

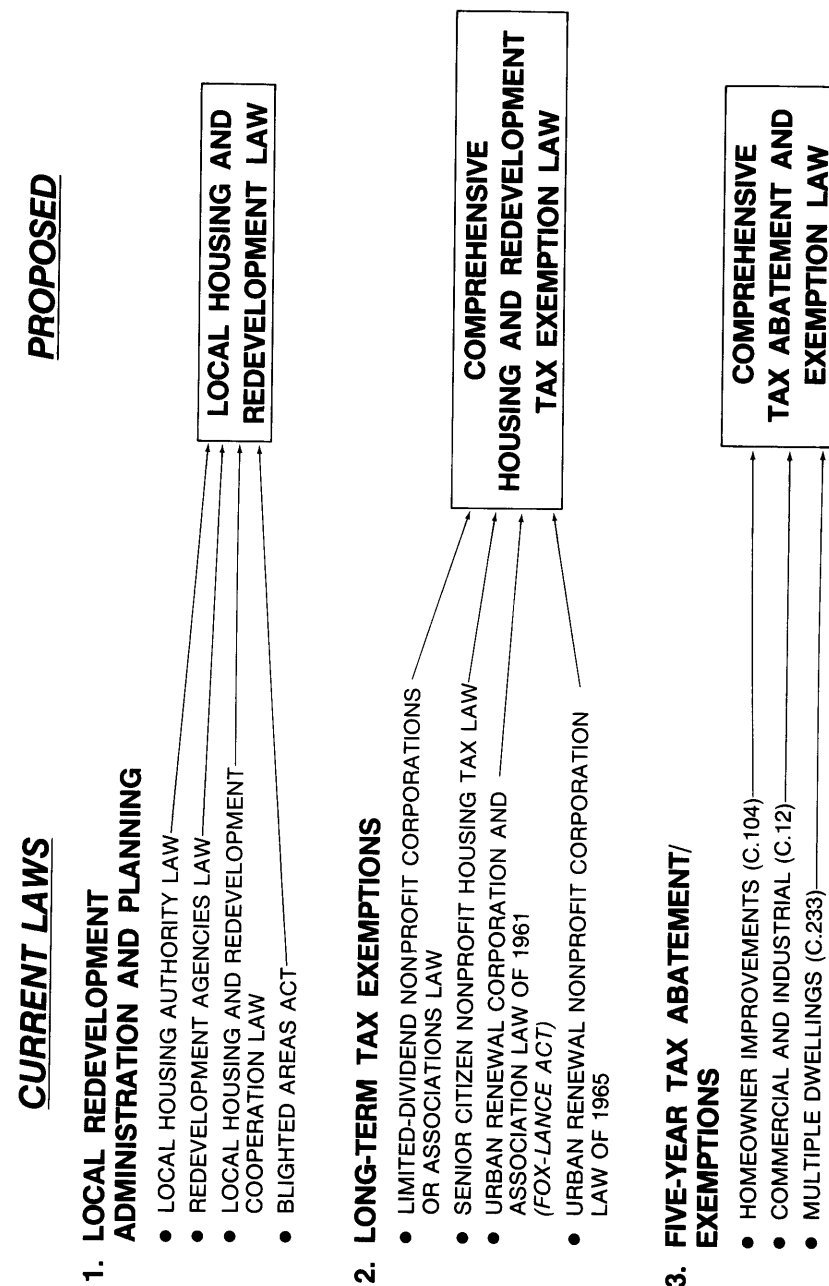
A NEW LOCAL HOUSING AND REDEVELOPMENT LAW:

As presently formulated, New Jersey's local housing and redevelopment enabling acts represent a confusing and often ambiguous set of statutes placed throughout the various Titles of State law. Specifically, gaps, redundancies and inconsistencies in the statutes have developed over the years as a result of the continual "layering" of new statutory provisions and cross-references. In many instances, these statutes represent archaic "relics," incorporating procedures and approaches to housing and redevelopment that were developed to take advantage of federal aid programs which have since been eliminated or changed significantly. In other instances, statutes have been amended and new provisions added to address problems that have only been encountered in the implementation of a single redevelopment project. While once relevant, these provisions now only serve to confuse and complicate local redevelopment law.

Large municipalities which have extensive in-house legal, planning, and

Figure S-1

CURRENT AND PROPOSED STRUCTURE OF NEW JERSEY'S LOCAL REDEVELOPMENT LAWS



community development departments can often wade through the current provisions of redevelopment enabling law to reach a determination on what they can or cannot do under the present statutes. Even so, this process of legal interpretation can be time-consuming, causing critical delays in the implementation of redevelopment projects. For developers, these delays can result in significant added costs, potentially reducing their incentive to invest in deteriorated urban areas. If these delays prove to be extremely lengthy, municipalities can miss important opportunities to undertake the rehabilitation and redevelopment of their communities.

Based on its review of current local housing and redevelopment enabling laws and its analysis of the utilization of these statutes by local governments, the Commission believes that an update and revision of these statutes is long overdue. Therefore, the Commission recommends that the Local Housing Authorities Law, the Redevelopment Agencies Law, the Housing and Redevelopment Cooperation Law, and the Blighted Areas Act be consolidated into a single Local Housing and Redevelopment Law in Title 40A of the Revised Statutes.

In addition, the Commission has determined that the Urban Redevelopment Law, the Redevelopment Companies Law, and the Public Housing Law are no longer utilized or necessary, and recommends that they be repealed.

Basic Principles of a New Enabling Act

A new local housing and redevelopment law should clearly delineate the roles, powers and responsibilities of municipalities, counties, and local redevelopment and housing agencies in the redevelopment process, and should clearly and concisely set forth the options available to local governments under State enabling law for financing and administering local housing and redevelopment programs. In addition to these basic principles, a new housing and redevelopment statute should:

1. Provide for local flexibility and control in the development, financing, and implementation of local redevelopment programs;
2. Provide for the broadest possible interpretation of the powers and responsibilities of local governments;
3. Allow all municipalities to utilize the provisions and powers of New Jersey's local redevelopment enabling laws;
4. Maintain, and in some cases increase, the public accountability of local entities involved in the redevelopment process; and,
5. Maintain clear links to a comprehensive local and regional planning process.

Through the enactment of various State enabling acts, Constitutional provisions, and related court cases, it has become evident that the process of redevelopment constitutes an essential activity of New Jersey's municipal governments. The Commission feels that this fact should be recognized in a new local housing and redevelopment law. *Therefore, the Commission recommends that the new local housing and redevelopment law eliminate the statutory authorization for the creation of a separate redevelopment agency and provide that any municipality, by ordinance, can authorize itself to be the local redevelopment agency for the municipality and, in so doing, utilize all appropriate and*

statutorially authorized powers to plan, finance, and undertake housing and redevelopment projects. The Commission does understand that in some communities a separate redevelopment agency or a housing authority with redevelopment agency powers has worked well. In these cases, the Commission recommends that these entities be grandfathered into the new law.

Because the term "blighted area" carries an unnecessarily negative connotation, the use of this designation can represent a political constraint in municipalities that are considering redevelopment programs. In addition, the current procedures for designating areas as blighted or in need of rehabilitation are cumbersome and unnecessarily complicated, requiring (in the case of areas in need of rehabilitation) that the designation be made by either the municipality, county or Department of Community Affairs, depending on the type of tax abatement specified.

The Commission recommends that a new local housing and redevelopment law allow municipalities to designate an area as either being an "area in need of redevelopment" or an "area in need of rehabilitation."

Designation of areas in need of redevelopment should only take place after appropriate public hearings and a formal recommendation by the local planning board, with the municipal governing body approving or modifying any such recommendation. An area in need of rehabilitation should be defined as any area in need of redevelopment, plus areas where: 1) a significant portion of the residential, commercial, and industrial structures are in a deteriorated or substandard condition; 2) there exists a continuing pattern of property tax arrearage and vacant or underutilized properties; and, 3) where a program of rehabilitation, improvement, and new infill construction will prevent further deterioration and promote the overall development of the community.

LONG-TERM TAX EXEMPTION STATUTES:

Using the authority vested in its 1947 Constitution, New Jersey has enacted four property tax exemption statutes for the purpose of housing and redevelopment. These statutes include:

1. *The Limited-Dividend Nonprofit Housing Corporations or Associations Law*, P.L. 1949, c. 184 (C. 55:16-1 *et seq.*): This statute authorizes the creation of private limited-dividend corporations to undertake housing projects and receive tax exemptions on these projects.
2. *The Senior Citizen Nonprofit Rental Housing Tax Law of 1965*, P.L. 1965, c. 92 (C. 55:14I-1 *et seq.*): Authorizes municipalities to grant property tax exemptions on senior citizen rental housing projects undertaken by non-profit corporations and receiving funding under the provisions of Section 202 of the *Federal Housing Act of 1959*.
3. *The Urban Renewal Corporation and Association Law of 1961*, P.L. 1961, c. 40 (C. 40:55C-40 *et seq.*): Commonly referred to as the *Fox-Lance Act* after its primary legislative sponsors, this law authorizes the creation of private limited profit urban renewal corporations or associations which can enter into a written agreement with a municipality to plan, develop, construct or maintain a residential, commercial, or industrial redevelopment project, and receive property tax exemptions on such projects.

4. *The Urban Renewal Nonprofit Corporation Law of 1965*, P.L. 1965, c. 95 (C. 40:55C-77 *et seq.*): Following the same format as the 1961 *Fox-Lance Act*, this statute authorizes private non-profit corporations to undertake redevelopment projects and receive tax exemptions on these projects.

Because of the growing importance of private sector initiatives in local redevelopment strategies, it is essential that municipalities have a clear and comprehensive tax exemption enabling statute which is easy to understand and use. The Commission's analysis suggests, however, that the current enabling law for property tax exemptions is redundant, overly complex, and does not provide municipalities with sufficient flexibility to design a property tax exemption strategy tailored to their own unique needs and economic conditions. It is the Commission's opinion that a complete revision of these statutes is appropriate and necessary. *The Commission recommends that these four tax exemption statutes be consolidated into a single statute eliminating redundant, unnecessary, or outdated provisions and incorporating all those powers and provisions in the current statutes which are necessary to implement a local property tax exemption strategy for housing and redevelopment.*

Further, the Commission recommends that the new consolidated tax exemption statute authorize the creation of private Housing and Redevelopment Corporations or Associations, which can be either limited-profit or non-profit entities organized under the appropriate provisions of Titles 14, 14A, 15, or those statutes governing limited partnerships and associations. The primary purpose of housing and redevelopment corporations should be to acquire, construct, maintain, and operate housing and/or redevelopment projects in accordance with municipal housing and redevelopment plans.

To provide for an adequate exemption period and uniformity in the new law, the Commission recommends that the new property tax exemption statute provide for a tax exemption period up to thirty years from the completion of the entire project, or up to thirty-five years from the execution of the financial agreement between the municipality and corporation or association.

In-lieu of Tax Payments

Both critics and proponents of tax exemptions have recommended for some time that municipalities should have more flexibility in the selection of the most appropriate in-lieu of tax payment formula for a particular project. *The Commission agrees with the concept of providing for local flexibility and encouraging a process of negotiation in awarding a local property tax exemption and the establishment of an appropriate in-lieu of tax payment formula for a project. Such a process should include an analysis by the municipality of the costs and benefits of the project and an assessment of the importance of tax exemptions in the locational decisions of the firm in question. As such, the Commission recommends that a tax exemption statute for housing and redevelopment provide for a flexible range of in-lieu of tax payment formulas to encourage negotiation between the municipality and private housing and redevelopment corporation or association before a tax exemption is granted.*

The sudden termination of Fox-Lance tax exemptions have become a serious problem for cities, such as Newark, which have used Fox-Lance extensively. Without an extension of existing Fox-Lance exemptions, commercial

office space in projects receiving these exemptions could wind up taxed at a rate several times more per square foot than available space in outlying municipalities. Owners of these projects would have to pass along these rates to their tenants in the form of increased rentals. This would exacerbate the outflight of businesses from New Jersey's central cities and stymie current redevelopment efforts.

The Commission commends the quick action taken on this issue by the Governor and the Legislature with the enactment of P.L. 1986, Chapter 86 which allows municipalities to grant fifteen year extensions on existing Fox-Lance projects. However, the Commission also recognizes that this new law only authorizes extensions for projects in existence as of the date of its enactment, and does not address the continuing economic impact from the abrupt termination of property tax exemptions for future projects. Therefore, the Commission recommends that a new consolidated tax exemption statute provide for a phased increase in the in-lieu of tax payments to occur in five-year steps until the completion of the exemption period. Such a phased increase should follow the model as set forth in P.L. 1986, Chapter 86. The Commission also recommends that in establishing a phase-in mechanism for in-lieu of tax payments, the Legislature and the Governor should consider the option of a phase-in of county and school district tax payments.

FIVE YEAR TAX ABATEMENTS AND EXEMPTIONS:

In addition to encouraging new development and investment in blighted areas and areas in need of redevelopment, a comprehensive local redevelopment program should also include the rehabilitation and improvement of properties in areas which are not completely blighted. By providing tax relief to home owners and businesses willing to invest in their properties, municipalities can stabilize neighborhoods and commercial areas and reverse existing patterns of deterioration and decline. Using the authority provided by a 1975 amendment to the New Jersey Constitution, the Legislature has enacted three enabling laws which authorize certain "qualified" municipalities to offer tax abatements and exemptions for homeowner improvements; commercial and industrial projects; and multiple dwelling improvements or conversions.

In municipalities which have enacted local ordinances under the provisions of the five-year tax exemption and abatement laws, there appears to be general satisfaction with the statutes and few problems in implementing local tax abatement and exemption programs. One problem, however, has been the need to secure a separate area in need of rehabilitation designation for each of the three types of exemptions and abatements. In the case of home improvements (Chapter 104), the county planning board makes the designation upon application by the municipality. In the case of commercial and industrial projects (Chapter 12), the Department of Community Affairs makes the designation. For Chapter 233 exemptions and abatements on multiple dwellings, the local governing body makes the designation based on criteria established by the Department of Community Affairs.

It is the Commission's opinion, that the requirement for a separate in need of rehabilitation designation for each type of project unnecessarily complicates an otherwise effective set of statutes. *Therefore, the Commission recommends that the five-year tax abatement and exemption statutes be consolidated into a*

single enabling act with one procedure for designating an area in need of rehabilitation.

Because of the importance of in-fill construction in a comprehensive strategy of improvement for areas in need of rehabilitation, the Commission recommends that a new five-year tax abatement and exemption statute provide for tax abatements and exemptions for the construction of new single family or multiple dwelling projects. Such provisions should provide for the phase in of in-lieu of tax payments over the five-year period of the exemption.

Finally, the Commission recognizes that the enactment of a new local enabling statute by itself will not ensure the successful redevelopment of New Jersey's urban centers and distressed communities. A prudent and measured response by the State in the form of aid and technical assistance has always been a key component in promoting local redevelopment in New Jersey.

While the federal government has been the largest source of funding for local redevelopment activities in New Jersey, the State has played an increasingly important role in supplementing these programs and, through newly initiated programs such as the Local Development Financing Fund and the state's Urban Enterprise Zone program, has provided incentives for private investment in the state's urban centers and distressed communities. With the proposed cutbacks and elimination of many of the federal government's housing and community development programs, as well as the elimination of the General Revenue Sharing program, the role of the State in supporting local redevelopment activities will, by necessity, become increasingly important. *Given the current intergovernmental, economic, and fiscal environment, the Commission recommends that a thorough assessment of the State's role in assisting communities in need of redevelopment be undertaken with appropriate input from New Jersey's local governments.*

Chapter I

INTRODUCTION: STRUCTURING NEW PARTNERSHIP

New Jersey is currently experiencing a period of strong economic growth and development, with job formation and construction activity at their highest levels in several decades. However, not all of New Jersey's communities are benefitting from the current economic boom. Because of structural changes in the State and national economy, population migrations, demographic changes, and the deterioration of their local infrastructure, many communities can neither attract new development or retain their existing commercial and industrial base.

While this physical and economic distress has been most evident in the cities and urban areas of the state, redevelopment needs exist in older suburban communities and many rural areas as well. Even relatively well-off communities can have distressed or deteriorated areas that are in need of rehabilitation or redevelopment.

Traditionally, the public sector has had the primary responsibility for initiating and financing the redevelopment of economically and physically distressed communities. Over the past four decades, this public sector response has meant the use of the classic urban renewal or redevelopment process. This process includes the use of local government powers which are provided by state enabling laws to acquire, clear, improve, and convey land in blighted or deteriorated areas to private or public entities for its redevelopment and rehabilitation.

Since the 1930s the primary source of funding for these activities has come from the federal government in the form of grants, loans, and mortgage guarantees to public and private entities undertaking housing and redevelopment projects. Reaching their peak in the 1950s and 1960s, these federal housing and urban renewal programs funded the construction and rehabilitation of thousands of housing units and the planning and construction of hundreds of millions of dollars worth of redevelopment projects in New Jersey.

THE DEVOLVING FEDERAL ROLE AND THE INCREASING IMPORTANCE OF THE PRIVATE SECTOR:

By the mid 1970s, the federal role in funding such activities began to change. Growing disenchantment with the effectiveness and long term impacts of federal housing and urban renewal programs provided the impetus for the enactment of the *Federal Housing and Community Development Act of 1974*, which de-emphasized large-scale urban renewal and provided local governments with more flexibility in establishing local goals and priorities. The devolvement of the federal role in this area has continued in the 1980s, as the efforts to reduce federal spending and eliminate the federal budget deficit have resulted in significant cutbacks in federal housing and community development programs. This trend is likely to continue, as the remaining federal housing and community development programs face further reductions or possible elimination in the coming years.

With the devolvement of the federal role in funding redevelopment ac-

tivities, there has been an increasing reliance on the private sector to plan and finance local redevelopment projects. Many municipalities have recognized the growing importance of the private sector in initiating as well as implementing local redevelopment projects and have begun efforts to work more closely with the private sector in formulating redevelopment plans and strategies. In fact, some of New Jersey's most successful redevelopment efforts have taken place in municipalities, such as New Brunswick, where the public and private sectors have worked in a close partnership to ensure the success of local reinvestment and rehabilitation programs. Many of the State's new aid programs, including the Local Development Financing Fund, the Urban Enterprise Zone Program, and the Urban Development Corporation are designed to encourage and develop such partnerships.

STRUCTURING A NEW PARTNERSHIP:

These new public-private partnerships have required local governments to re-examine the local redevelopment process and their role in that process. To attract private development, local governments need to be aggressive in pursuit of private sector investment. To secure that investment, they must understand the needs and concerns of the private sector and provide the appropriate incentives and opportunities. In an era of limited public funding, they must have the expertise to identify available public and private sources of funding and put together creative funding packages for redevelopment projects. In ensuring that the community truly benefits from these projects, they must have sufficient flexibility to negotiate with private developers to structure the most appropriate financial agreements and development packages. Finally, local governments (and the State) must also identify ways in which the redevelopment process (from plan formulation, to project review and approval) can be made to operate more quickly and efficiently.

While these new realities in redevelopment require new and innovative responses by the public sector, New Jersey retains the same institutional and statutory framework for redevelopment which was put in place nearly forty years ago in response to federal programs which have since been eliminated or changed significantly. In particular, the enabling laws under which local redevelopment programs and projects are planned, financed and carried out have become increasingly dated, cumbersome, and often irrelevant to the new strategies being designed to meet the needs of New Jersey's communities in need of redevelopment.

New Jersey's urban areas and other communities that are in need of redevelopment represent a significant portion of the state's population and capital resources and should benefit fully from the growth and development now occurring throughout New Jersey. It is clear, however, that the renewal and redevelopment of these communities can not succeed without the full participation of the private sector. Given the reduction in available federal funding, the private sector will play an increasingly important role in this process.

The Commission believes it is time to recognize the new realities in local redevelopment and to formulate a new public response accordingly. Therefore, the Commission recommends the structuring of a new partnership between the public and private sectors to redevelop and rehabilitate New Jersey's urban

centers, older suburbs, and other communities that are in need of redevelopment. The first step in structuring such a partnership is to ensure that New Jersey's local governments have sufficient authority and flexibility to work effectively with the private sector to redevelop their communities.

PURPOSE AND ORGANIZATION OF THE REPORT:

The purpose of this report is to review the current institutional and statutory framework for local redevelopment in New Jersey and to determine its relevancy and effectiveness in light of the new strategies and partnerships being developed to rehabilitate New Jersey's distressed communities.

The report is organized into the following Chapters:

- **Chapter 2:** Describes the need for redevelopment in New Jersey, defines those indices and statistics which measure community distress and redevelopment needs, describes the types of municipalities which are in need of redevelopment, and discusses the implications of the distribution of redevelopment needs on the structure of any proposed new local redevelopment enabling laws.
- **Chapter 3:** Reviews the development and analyzes the current provisions of those local enabling laws (including the *Housing Authorities Law*, the *Redevelopment Agencies Law*, the *Housing and Redevelopment Cooperation Law*, and the *Blighted Areas Act*,) which provide municipalities, redevelopment agencies, and housing authorities with the power to plan, finance, construct, and administer local housing and redevelopment projects and programs. The chapter also describes the problems encountered by municipalities in using these statutes and offers a possible model for consolidating and updating these laws.
- **Chapter 4:** Reviews the provisions of the current property tax exemption statutes for housing and redevelopment (including the *Limited-Dividend Non-profit Housing Corporations or Associations Law*, the *Senior Citizens Non-profit Housing Tax Law*, the *Fox-Lance Act* and the *Urban Renewal Non-profit Corporation Law*,) describes the problems experienced by local officials in implementing these statutes, and contains recommendations for their update and consolidation.
- **Chapter 5:** Describes the provisions of the five-year property tax exemption and abatement statutes for home improvements, commercial and industrial projects, and multiple dwellings; describes their utilization by local governments; and contains recommendations for their consolidation and update.

A COMPREHENSIVE REDEVELOPMENT RESPONSE:

It is important to remember that a successful redevelopment program requires a comprehensive response in which both the physical development and the "human" or quality of life needs of the community are addressed. Physical development needs include commercial and industrial development, housing construction and rehabilitation, neighborhood preservation, infrastructure maintenance and rehabilitation, and the development and maintenance of parks and recreational facilities. The "human" or quality of life needs of the community, include police and fire protection, education and job training, social service delivery, and art and cultural programs and facilities.

Because of the limitations inherent in a research effort of this type, and the comprehensive and wide ranging character of the subject matter, it has been necessary to limit the focus of the Commission's report primarily to those elements of the redevelopment process which address the physical development needs of the community. Successful efforts in these areas do have an impact on job growth and the municipal tax base which can ensure the effective delivery of other essential public services. However, without a comprehensive community development program, physical redevelopment alone cannot support the long-term renewal of a distressed community.

The private sector, while benefitting from incentives and a renewed interest in bringing it more closely into the redevelopment process, must also realize that it has a responsibility to the community at-large. This is in its own self-interest, for the long-term success of its investment goes beyond the development of the downtown commercial district and is predicated on the ability of the community to effectively meet its neighborhood development and public service delivery needs. This report focuses primarily on the public sector's roles and responsibilities in a new partnership with the private sector in the redevelopment of New Jersey's distressed communities, specifically addressing the need to modernize the statutory base upon which local governments plan and implement local redevelopment programs. As this new partnership grows and matures, the appropriate roles of both the public and private sector in both the physical development of the community and in the delivery of public services must be sorted out.

The Commission's conclusions and recommendations that are contained in this report are based on a simple premise that has been obvious for some time, but has taken on a new legitimacy within recent years: The successful long-term development of New Jersey's distressed communities can only take place with the full participation and cooperation of both the public and private sectors. As such, it should be the recognized policy of this State, whether embodied in State programs or enabling law, to encourage the maximum participation of the private sector in the redevelopment of the state's distressed communities.

What follows is a crucial starting point in the development of that policy. Ultimately, the structuring of a new partnership between the public and private sectors will require that all the partners, including the State, local governments, and the private sector, identify the resources and responsibilities that they bring into such a partnership. Only then will the long-term redevelopment needs of New Jersey's cities, older suburbs, and rural centers be truly met.

Chapter II

THE NEED FOR REDEVELOPMENT IN NEW JERSEY

Before an effective public response can be designed to address the problems of communities in need of redevelopment, it is important to know the magnitude and extent of those needs throughout the state. Based on the results of recent research efforts and the continuing monitoring of the fiscal and economic condition of New Jersey's 567 municipalities, several things are clear. First, there is a need for redevelopment in New Jersey, with these needs most evident in the state's older urban areas. At the same time, the need for redevelopment is broad based, with many different types of municipalities having redevelopment needs. While the overall magnitude of local redevelopment needs are greatest in the state's urban centers, older suburban municipalities and rural centers also have significant redevelopment needs. Even relatively "well-off" communities may have areas which are in need of rehabilitation or redevelopment.

In this chapter, we will describe the economic and demographic changes which have been occurring in New Jersey and the impact of these changes on the economic, fiscal, and physical conditions of the state's urban municipalities. We will then review the results of a recent analysis by the New Jersey Office of Management and Budget which categorized New Jersey's municipalities by level of socio-economic distress and, using this study, draw some conclusions about the extent and distribution of local redevelopment needs around the state. Finally, we will discuss the implications of these findings on the development of local enabling laws and redevelopment programs.

URBAN DECLINE WITHIN GROWTH:

In the last five years, New Jersey's economy has done extremely well in comparison to other states in the Northeast region and the national economy. Since the 1982 recession, New Jersey has outperformed the national economy in employment, personal income, housing starts, and other important economic indicators.¹

While in the aggregate, New Jersey is doing well economically, many of the state's urban municipalities are experiencing a high degree of economic distress and physical deterioration. As several recent studies have pointed out, there is a distinct dichotomy in advantage and opportunity among New Jersey's municipalities.² This dichotomy is the result of several well documented economic and demographic trends which have worked to the disadvantage of the state's urban communities. The most prominent of these trends include the structural shift of the state's economy from a manufacturing to a service based economy, and the outmigration of a significant portion of New Jersey's urban population to the suburban and exurban areas of the state. Both trends have been proceeding for several decades and have already eroded the basic fabric of urban communities in New Jersey and throughout the nation.

Economic Changes and Trends

The primary reason behind the good performance of New Jersey's economy has been the fact that within the last decade and a half, the state has

effectively shifted from a manufacturing to a service economy. This change has paralleled national trends in this area.³ Between 1970 and 1982, covered employment in New Jersey grew by 478,000 jobs, or 18.3 percent in those 12 years. (See Table II-1) In 1970, 33 percent of all covered employment in the state was in manufacturing. By the early 1980s, this percentage had declined to 24 percent. As can be seen from Table II-1, all of New Jersey's job growth in this period came in the service sector, which experienced a gain of 626,000 jobs. At the same time, manufacturing employment declined by 135,000 jobs. Together, goods producing jobs, which include manufacturing, mining, and construction declined from 37.8 percent of all covered employment in New Jersey in 1970, to only 27.1 percent in 1982. Concurrently, the service producing sector of New Jersey grew from 62.2 percent of all covered employment in 1970 to 72.9 percent in 1982, or nearly three-fourths of all covered employment in the state.

This fundamental shift in the State's economy has worked to the disadvantage of New Jersey's urban centers, which have historically been the centers of manufacturing in the state. While the cities were once the primary job centers in New Jersey, they have experienced significant losses in jobs and have become a smaller and smaller portion of the state's total employment picture. *In 1946, New Jersey's six largest cities accounted for approximately 37.5 percent of all covered employment in the State. By 1982, these cities had lost approximately 170,000 jobs and accounted for only 11.9 percent of the state's covered employment.*⁴ (See Table II-2) While some modest gains have been made between 1982 and 1985, during the post-recession rebound of the state's economy, these cities still failed to keep pace with the job growth in the rest of the state, falling to 11.0 percent of all covered employment in New Jersey in 1985.

This job loss has primarily been due to the loss of a large portion of the manufacturing base of these cities. In 1960, manufacturing employment in New Jersey's six major cities accounted for over 227,000 jobs, or nearly one-half of all covered employment in these cities. (See Table II-3) By 1980, manufacturing employment in these cities had declined to approximately 111,000. Combined with a loss of 20,000 non-manufacturing jobs, New Jersey's largest cities experienced a net job loss of nearly 30 percent between 1960 and 1980.

Most of the recent economic growth and job formation in New Jersey has occurred primarily in the state's "growth corridors" associated with the suburban or exurban areas along the state's major highways or interstates. Probably the best known of these growth corridors is the Princeton/Route One Corridor between New Brunswick and Trenton. Other major growth corridors include the Interstate 80 and 280 region in Morris County, Route 287 (particularly where it intersects with Interstates 78 and 80), Interstate 78 from Union to Hunterdon County, the Garden State Parkway in Monmouth and Ocean Counties, and the Interstate 295 Corridor in Burlington, Camden and Gloucester counties. (See Figure II-1) According to a recent study, these corridors account for nearly one half of all covered employment in New Jersey.⁵

As the state has shifted to a service economy, the locational decisions by the service producing sectors have favored the state's growth corridors over the state's older urban centers. The Center of Urban Policy Research (CUPR) at Rutgers University has determined that four out of five firms which have recently located in these growth corridors moved from other locations in New Jersey. According to the CUPR study, these firms left their old locations

TABLE II-1
NEW JERSEY EMPLOYMENT BY SECTOR 1970-1982
(Thousands of Jobs)

Employment Sector	Employment Change ¹		Percentage Change		Percentage Distribution	
	1970	1982	1970-1982		1970	1982
Goods-producing:						
Manufacturing	863	728	-135	-15.6	33.1	23.6
Mining	3	2	-1	-33.3	0.1	0.0
Construction	119	107	-12	-10.1	4.6	3.5
Total Goods-producing	985	837	-148	-15.0	37.8	27.1
Service-producing:						
Transportation and public utilities	182	196	14	7.7	7.0	6.4
Wholesale and retail trade	538	698	160	29.7	20.6	22.6
Finance, insurance, and real estate	118	167	49	41.5	4.5	5.4
Services	410	662	252	61.5	15.7	21.5
Government	375	526	151	40.3	14.4	17.0
Total Service-producing	1,623	2,249	626	38.6	62.2	72.9
Total	2,608	3,086	478	18.3	100.0	100.0

Source: U.S. Department of Labor, Bureau of Labor Statistics, *Employment and Earnings*.
Data reprinted from: Sternlieb and Hughes, *The State's Demographic and Economic Dynamics*.

1. Data refer to nonfarm payroll employment and represent annual averages.

TABLE II-2

PRIVATE SECTOR COVERED EMPLOYMENT IN NEW JERSEY: 1946 TO 1985¹

City	1946 ²	1975	1980	1982	1985
Camden	63,219	33,307	27,957	26,144	29,340
Elizabeth	36,248	43,134	47,098	41,920	42,969
Jersey City	73,094	59,506	57,875	54,057	59,559
Newark	201,800	145,659	130,589	124,753	123,651
Paterson	52,078	42,813	40,595	36,142	35,618
Trenton	49,679	30,123	26,558	23,624	23,199
Total, Six Cities	476,118	354,542	330,672	306,640	314,336
Total, New Jersey	1,268,134	2,217,132	2,530,556	2,566,143	2,869,833
Six Cities as percentage of N.J.	37.5	16.0	13.1	11.9	11.0

Source: *New Jersey Covered Employment Trends*, New Jersey Department of Labor, Division of Planning and Research, Office of Demographic and Economic Analysis.

1. Data are as of September of the respective years.

2. 1946 figures reprinted from Sternlieb and Hughes, *The State's Demographic and Economic Dynamics*.

TABLE II-3

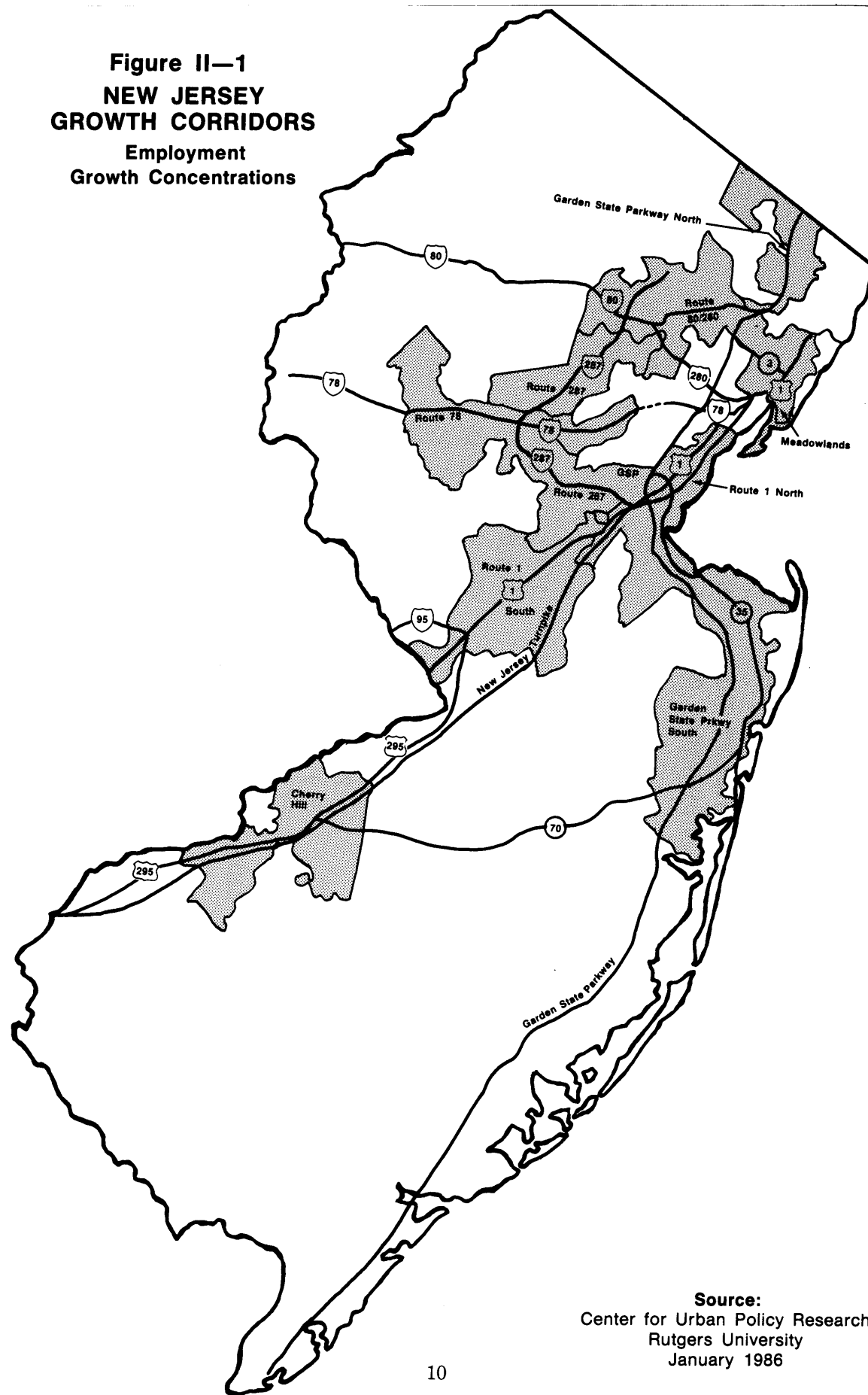
COVERED EMPLOYMENT TRENDS IN NEW JERSEY
(Thousands of Jobs)

	1960	1970	1980	1984	Percent Changes	
					1960-1980	1980-1984
Total Employment						
New Jersey Total	1581.1	2095.8	2530.6	2760.0	+60.1	+9.1
New Jersey 6 Cities ¹	466.8	440.8	330.7	323.6	-29.2	-2.1
New Jersey Less 6 Cities	1114.3	1655.0	2200.5	2436.3	+97.5	+10.7
Manufacturing Employment						
New Jersey Total	807.8	867.4	779.8	719.0	-3.5	-7.8
New Jersey 6 Cities	227.5	174.4	111.4	96.6	-51.0	-13.3
New Jersey Less 6 Cities	580.3	693.0	668.5	622.4	+15.2	-6.9
Non-manufacturing Employment						
New Jersey Total	773.3	1228.4	1750.7	2040.9	+126.4	+16.6
New Jersey 6 Cities	239.4	266.4	219.3	227.0	-8.4	+3.5
New Jersey Less 6 Cities	534.0	962.0	1531.5	1813.9	+186.8	+18.4

Source: *Covered Employment Statistics*, New Jersey Department of Labor.

1. Camden, Elizabeth, Jersey City, Newark, Paterson, and Trenton.

Figure II—1
NEW JERSEY
GROWTH CORRIDORS
 Employment
 Growth Concentrations



Source:
 Center for Urban Policy Research
 Rutgers University
 January 1986

because of "structure specific reasons," including insufficient space, faulty maintenance at the previous location, poor design of the previous facility, and building obsolescence. Reasons cited by these firms for moving to their growth corridor location were the cost of the space relative to other locations (60 percent citing this reason as being most essential), proximity to highways and customers (40 percent of the firms), opportunity for expansion, and security. The primary complaints about their sites by firms located in the growth corridors include traffic problems and lack of sufficient parking, high utility costs, and lack of amenities.

These locational determinants, particularly the last series of concerns, suggests that there is a potential for the securing of service sector firms by urban municipalities, if sufficient space, security and parking facilities can be provided.

Population Changes and Trends

Along with losses in jobs and a declining economic base, New Jersey's urban centers have lost a significant portion of their population in the last several decades as a result of an outmigration to the suburban and, most recently, the exurban areas of the state. This is a continuation of a demographic trend which has been evident throughout the nation since the beginning of the 1950s and was fostered by the availability of low interest mortgage financing, relatively inexpensive land, and the construction of the federal interstate highway system (and, in New Jersey, the Turnpike and the Parkway) which provided easy access to outlying suburban communities.

As a result of this outmigration, the state's urban centers accounted for a continually smaller portion of New Jersey's total population. From 1960 to 1980, New Jersey's total population grew by nearly 21 percent, from 6.07 million to 7.3 million people. (See Table II-4) During that same period the population of New Jersey's major cities declined by 16.3 percent, falling from 1.16 million or 19.2 percent of the state's total population in 1960 to slightly less than 974,000 in 1980, or 13.2 percent of the state's population. Figure II-2 illustrates the change in population density for New Jersey's municipalities between 1970 and 1980, showing the declines in the state's urban area and the population growth in the state's suburban and exurban communities.

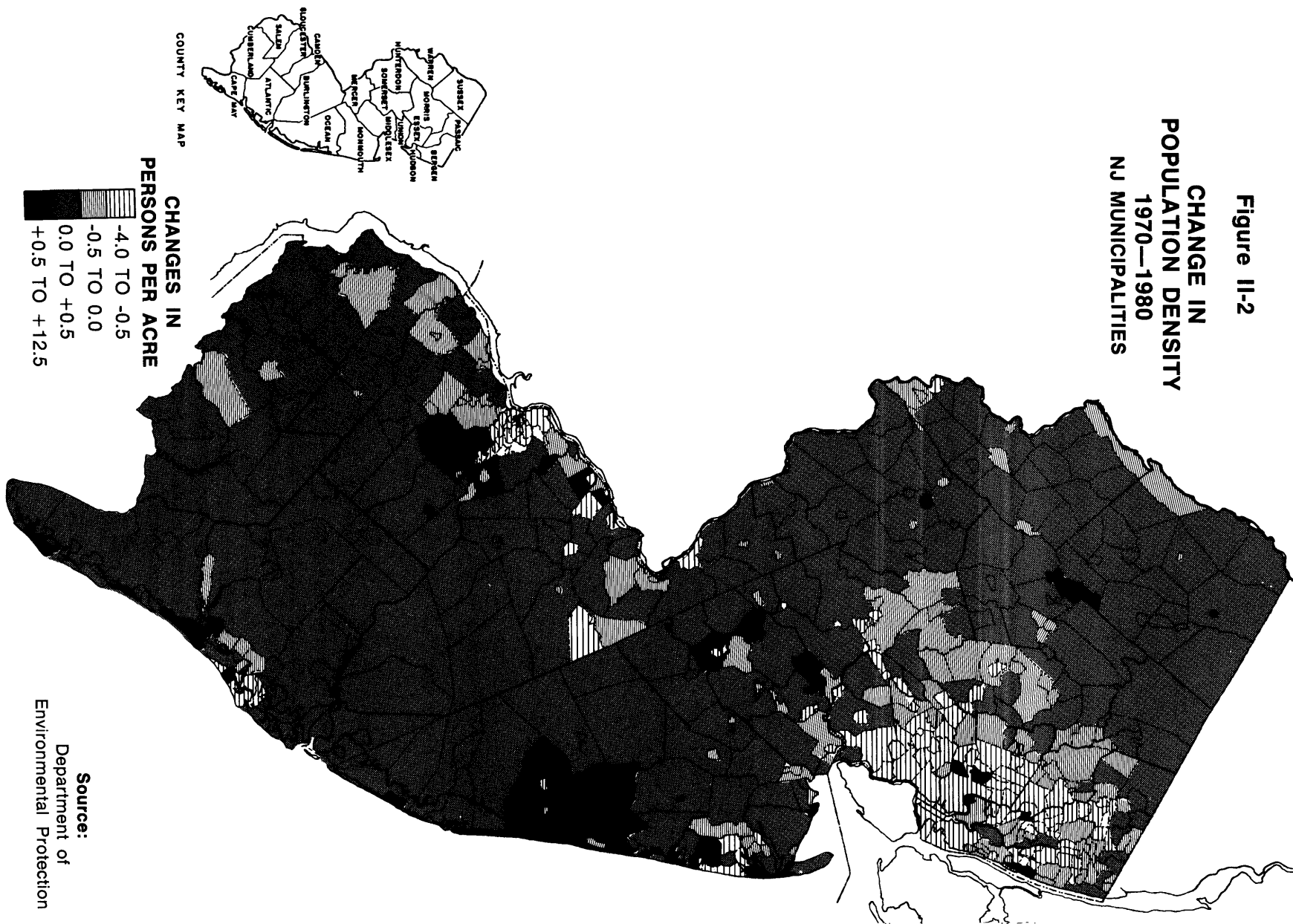
More important than the total loss in population, are the characteristics of the population remaining in these cities. The massive outmigration of the urban population which has occurred over the last several decades included much of these cities' middle class households. As a result, New Jersey's urban centers have found themselves with a population which is increasingly poor and elderly, with lower than average per capita income, and an inordinately high percentage of single parent households.

Fiscal and Physical Impacts

The increasingly dependent character of the population of these cities has placed a high demand on public services, particularly those essential public services such as police and fire protection. At the same time that the demand for public services has increased, the capacity of local government to pay for these services has decreased. Specifically, the local property tax base of these communities has been eroded appreciably as commercial, industrial, and resi-

TABLE II-4
NEW JERSEY POPULATION TRENDS: 1950-1980

City	Population				Percentage Change	
	1950	1960	1970	1980	1950-1970	1970-1980
Camden	124,555	117,159	102,551	84,910	-17.7	-17.2
Elizabeth	112,817	107,698	112,654	106,201	-0.1	-5.7
Jersey City	299,017	276,101	260,350	223,532	-12.9	-14.1
Newark	438,776	405,220	381,930	329,248	-13.0	-13.8
Paterson	139,336	143,663	144,824	137,970	+3.9	-4.7
Trenton	128,009	114,167	104,786	92,124	-18.1	-12.1
Total Six Cities	1,242,510	1,164,008	1,107,095	973,985	-10.9	-12.0
New Jersey Less Six Cities	3,592,819	4,903,000	6,064,000	6,391,026	+68.8	+5.4
Total New Jersey	4,835,329	6,067,008	7,171,095	7,365,011	+48.3	+2.7
Six Cities as Percent of Total	25.7	19.2	15.4	13.2	—	—



dential properties have been vacated and allowed to deteriorate and property values have fallen throughout the community.

The increasing demand (and increasing cost) for public services and the diminution of local property values results in high property tax rates for these communities. These high rates have, in turn, contributed to the exodus of homeowners and business from the urban centers of our state, resulting in the classic spiral of urban decay and abandonment which has been well documented in New Jersey and throughout the nation.

DISTRESS AND REDEVELOPMENT NEEDS IN NON-URBAN COMMUNITIES:

Municipal Needs Index

While there exists significant redevelopment needs in the traditional urban centers of New Jersey, other types of communities have redevelopment needs as well. In an analysis of municipal distress undertaken in late 1983 by the Division of Planning in the New Jersey Office of Management and Budget, New Jersey's 567 municipalities were ranked on the basis of eight different economic, fiscal, physical, and social measures. These included unemployment rate, per capita income, the ratio of children receiving assistance from the federal Aid to Families with Dependent Children Program to total population, percentage change in population from 1970 to 1980, number of substandard housing units, the ratio of pre-1940 housing units to total number of housing units in the municipality (used as a surrogate for infrastructure age), equalized valuation per capita, and a four-year average of equalized tax rates. For each of these criteria, municipalities were ranked from 1 to 567, with a rank of one representing the highest level of distress and 567 representing the least distress. These individual rankings were then summed to come up with a composite rank score for each of the 567 municipalities in the state.

Figure II-3 illustrates the rankings of New Jersey's municipalities as distributed into five distress level quintiles (four quintiles of 113 municipalities each and one quintile of 115 municipalities). The darker areas of the map indicate those municipalities with high distress levels, with the lighter areas indicating low distress.

Typology of Distressed Communities

In reviewing the map and the list of municipalities in the most distressed quintile, several important points are illustrated. First, the urban municipalities of the state are among the highest distressed communities, with twenty-one of the state's 29 urban centers in the top most-distressed quintile. These municipalities are illustrated by the dark areas in and around Hudson and Essex Counties in the northeastern part of the state and the areas around Camden and Atlantic City. In addition, there appears to be a significant number of high distress communities in Cumberland and Salem Counties in the southern part of the state, as well as other pockets of distress in some of the smaller communities distributed around the state.

Looking more closely at the list of high distress municipalities, it is clear that economic, physical, and fiscal distress is not limited to the urban municipalities of the state. Of the top one hundred distressed communities in the most

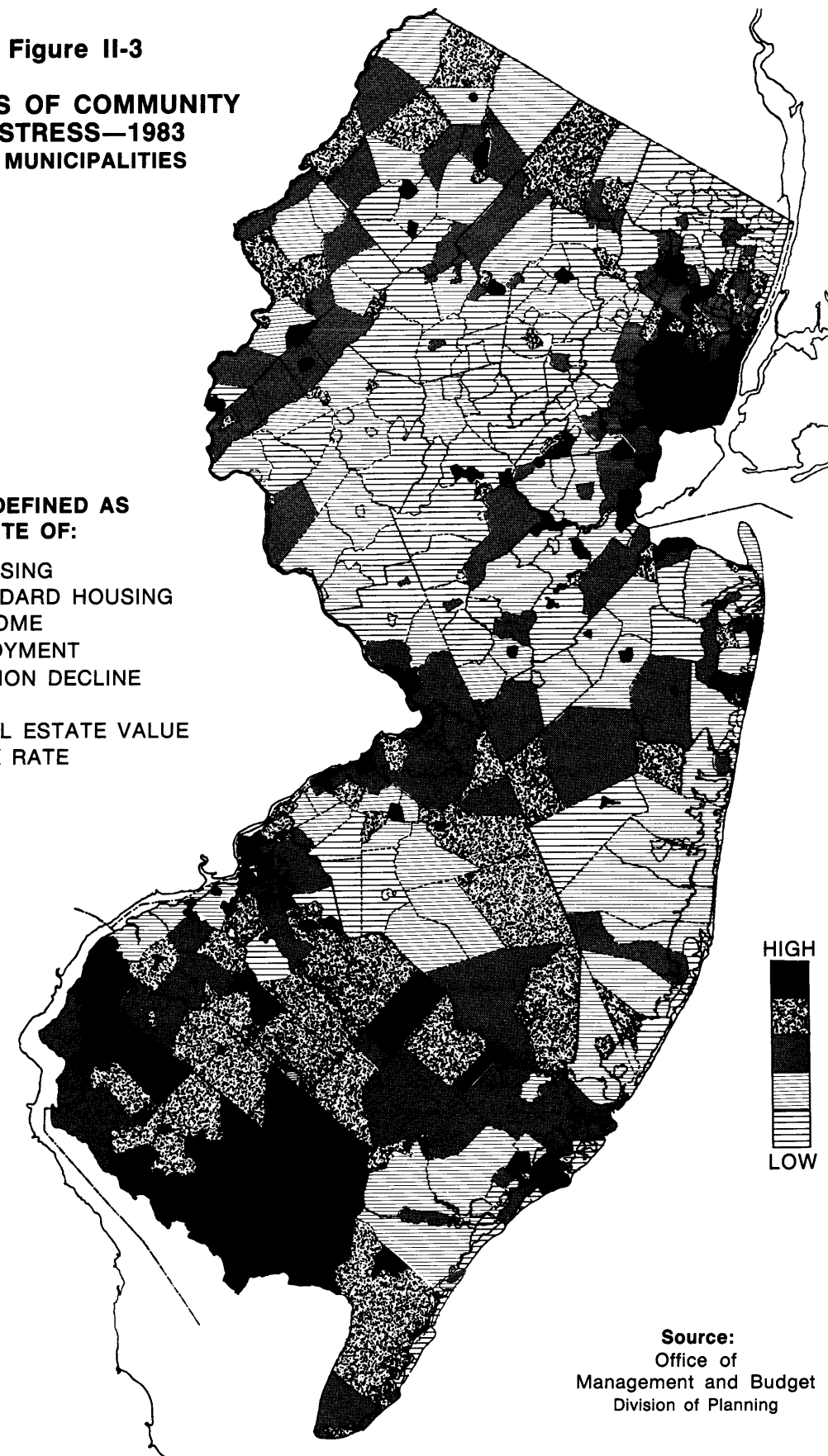
Figure II-3
LEVELS OF COMMUNITY
DISTRESS—1983
NJ MUNICIPALITIES

DISTRESS DEFINED AS A COMPOSITE OF:

OLD HOUSING
SUBSTANDARD HOUSING
LOW INCOME
UNEMPLOYMENT
POPULATION DECLINE
WELFARE
LOW REAL ESTATE VALUE
HIGH TAX RATE



COUNTY KEY MAP



HIGH
LOW

Source:
Office of
Management and Budget
Division of Planning

recent OMB rankings, twenty-one are urban centers, 34 are older "inner-ring" suburban communities, 18 are suburban, 21 are rural centers and 8 are other types of rural communities.

Caveats and Cautions

While the distribution of municipal distress suggests a parallel distribution for redevelopment needs, a direct correlation between the two is not being suggested. The municipal distress index developed by OMB was designed to measure levels of socio-economic distress and was to be used in conjunction with several state aid programs as a mechanism for screening municipal participation. Many communities in the high distress category, particularly the more rural communities in Cumberland and Salem Counties, fall into this category due to high unemployment levels and low per capita income. The alleviation of the high distress problems in these communities may not require or be conducive to the kinds of physical redevelopment approaches or economic development activities described in the other chapters of this report.

In addition, the final product of the OMB analysis represents a rank-order listing of New Jersey's 567 municipalities. As such, this listing only indicates that a particular municipality is ranked higher than another in terms of municipal distress. It does not provide any information concerning the qualitative differences in distress, the difference in the magnitude of distress between two municipalities, or how total distress impacts are distributed among the state's 567 municipalities.

Although distress or redevelopment needs are distributed among many types of municipalities, the highest magnitude of needs are in those urban communities with the largest populations, oldest infrastructure systems, and greatest public service requirements. While the map in Figure II-3 shows large areas in Cumberland and Salem Counties, in the high distress quintile, the size of these areas can be visually misleading, reflecting only the geographic area of these communities, not the total magnitude of distress. Of the top 10 most distressed communities of the state, eight are urban centers, with five of these being the six largest cities discussed earlier in this chapter.

IMPLICATIONS FOR ENABLING LAWS AND STATE PROGRAMS:

It is apparent from this distribution, that a wide range of municipalities, including major urban centers, older inner-ring suburban communities, and rural centers have significant redevelopment needs. The problems evident in one municipality or one type of municipality, along with the resources to address these needs, will differ from other municipalities. Even within categories of municipalities, needs and resources can differ widely. *As such, local enabling statutes should be structured to provide municipalities with a wide range of powers so they will have the flexibility to develop those redevelopment strategies and programs most appropriate to their own unique situation.*

POTENTIAL FOR REDEVELOPMENT:

Up to this point, we have described the negative aspects of the existing economic, physical, and fiscal conditions of New Jersey's urban centers and distressed communities. Despite these problems, there are still opportunities for the successful redevelopment of these municipalities. However, successful

redevelopment efforts require a more effective utilization of the existing physical and institutional resources of these communities. These include:

1. Local Infrastructure Systems:

A significant public investment has been made in the local infrastructure systems of these communities, including streets, roads, and bridges. While these systems are old and in disrepair, a well designed program of maintenance and rehabilitation can keep these systems viable. It seems logical, and more economically efficient, to foster growth and development where there is adequate infrastructure capacity to support such growth.

2. Recreational and Cultural Facilities:

Other important public resources in the state's cities include parks, playgrounds, and recreational areas, as well as art, cultural and entertainment facilities. These amenities, if well-maintained and promoted, can support the cultural or "quality-of-life" components of a comprehensive local redevelopment effort and represent an important resource to the entire state.

3. Geographic Location:

Many of the state's municipalities border on natural features such as waterfronts. If improved and maintained, urban waterfronts can, as in the case of the Hudson River waterfront area, prove to be an important attraction for private investment and development.

In addition, many cities are centers for State and county government agencies and offices. A continued investment and commitment by these levels of government in the future of New Jersey's cities has been, and will continue to be, an important incentive for additional public and private investment.

There have already been successful efforts by several cities, including New Brunswick, Jersey City, and Newark, to attract new investment and development to their downtown business areas and promote the rehabilitation of their outlying neighborhoods. It is those cities which have identified their existing resources and have effectively coordinated efforts among local public and private entities which have been most successful in fostering redevelopment.

In this chapter, we have described the distribution of redevelopment needs throughout the state. Most of the problems and their impacts are readily apparent to the casual observer and have been analyzed in great detail in a number of other research studies and reports. Our purpose in this chapter was to establish a context for the discussions and analysis presented in the following chapters of this report. What we have determined is that municipal redevelopment needs exist, they are most apparent and at their greatest severity in the state's older urban centers, but are also evident in many other types of communities as well. Because these communities have different redevelopment needs and a wide range of economic, physical, and institutional resources, the approaches to (and opportunities for) local redevelopment will vary widely. This distribution of needs and resources, must be taken into account in designing the statutory base for local redevelopment and in structuring a comprehensive public sector response to the needs of these communities.

Footnotes—Chapter II

1. New Jersey Economic Policy Council and Office of Economic Policy, *1986 Economic Outlook for New Jersey*, December 1985, pp. 1-15.
2. A report done by Joseph J. Seneca for the Office of Economic Policy in April 1981 proved to be especially helpful. Entitled *New Jersey's Urban Dilemma: Decline Within Growth*, his analysis provides the basic framework for this section. See also Adam Broner and Lawrence H. Falk, "New Jersey's Urban Centers," *16th Annual Report*, Economic Policy Council and Office of Economic Policy, 1984.
3. George Sternlieb and James Hughes, "The State's Demographic and Economic Dynamics," in *Prospects for New Jersey's Cities: A Conference Report*, (Working Paper No. 7) Program for New Jersey Affairs, Woodrow Wilson School, Princeton University, December 1984, pp. 6-7.
4. Sternlieb and Hughes, p. 13.
5. George Sternlieb and Alex Schwartz, *New Jersey Growth Corridors*, Center for Urban Policy Research, Rutgers University, 1986, p. 22. It should be noted that there is some overlapping between the growth corridor zones as delineated in the C.U.P.R. study and the urban areas and distressed communities described elsewhere. (Compare Figures II-1 and II-3.)

Chapter III

STATUTORY BASIS FOR REDEVELOPMENT: GOVERNMENT ADMINISTRATION OF LOCAL REDEVELOPMENT PROGRAMS

As has been noted in the previous chapters of this report, structural changes in the state and national economy, population shifts, demographic changes, and the physical deterioration of local infrastructure facilities have placed many municipalities in New Jersey in a disadvantageous position with respect to their ability to attract new development and retain their existing commercial and industrial base. The goal of local redevelopment programs is to overcome these disadvantages by enhancing the competitive position of these municipalities through improved utilization of existing community resources and by providing various economic incentives to attract development and retain existing businesses.

The most important resource that a municipality can offer a developer is developable land in prime locations. However, by the very nature of communities that are in need of redevelopment, land in locations that would be considered prime (in the central business district or next to major transportation facilities) is often covered with various dilapidated buildings and other structures, has poor street design and limited parking facilities, and is served by antiquated and deteriorated water and sewer lines. In addition, the implementation of comprehensive development plans for these important sites is often constrained by the fact that these areas usually consist of many relatively small parcels of land under the title of a myriad number of owners.

To fully realize the potential of this land and promote its best use, it must be acquired and assembled into a common ownership, cleared of deteriorated and unnecessary structures, and provided with the necessary improvements, including water and sewer lines, streets, and parking. However, the costs associated with such activities are significant and can represent a serious disincentive to prospective developers.

Still another important disincentive to investment in communities in need of redevelopment is the comparatively high tax rates in these municipalities. As discussed in the previous chapter, these high tax rates (which can be several times as high as in surrounding municipalities) are the result of high per capita public service needs and low property values.

To make such an investment more economically attractive, municipalities can use their own governmental powers and fiscal resources to acquire, prepare and convey these sites to developers, or they can take advantage of various state and federal aid programs which provide grants and/or loans to public or private entities who want to develop these sites. In addition, municipalities are able to offer prospective developers property tax relief through the use of property tax abatements or exemptions on new construction or the rehabilitation of existing facilities.

To undertake the aforementioned redevelopment activities, municipalities must have specific statutory authorization. Over the past several decades, various state enabling acts, supplemented by state constitutional provisions and

affirmed by judicial interpretations, have been enacted which provide municipalities with the power to undertake comprehensive redevelopment programs. These laws define the public and private entities which can administer, construct and operate redevelopment projects; authorize the financing of such activities; prescribe the public process by which land can be acquired, improved and conveyed to developers; set forth the relationship between redevelopment activities and the local master planning process; and stipulate the types of property tax exemptions and abatements that municipalities can offer to prospective developers.

However, as each new law has been enacted, repealed or amended, there has been a continual layering of provisions and cross-references which has resulted in a confusing, ambiguous, and often redundant collection of statutes located throughout the various Titles of State law. In addition, the political environment and redevelopment "state-of-the-art" has changed significantly since many of these statutes were enacted. Often, municipalities that wish to use innovative redevelopment techniques find that they do not have the required statutory authority or that the provisions of the statutes are so vague that real questions can be raised about the validity of municipal actions. In many municipalities, particularly those without an in-house planning or redevelopment staff, this can mean real constraints in their ability to undertake redevelopment programs.

In this chapter, we will review the historical development of New Jersey's local housing and redevelopment enabling laws which provide local governments with the powers to plan, finance, and administer local housing and redevelopment programs; describe the current provisions of these statutes; and summarize the number and types of projects and programs undertaken under these provisions. In addition, we will describe the problems encountered by municipalities in utilizing the current redevelopment enabling laws and offer a potential model for the consolidation and updating of these statutes. In the subsequent chapters of this report, we will describe and analyze the provisions of the various property tax exemption and abatement statutes.

HISTORICAL DEVELOPMENT AND CURRENT PROVISIONS:

Local Housing Laws

Early State Initiatives:

New Jersey's first initiative in the area of local redevelopment came with the enactment of Chapters 201 and 202 of the *Public Laws of 1929*. In these statutes, the Legislature recognized the existence of deteriorated and dangerous housing conditions in New Jersey's major cities and provided insurance companies with the authorization to invest five percent of their assets for the purpose of acquiring real estate and constructing housing at fixed rentals for low income families.¹

The latter of these two statutes allowed municipalities to use their power of eminent domain on behalf of insurance companies, with the insurance company defraying the costs of the condemnation proceedings. This early use of the eminent domain power for the purposes of acquiring and conveying property to a private developer for the purposes of redevelopment was affirmed by the courts in *Simon v. O'Toole* (108 N.J.L. 32).

Under the provisions of these statutes, Prudential Insurance Company constructed 1161 dwelling units for a total cost of approximately \$4.7 million.² These laws were later repealed by P.L. 1967, c. 201.

1933 saw two State initiatives in the area of public housing. The *Public Housing Law*, P.L. 1933, c. 78 (C. 55:15-1 *et seq.*), provides for the creation (under Title 14) of "public housing corporations" which are authorized to undertake slum clearance and the construction of "new housing and other community facilities" for low income families (NJSA 55:15-2 and -3). These projects could include stores and offices which are "appurtenant or incidental" to the project, as long as the project is "planned as a unit" and is contiguous or adjacent to the housing units (NJSA 55:15-2). In addition, the statute provides for the regulation of these housing corporations as public utilities and stipulates that:

... the future policy of this state toward all such projects is that they should be put on a public utility basis and that provision should be made, as hereinafter set forth, for the incorporation and regulation of public housing corporations as public utilities and as such ... subject to the public utility laws and regulations of this state. (NJSA 55:15-3(c))

While several projects were approved under this statute, none were actually constructed.³ Although never used, it remains on the books today.

Later that year, the State was given an important role in the construction and operation of public housing under the provisions of the *Housing Authority Law*, P.L. 1933, c. 444 (C. 55:14-1 *et seq.*). Although a state agency, the New Jersey Housing Authority functioned in a manner similar to a present-day local housing authority. The Authority could develop plans for slum clearance; acquire property by condemnation or eminent domain; construct, operate and maintain housing projects; and utilize a number of techniques, including the issuance of bonds and the acceptance of state or federal grants and loans to finance activities.

While given broad statutory powers, the Authority's activities were limited only to slum clearance and the construction and operation of low income housing.⁴ These powers and responsibilities were eventually transferred to the Department of Economic Development in the general State Government reorganization of 1944 (P.L. 1944, c. 85; C. 52:27C-1 *et seq.*), and ultimately to the Department of Community Affairs in 1967 (NJSA 52:27C-22).⁵

Impact of Federal Aid Programs:

By the early 1930s, fighting the impacts of the Depression became one of the key activities of government. Specifically, the clearance of slums and the construction of new housing was seen as a key strategy for both creating new jobs and easing the critical housing shortage occurring at the time. This era also saw the beginnings of the growth of the federal role in housing and urban renewal, as well as the corresponding impact of federal programs on state and local initiatives in this area.

The *United States Housing Act of 1934*, was the first major initiative by the federal government in housing and urban renewal. (See Table III-1) This act created both the Federal Housing Administration, which insured private home loans and established minimum federal standards for housing, and the

Housing Division of the Public Works Administration, which provided grants and loans to public and limited-dividend housing corporations.

One of the key features of this act was the use of eminent domain powers by the federal government to acquire housing sites and construct housing projects.⁶ Federal use of the eminent domain power was, however, held unconstitutional by the United States Court of Appeals in *Franklin v. Tugwell* (85 F.2d 308; 1936).

Recognizing the impact of this decision on its housing programs, Congress passed the *Federal Housing Act of 1937*, (P.L. 73-479), which replaced the Housing Division of the Public Works Administration with the United States Housing Authority. Unlike the P.W.A.'s Housing Division, the U.S.H.A. was not authorized to undertake housing projects itself, but provided federal aid directly to locally created housing authorities which would rely on their state authorized eminent powers to undertake slum clearance and housing construction.⁷

In New Jersey, as in other states, the primary impact of these programs and related court cases was to shift the responsibility of planning and implementing housing and slum clearance programs from the State to local government. From the Federal Housing Act of 1937 until today, the creation, change, or elimination of federal aid programs for housing and urban redevelopment has provided the impetus for the enactment or amendment of State enabling acts and the subsequent activities of local governments in this area. As described throughout this chapter, new federal initiatives in housing and community development have had a continuing impact upon the manner in which New Jersey and its local governments plan, finance, and implement local redevelopment programs.

Local Housing Authority Law:

To enable New Jersey's municipalities to take advantage of federal monies available under the *Federal Housing Act of 1937*, the Legislature enacted the *Local Housing Authority Law*, P.L. 1938, c. 19 (C. 55:14A-1 *et seq.*). Under the provisions of this statute, New Jersey's municipalities and counties are authorized to establish, by ordinance or resolution, a local housing authority which is an "agency and instrumentality" of the local government (NJSA 55:14A-4).⁸ Once created, a local housing authority is governed by a seven member commission, the members serving staggered terms of five years. The governing body of the municipality or county appoints five members; the mayor (in the case of a municipality) or the director of the Board of Freeholders or chief executive (in the case of a county) appoints one member; and one member is appointed by the Commissioner in the Department of Community Affairs (NJSA 55:14A-4).⁹

Two or more municipalities, which have not yet established a local housing authority, can enact a joint ordinance establishing a regional housing authority to undertake housing projects in these municipalities (NJSA 55:14A-4).¹⁰ When a regional housing authority is established, the governing bodies of the municipalities forming the authority appoint two members each, the governing body of the municipality with the largest population appoints an additional member, and the Director of the Public Housing and Development Authority appoints two members (NJSA 55:14A-4).¹¹ Currently, there are no regional housing authorities operating in New Jersey.

TABLE III-1

MAJOR FEDERAL HOUSING AND REDEVELOPMENT LAWS¹

Title	Main Provisions
Housing Act of 1934	First federal involvement in the housing field. Created the Federal Housing Administration and the Housing Division of the Public Works Administration.
Housing Act of 1937	Federal grants provided to local housing authorities using state granted powers to acquire housing sites and construct housing projects.
Housing Act of 1949	Title I provided federal loans and grants for clearance and redevelopment of deteriorated or blighted areas for sale to private developers, expanded eligible activities beyond housing projects, and required the project development plan to conform to a "general plan" for the community.
Housing Act of 1954	Broadened eligible activities under Title I to include the prevention and the spread of slums and blight through rehabilitation of deteriorated areas and the conservation of those areas in danger of becoming blighted. (Section 701 grants to smaller communities for planning.)
Housing Act of 1956	Authorized relocation payments for families and businesses displaced by urban renewal programs.
Housing Act of 1959	Created Section 202 Senior Citizen Housing aid program. Provided financial assistance for the development of community renewal plans for facility coordination and project timing.
Housing Act of 1961	Created "221-D(3)" mortgage interest subsidy program to private non-profit, limited-dividend, and public agencies for low and middle income rental housing.
Housing Act of 1964	Authorized \$50 million for rehabilitation loans and use of urban renewal funds to enforce housing codes.
Department of Housing and Community Development Act of 1965	Created the Federal Department of Housing and Urban Development.

TABLE III-1 CONTINUED

Housing Act of 1965	Authorized new federal aid funds for urban renewal, code enforcement and rehabilitation. Provided rent supplements to poverty families and subsidies for low rent public housing.
Demonstration Cities and Metropolitan Development Act of 1966	Created Model Cities Program which relied on quasi-governmental citizen groups to develop priorities and set goals for local redevelopment.
Housing and Urban Development Act of 1968	Created section 235 and 236 mortgage subsidy programs for low and moderate income families and multi-family rental projects.
Housing and Community Development Act of 1974	Abolished categorical grant programs and established an \$8.4 billion community development block grant program to be allocated to counties and municipalities by formula. Reduced federal project review and approval. Required development of a three year Housing Assistance Plan identifying long and short term community development objectives.
Housing and Community Development Act of 1977	Changed community development block grant allocation formula. Emphasized neighborhood rehabilitation goals. Created Urban Development Action Grant program.
Omnibus Budget and Reconciliation Act of 1981	Allowed HUD to transfer administration of Small Cities Block Grant Program to State governments.
Housing and Urban Rural Recovery Act of 1983	Continued emphasis on rehabilitation and conservation of housing and neighborhoods. Creation of the Rental Housing Development Action Grant program (HODAG), replacing Section 8 new construction program.

1. The information contained in Table III-1 was compiled from the following reports: Laurence C. Gerckens, "The Historical Development of American City Planning," in *The Practice of Local Government Planning*, ICMA, Washington, D.C., 1979, pp. 40-54; New Jersey State Legislature, *Program Analysis of the New Jersey Urban Renewal Assistance Program*, (#75-2), Office of Fiscal Affairs, Division of Program Analysis, Trenton, NJ, March 1975, pp. 3-20; and, "Technical Report #1: Urban Renewal and Federal Programs, 1950-1960," of the *Northeastern New Jersey Urban Renewal Survey*, Department of Conservation and Economic Development, Trenton, NJ, 1963, pp. 10-12.

TABLE III-2
CHRONOLOGICAL DEVELOPMENT OF NEW JERSEY'S
HOUSING AND REDEVELOPMENT ENABLING LAWS

Year	Title	N.J.S.A.	Main Provisions
1933	Public Housing Law	55:15-1 to -31	Provides for regulation and incorporation of public housing corporations as public utilities.
1938	Local Housing Authorities Law	55:14A-1 to -30	Authorizes the creation of municipal and county housing authorities by local governing bodies to plan, finance, construct, and manage a public housing project.
1938	Housing Cooperation Law	55:14B-1 to -13	Allows municipalities and counties to cooperate in local housing and redevelopment projects through the furnishing of funds, parks, playgrounds and other improvements. Authorizes local bonding for such purposes.
1944	Redevelopment Companies Law	55:14D-1 to -28	Authorizes the establishment of private redevelopment companies to alleviate blight and provide low income housing.
1946	Urban Redevelopment Law	55:14E-1 to -26	Authorizes the leasing of municipally owned land to authorities, individual banks, insurance companies, and other corporations for the purpose of redevelopment. Provides for tax exemptions.
1949	Redevelopment Agencies Law	40:55C-1 to -29	Allows municipalities to create redevelopment agencies which may acquire, replan and improve blighted areas, and convey them to private or public entities for redevelopment.
1949	Limited-Dividend Housing Corporations Law	55:16-1 to -22	Authorizes the creation of limited-dividend private housing corporations to undertake low income housing projects. Provides for tax exemptions.
1949	Authority to Housing Authorities to Undertake Redevelopment	55:14A-31 to -48	Provides additional powers to local housing authorities to clear and redevelop blighted areas.

TABLE III-2 CONTINUED

1949	Blighted Areas Act	40:55-21.1 to -21.14	Defines blighted areas and procedures by which municipalities may declare an area blighted.
1956	Supplement to the Redevelopment Agencies Law and Housing Authorities Law	55:14A-49 to -58	Provides for conservation or rehabilitation of areas in the process or in danger of becoming blighted. Extends powers of housing authorities and redevelopment agencies for these activities. Provides municipality with the authority to designate itself as the redevelopment agency or housing authority.
1961	Urban Renewal Corporation and Association Law of 1961 (Fox-Lance Act)	40:55C-40 to -76	Allows private "urban renewal corporations or associations" to enter into agreement with a municipality to plan, develop, construct or maintain housing, industrial or commercial redevelopment projects. Provides for tax exemptions on such projects.
1965	Urban Renewal Non-profit Corporation Law of 1965	40:55C-77 to -108	Authorizes private non-profit corporations to undertake redevelopment activities and receive tax exemptions.
1965	Senior Citizen Non-profit Rental Housing Tax Law	55:14I-1 to -9	Provides for tax exemptions for private non-profit rental housing projects for senior citizens as authorized by the Federal Housing Act of 1959.
1967	Relocation Assistance Law	52:31B-1 to -12	Requires the payment of fair relocation expenses to individuals by a governmental agency when it displaces them as a result of a housing or redevelopment project.
1967	Limited-Dividend Non-profit Housing Corporations or Associations Law	55:16-1 et seq.	Amended original Limited-Dividend Housing Corporations Law to provide for tax abatements to private non-profit housing corporations and associations.

TABLE III-2 CONTINUED

1967	Development, Renewal and Rehabilitation Projects in General	55:17-1 to -11	Provides protection to holders of mortgages on renewal, redevelopment or rehabilitation projects.
1975	Tax Abatements for Residential Rehabilitation	54:4-3.72 to -3.79	Provides property tax abatements to homeowners for improvement of residential property in areas in need of rehabilitation.
1977	Tax Abatements for Commercial and Industrial Improvements	54:4-3.95 to -3.112	Provides property tax abatements for construction and improvement of commercial and industrial properties in areas in need of rehabilitation.
1979	Tax Abatements for Rental Conversions	54:4-3.121 to -3.129	Provides property tax abatements for improvement or conversion of existing buildings to multiple dwellings in areas in need of rehabilitation.
1980	Amendments to Redevelopment Agencies Law		Authorizes redevelopment agencies to undertake redevelopment projects in "areas in need of rehabilitation."
1983	Urban Enterprise Zone Act	52:27H-60 et al.	Provides for the establishment of "urban enterprise zones" in qualifying municipalities and authorizes various tax abatements and regulatory exemptions for commercial and industrial activity in these zones.
1983	Rehabilitation and Converted Housing	55:18-1 to -10	Allows municipalities to lease municipally owned structures to private housing corporations and first-time home buyers for rehabilitation and conversion to housing for low and moderate income persons.
1983	Amendments to the Urban Renewal Corporation and Association Law	40:55C-41.1 et al.	Provides for the designation of "State investment blighted areas" in certain municipalities. Authorizes municipalities to enter into agreements with urban renewal corporations and associations to undertake redevelopment projects in these areas.

TABLE III-2 CONTINUED

1984	Amendments to the Redevelopment Agencies Law, Housing Authorities Law, and Local Lands and Buildings Law	40A:12-13 and 40:55C-12 et al.	Authorizes redevelopment agencies and municipalities acting as redevelopment agencies to dispose of property at private sale when it is in conjunction with a redevelopment project.
1984	Tax Increment Financing Act	52:27D-250 et seq.	Authorizes certain municipalities to establish tax increment financing districts for the purpose of financing land acquisition, redevelopment, rehabilitation and other activities within the district.
1984	District Management Corporations	40:56-65 et al.	Amends local pedestrian mall statute to provide for the creation of self-financing special improvement districts to finance and regulate improvements and maintenance of the downtown commercial area. Districts are to be governed by a district management corporation.
1985	New Jersey Urban Development Corporation Act	55:19-1 et al.	Establishes a State Urban Development Corporation to supplement private sector development activities in urban areas, and to undertake and finance various industrial, land-use, civic and utility projects in distressed communities.
1985	Amendments to Blighted Areas Act	40:55-21.1	Defines areas designated as urban enterprise zones as also being blighted areas for the purpose of providing property tax exemptions under the provisions of the Fox-Lance Act.
1986	Amendments to the Fox-Lance Act		Provides municipalities with the authority to grant 15 year extensions of property tax exemptions to existing Fox-Lance projects.

County housing authorities can only operate in consenting municipalities which have not established their own housing authority. Once a county housing authority has been established, however, municipalities within the county cannot establish a local housing authority without the consent of the county governing body and the county housing authority (NJSA 55:14A-4). Figure III-3 illustrates municipalities that are under the jurisdiction of a county housing authority.

Under the provisions of P.L. 1977, c. 93 (C. 40:32A-1 and -2) county boards of freeholders in non-charter counties which have not established a county housing authority can adopt a resolution designating itself as a "county public housing agency," allowing it to:

Solicit and accept grants and donations for the purpose of housing assistance throughout the county from the United States Department of Housing and Urban Development or from any other source, engage and assist in the development and operation of subsidized public housing throughout the county and in addition enjoy the powers granted to local housing authorities by the "Local Housing Authorities Law," R.S. 55:14A-1 et. seq.

Local housing authorities are authorized to plan, finance, construct and operate public housing projects for "persons of low income." Such housing projects may include the demolition and clearance of slums as well as the provision of parks, streets, sewers, water services, community health and educational facilities, and other buildings and/or structures appurtenant to the housing units (NJSA 55:14A-3 (i)).

When established by counties or municipalities, local housing authorities constitute a "public body politic and corporate" and are authorized to:

1. Sue or be sued, have a seal, formulate by-laws, establish rules and regulations, and enter into contracts and other agreements;
2. "Prepare, carry out, acquire, lease and operate housing projects," and to "provide for the construction, reconstruction, improvement and repair" of those projects;
3. Contract for "services, privileges, works or facilities," including the payment of salaries in connection with the housing project, so long as prevailing federal minimum wage and other labor standards are met;
4. Lease or rent dwellings, lands, buildings or other structures or facilities and to own, hold and improve real and personal property;¹²
5. Insure or provide for the insurance of any real or personal property or operations of the authority;
6. Obtain guarantees from the federal government on bonds issued by the authority;
7. Invest funds, purchase bonds, and receive interest; and
8. Investigate into the living, dwelling and housing conditions in its "area of operation" to determine where slum areas exist and where there exists "a shortage of decent, safe and sanitary dwelling accommo-

dations for persons of low income;" to make studies into the "means and methods of improving such conditions; and to make studies and recommendations relating to the clearance and reconstruction of slum areas (NJSA 55:14A-7).

This last provision was broadened by P.L. 1947, c. 374 (C. 55:14A-28), to include an analysis of local housing needs, including the collection of data on local population; family income; employment; and the availability, quality, and cost of housing in the community.

In addition, to the above powers, local housing authorities have the authority to use eminent domain to acquire suitable sites for housing projects (NJSA 55:14A-10), issue tax exempt bonds to finance its activities (NJSA 55:14A-12), and accept grants and other financial assistance from the federal government (NJSA 55:14A-19).

Property owned by the authority is defined as public property and is exempt from all property taxes and special assessments (NJSA 55:14A-20). However, housing authorities can make arrangements to make in-lieu of tax payments for services and facilities provided by "a political subdivision" of the State or "as the authority shall find to be consistent with the low rent character of the housing projects or achievement of the purposes of the *Local Housing Authorities Law*."

Housing Cooperation Law:

The other important statute enacted in 1938 was the *Housing Cooperation Law*, P.L. 1938, c. 20 (C. 55:14B-1 *et seq.*).¹³ Under the provisions of this statute, municipalities, counties, local authorities, school districts, and any other political subdivision of the State may aid and cooperate with local housing authorities in the planning, construction, and operation of housing projects.¹⁴ Some of the activities authorized under this statute include:

1. The dedication, selling or leasing of facilities to the local housing authority;
2. The furnishing of various public facilities, including parks and playgrounds, water, sewer and drainage facilities; as well as the dedication and construction of streets and roads;
3. The furnishing of public services;
4. The purchase and holding of the authority's bonds; and,
5. Entering into agreements with the authority, including agreements to repair, eliminate or close "unsanitary or unfit" dwellings (NJSA 55:14B-4).

In addition, the municipality is authorized to replan and rezone any part of the municipality, make exceptions from its building regulations, and change its official map in furtherance of the plans and projects of the local housing authority (NJSA 55:14B-4).

The *Housing Cooperation Law* also gives local governments the authority to make loans, donate money and make capital grants to local housing authorities (NJSA 55:14B-6), and to issue tax-free general obligation bonds and bond anticipation notes for the purpose of aiding local housing authorities

undertaking housing projects within the municipality's boundaries (NJSA 55:14B-4.1) Bonds issued for the purposes set forth in the *Housing Cooperation Law* can be excluded from the gross debt of the municipality if the Local Finance Board determines that the project will generate annual revenues for the municipality and that these and other available revenue sources will cover the annual debt service of these obligations (NJSA 55:14B-4.1 (d) and -4.2).

Local Redevelopment Laws

Federal Urban Renewal:

In 1949, Congress enacted Title I of the *Housing Act of 1949* (P.L. 81-171), which provided for federal grants and loans to local public agencies for the purpose of slum clearance and urban renewal. The *Housing Act of 1949* broadened the scope of activities eligible for federal aid from the provision of housing to general redevelopment, which could include industrial and commercial components. In addition, local agencies now could obtain grants and loans for the acquisition, clearance and improvement of land to be sold to private developers for redevelopment, so long as the project plans conformed to the general development plans of the municipality.¹⁵

As with the *Federal Housing Act of 1937*, new enabling legislation was required to authorize New Jersey's municipalities to utilize the aid monies available under this act. Fortunately, the framers of New Jersey's new Constitution had foreseen the need to clarify and strengthen the roles and responsibilities of New Jersey's local governments with respect to the implementation of redevelopment programs. Specifically, New Jersey's Constitution of 1947 recognized redevelopment activities as a legitimate public purpose and cleared any doubts about the constitutionality of the acquisition of blighted areas (through the use of eminent domain or other means), and the conveyance of such lands to public and/or private developers for its redevelopment.¹⁶ As was now set forth in Article VIII, Section III, Paragraph 1 of the Constitution of the State of New Jersey:

The clearance, replanning, development or redevelopment of blighted areas shall be a public purpose and public use, for which private property may be taken or acquired. Municipal, public or private corporations may be authorized by law to undertake such clearance, replanning, development or redevelopment.

The framers of the 1947 Constitution also recognized the importance of providing appropriate tax incentives to attract private developers into deteriorated or blighted areas. Thus, Paragraph 1 goes on to give constitutional sanction to the use of property tax exemptions for the purpose of furthering redevelopment activities, stating that improvements made through redevelopment:

... may be exempted from taxation, in whole or in part, for a limited period of time during which the profits of and dividends payable by any private corporation enjoying such tax exemptions shall be limited by law. The conditions of use, ownership, management and control of such improvements shall be regulated by law.¹⁷

With the incentive of available federal aid monies and constitutional

authorization, New Jersey enacted a series of four enabling acts which significantly broadened the range of powers available to local governments to plan, finance and implement the redevelopment of their communities.

Redevelopment Laws of 1949:

In the *Redevelopment Agencies Law*, P.L. 1949, c. 306 (C. 40:55C-1 *et seq.*), municipalities were given the authority to create, by ordinance, a local redevelopment agency which would be a body "corporate and politic" organized to carry out redevelopment projects in the municipality (NJSA 40:55C-6). In addition, two or more municipalities can, by joint ordinances, form a "regional redevelopment agency" which can undertake redevelopment projects in any or all of the municipalities entering into such an agreement. A redevelopment agency cannot be created by a municipality if the local housing authority has been given the powers of a redevelopment agency (NJSA 40:55C-9).

As defined by the Statute:

"Redevelopment" shall mean clearance, replanning, development and redevelopment; the rehabilitation of any improvements; the construction and provision for construction of residential, commercial, industrial, public or other structures and the grant or dedication 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 to the project . . . [NJSA 40:55C-5 (l)]

Such activities, however, can only take place after the municipality has identified and designated an area as being blighted (NJSA 40:55C-17 and NJSA 40:55-21.10).¹⁸ As defined in the *Blighted Areas Act*, P.L. 1949, c. 187 (C. 40:55-21.1 *et seq.*),¹⁹ a blighted area is any area in the municipality in which one or more of the following conditions exist:

(a) The generality of buildings used as dwellings or the dwelling accommodations therein are substandard, unsafe, insanitary, dilapidated, or obsolescent, or possess any such characteristics, or are so lacking in light, air, or space, as to be conducive to unwholesome living;

(b) The discontinuance of the use of buildings previously used for manufacturing or industrial purposes, the abandonment of such buildings or the same being allowed to fall into so great a state of disrepair as to be untenable;

(c) Unimproved vacant land, which has remained so for a period of ten years prior to the determination hereinafter referred to, and which land by reason of its location, or remoteness from developed sections or portions of such municipality, or lack of means of access to such other parts thereof, or topography, or nature of the soil, is not likely to be developed through the instrumentality of private capital;

(d) Areas (including slum areas), with buildings or improvements which by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout or any

combination of these or other factors, are detrimental to the safety, health, morals, or welfare of the community;

(e) A growing or total lack of proper utilization of areas caused by the condition of the title, diverse ownership of the real property therein and other conditions, resulting in a stagnant and unproductive condition of land potentially useful and valuable for contributing to and serving the public health, safety and welfare (NJSA 40:55-21.1).

In 1985, additional language was added to paragraph (e) to define a 'blighted area' as also meaning the area of an enterprise zone designated pursuant to the *New Jersey Urban Enterprise Zones Act*, P.L. 1983, c. 303 (C. 52:27H-60 *et seq.*) This language was included to allow use of Fox-Lance tax abatements in urban enterprise zones without a separate blight designation.²⁰ Finally, a new paragraph was added to NJSA 40:55-21.1 in 1986 to provide for the redevelopment of areas damaged by fires and other natural disasters.²¹

The Blighted Areas Act also established the procedure by which a blight designation is made. Such a procedure includes a resolution by the governing body calling for a preliminary investigation to be conducted by the planning board or, if no planning board has been established in the municipality, the municipal governing body (NJSA 40:55-21.2). The planning board prepares a map of the boundaries of the area to be investigated and conducts hearings to review the proposal and solicit public comments and recommendations. Finally, the governing body may approve, disapprove, or modify the planning board's blight determination (NJSA 40:55-21.7). The full procedures of such a process are set forth in Figure III-1.

Before any redevelopment activities can be undertaken in a blighted area, the governing body must also adopt a redevelopment plan for the area (NJSA 40:55C-17 and 40:55-21.10). A redevelopment plan constitutes "an outline for the replanning, development, or redevelopment of a [blighted] area" and must be sufficiently complete to indicate:

- (1) its relationship to definite local objectives as to appropriate land uses, density of population and improved traffic, public transportation, public utilities, recreational and community facilities and other public improvements;
- (2) proposed land uses and building requirements in the area;
- (3) provision for the temporary and permanent relocation of persons living in such areas, by arranging for (unless already available) decent, safe and sanitary dwelling units at rents within the means of the persons displaced from said areas. (NJSA 40:55C-17 and 40:55-21.10)

Accordingly, a redevelopment plan must conform to the municipal master plan "or any part thereof" and cannot be adopted until the planning board has had an opportunity to review it and make recommendations to the governing body.

Once an area has been designated by the municipality as blighted and a redevelopment plan formulated, the redevelopment agency can, upon the approval of the governing body of the municipality, utilize a wide range of powers to acquire, clear, and redevelop land in these areas. Specifically, redevelopment agencies can:

<p align="center">FIGURE III-1</p> <p align="center">PROCEDURES FOR DECLARING AN AREA BLIGHTED</p> <p align="center">UNDER N.J.S.A. 40:55-21.1 et seq.</p>	
N.J.S.A.	Procedure
40:55-21.2	Governing Body passes Resolution providing for preliminary investigation and refers investigation to Planning Board.
40:55-21.3	Planning Board prepares maps indicating boundaries of area to be investigated and statement describing the basis of the investigation.
40:55-21.5	Notice of Public Hearing is mailed 10 days before hearing to: the local newspaper, last known owner of included property, and persons claiming interest in property under consideration.
40:55-21.4 and -21.6	Public hearing held to hear all interested persons and consider all filed written objections and other evidence.
40:55-21.6	Planning Board determines by resolution whether area is or is not blighted. If area is determined to be blighted, a copy of the resolution must be served within 10 days to all persons filing written objections. (Such persons may file actions to review a blight determination in Superior Court within 30 days of the determination of the planning board or final action by the Governing Body N.J.S.A. 40:55-21.9.)
40:55-21.7	Planning Board must submit a report to the Governing Body. Within 30 days of the submission of the report, the Governing Body must approve, disapprove, or modify the blight determination.
40:55-21.8	If written objections have been filed, Governing Body (or redevelopment agency) cannot proceed with property acquisition and redevelopment of the blighted area until 30 days after its action on the planning board's report. If action to review is commenced in the Superior Court, the governing body must await the final result of any such action.
40:55-21.10	Governing Body or redevelopment agency may proceed with the clearance, replanning, development or redevelopment of the blighted area, or the Governing Body, by resolution, may agree to allow private corporations to undertake redevelopment.

- (1) Use eminent domain, or contract to acquire by fee-simple, or gift, real or personal property in a redevelopment area or in an area designated by the governing body as necessary for relocating families and businesses from a redevelopment area;
- (2) Clear acquired areas and install necessary improvements, including "streets, facilities, utilities and site improvements" essential to the redevelopment plan;
- (3) Relocate or arrange with public agencies for the relocation of residents and businesses in a redevelopment area;
- (4) Dispose of land at its "fair value" to private and public entities in accordance with the redevelopment plan;
- (5) Make loans and extend credit to redevelopers;²²
- (6) Arrange for the preparation of plans by registered architects or licensed professional engineers or planners for the carrying out of redevelopment projects;
- (7) Arrange or contract with a public agency for the "opening, grading, or closing of streets and roadways;"
- (8) Arrange or contract with a public agency for public service provision to a redevelopment project, including parks and recreation facilities, schools, sewerage, water and other services; and,
- (9) Enter buildings or property in a redevelopment area to undertake necessary investigations (NJSA 40:55C-15).²³

In addition, an agency may also request that the governing body of a municipality declare an area blighted, and may make its own studies, conduct hearings, and make recommendations to the governing body with respect to "trends in the municipality, blighted areas, and blighting factors" [NJSA 40:55C-15 (f) and (m)].

It is important to remember that the primary purpose of redevelopment agencies, as set forth in the Redevelopment Agencies Law is to acquire, clear, and improve areas that have been designated as blighted by the local governing body and to convey these properties to a private developer or other public entity for redevelopment. *Unlike housing authorities, redevelopment agencies are not authorized to construct, operate, or maintain any buildings or improvements other than those that are on property acquired in furtherance of the redevelopment plan or those used to temporarily house persons and businesses which must be relocated from the redevelopment area (NJSA 40:55C-16).*

In order to finance these activities, redevelopment agencies are authorized to borrow money and issue tax exempt bonds and notes [NJSA 40:55C-10, -12(c), and -14], invest its funds and receive interest [NJSA 40:55C-12(b)], receive monies from leases and deeds with redevelopers (NJSA 40:55C-20), take out mortgages on its property [NJSA 40:55C-12(c)], and receive grants and loans from the state and federal government (NJSA 40:55C-26). In addition, property owned by redevelopment agencies in conjunction with the redevelopment activities of the agency are exempt from state and local property taxes, except where in-lieu of tax payments for municipal services have been arranged

or in those cases where the agency leases or sells its property to private developers (NJSA 40:55C-25).

A local redevelopment agency must submit an annual estimate of income and expenditures for local redevelopment projects to the local governing body (NJSA 40:55C-11). No expenditures can be made by the local redevelopment agency until the local governing body approves this estimate.²⁴ In addition, local redevelopment agencies must submit their annual budgets and proposed bond issues to the Local Finance Board for its review and approval as per the provisions of the *Local Authorities Fiscal Control Law*, P.L. 1983, c. 313 (C. 40:5A-1 *et seq.*).

Redevelopment Powers to Housing Authorities:

In addition to providing for the establishment of redevelopment agencies, in 1949 the State authorized the granting of redevelopment powers to housing authorities with the enactment of P.L. 1949, c. 300, (C. 55:14A-31 to -48).

Under the provision of this statute, municipalities can, by ordinance, authorize a housing authority to undertake a redevelopment project and allow it to exercise all powers given to redevelopment agencies under the *Redevelopment Agencies Law* (NJSA 55:14A-34). Municipalities cannot, however, give a housing authority redevelopment agency powers if it has already created a redevelopment agency (NJSA 55:14A-35). As is the case with redevelopment agencies, housing authorities cannot initiate a redevelopment project or acquire real property for a redevelopment project unless the municipality has designated the area as blighted and a redevelopment plan has been adopted (NJSA 55:14A-35 and -40).

The fourth law enacted in 1949 was the *Limited-Dividend Housing Corporations Law*, P.L. 1949, c. 184 (C. 55:16-1 *et seq.*).²⁵ This statute authorizes the creation of limited-dividend, private housing corporations by three or more citizens of New Jersey. Once established, these corporations can undertake redevelopment projects in blighted areas for the purpose of providing housing. In addition, limited-dividend housing corporations can obtain property tax exemptions for up to 50 years. (The provisions of this statute and its relationship to redevelopment programs and other tax exemption and abatement programs will be discussed in more detail in the next chapter of this report.)

1956 Amendments to the Redevelopment Agencies Law and the Housing Authorities Law:

The *Federal Housing Act of 1954* broadened the eligible activities under Title I to include the prevention, as well as elimination of blight. Under the provisions of this act, local agencies could now use federal funds for the rehabilitation of areas that were in the process of deteriorating, as well as the conservation of areas not yet deteriorated, but in danger of becoming blighted.²⁶ In addition, redevelopment and renewal activities no longer had to have a residential component, but could be primarily commercial and industrial in nature.

The *Housing Act of 1954* also required that redevelopment programs be linked to a comprehensive local planning process. Specifically, communities receiving Title I aid monies had to develop a "workable program" for the

conservation, rehabilitation and renewal of the entire community. Such a program was to include the following objectives:

- (1) Adequate and effective enforcement of local housing codes and ordinances;
- (2) A comprehensive plan for the development of the community;
- (3) A community-wide analysis of neighborhoods to identify blighted areas and determine appropriate treatment;
- (4) An adequate administrative organization to carry out the over-all redevelopment program;
- (5) A determination of the financial requirements and plans necessary to meet the cost of the program;
- (6) Suitable relocation housing for the families displaced by urban renewal and other governmental activities; and,
- (7) Citizen participation in the development and implementation of the program.²⁷

To assist in this process, Section 701 of Title I provided 50/50 federal matching grants to communities with a population of 25,000 or under for the purpose of formulating local plans. In 1959, this program was broadened to provide funds for comprehensive regional and metropolitan planning.

Reflecting the changing focus of federal aid for urban renewal, New Jersey provided local housing authorities and redevelopment agencies with additional powers to implement conservation and rehabilitation programs.

Chapters 211 and 212 (relating to housing authorities and redevelopment agencies respectively) of the *Laws of 1956* expanded the definition of a redevelopment project to include any activities designed for "the prevention of the development or spread of blighted, deteriorated, or deteriorating areas," which may include activities authorized under the previous housing authority and redevelopment agency enabling statutes, as well as any "conservation and rehabilitation work or undertaking" (NJSA 40:55C-31 and NJSA 55:14A-50).²⁸ As defined by these acts, conservation and rehabilitation works can include the:

- (1) [carrying out of] plans for a program of voluntary repair and rehabilitation of buildings or other improvements;
- (2) acquisition of real property and demolition, removal, or rehabilitation of buildings and improvements thereon where necessary to eliminate unhealthful, unsanitary or unsafe conditions, lessen density, reduce traffic hazards, eliminate obsolete or other uses detrimental to the public welfare, or to otherwise remove or prevent the spread of blight or deterioration, or to provide land for needed public facilities;
- (3) installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out the objectives of the redevelopment project; and,
- (4) 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; provided that such disposition shall be in the manner prescribed in the [the earlier provisions of the *Local Housing Authorities Law* and the *Redevelopment Agencies Law*] (NJSA 40:55C-31 and NJSA 55:14A-50).

As with the 1949 acts, such a redevelopment project must be undertaken only after an area has been declared blighted and a redevelopment plan for the area has been prepared and adopted. In addition, the 1956 supplements more specifically define the redevelopment plan, stating that a redevelopment plan shall "conform to the general plan for the municipality as a whole," and:

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, and building requirements (NJSA 55:14A-51 and 40:55C-32).

The 1956 supplements also provided for the utilization of somewhat less dramatic options than wholesale land acquisition and clearance to eliminate or prevent blight. With respect to the conservation and rehabilitation of deteriorating areas, local housing authorities are authorized to 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 (NJSA 40:55C-33 and NJSA 55:14A-52).

While the local agency can set forth plans for code enforcement, they are not given the authority to either enact such codes or to undertake or direct their enforcement (NJSA 40:55C-36 and NJSA 55:14A-55).

The supplements also authorize municipalities or other public bodies to cooperate with local housing authorities and redevelopment agencies in the formulation and implementation of local redevelopment plans and projects by providing financial assistance,²⁹ contracting with the local agency to perform any activities of the local agency, and entering into agreements with any other "public body" with respect to the redevelopment project (NJSA 40:55C-34 and NJSA 55:14A-53). The financial assistance authorized by the provisions of this section was broadened by P.L. 1984, c. 141, to include the unconditional guaranteeing of the payment of the principal and interest of the bonds issued by a redevelopment agency.

In accordance with the federal requirements for Title I aid eligibility under the provision of the 1954 federal act, the municipality or its designee is authorized to draw up a workable program for utilizing private and public resources to eliminate or prevent blight (NJSA 55:14A-54 and NJSA 40:55C-35). The workable program may also include an "official plan of action . . . for effectively dealing with the problem of blighted, deteriorated, or deteriorating areas."

In addition to expanding the authority of local housing authorities and redevelopment agencies, the 1956 supplements also allow the governing body of a municipality to designate itself or another "public agency" as the local

redevelopment agency for the municipality (NJSA 40:55C-37 and NJSA 55:14A-56). This provision was amended by P.L. 1984, c. 112 to clarify the fact that, in doing so, the governing body of the municipality could utilize all powers conferred under the *Local Housing Authorities Law* or the *Redevelopment Agencies Law*.

LOCAL UTILIZATION OF HOUSING AND REDEVELOPMENT POWERS:

Why counties and municipalities choose one type of approach to local housing and redevelopment over another is dependent on a number of different factors. These factors include local political considerations, the size of the municipality, the fiscal resources and administrative structure of the local government, and the specific problems and needs of the county or municipality. Because the construction of housing and the clearance and improvement of land for redevelopment is so capital intensive, local governments have had to rely on outside assistance to finance these activities. While the State has provided counties and municipalities with financial assistance for housing and redevelopment, the primary source of capital assistance for these activities has been the federal government. Because of the importance of federal aid monies as a stimulus to local housing and redevelopment programs, as federal priorities and approaches have changed, so too have the activities of New Jersey's local governments.

The following section traces these changes and describes the current activities and approaches to housing and redevelopment being undertaken in today's fiscal environment.

Local Housing Programs

While municipalities were given the authority to establish local housing authorities in 1938, by the late 1940s only fourteen municipalities had chosen to do so.³⁰ With the establishment of the federal Public Housing Program in Title III of the *United States Housing Act of 1949*, the expansion of the federal public housing program in 1956 and 1959, and the enactment of various new state enabling acts, the number of housing authorities in New Jersey increased to 48 by the end of the 1950s. By 1960, 33,182 public dwelling units had been constructed by these authorities, for a total development cost of \$273 million. (See Table III-3)

With the broadening of eligible housing activities in the federal public housing programs, the enactment of the federal Section 202 program in 1959, and changing local attitudes toward low income housing in general, the focus of local public housing programs in New Jersey shifted from low-income housing construction to the provision of rental units for the elderly.³¹ In 1960, 3,383 units, or approximately 10% of all public housing units in the state, were reserved for the elderly. During the 1960s construction of senior citizen rental units constituted 79% of all public housing constructed in New Jersey. By the end of the decade, 17,384 units, or approximately one-third of all housing units in the state, were reserved for the elderly.

Even so, the pace of public housing construction did not match that of the 1950s. From 1961 through 1970, only 17,772 new units of public housing were constructed, or approximately one half of the amounts of the units that were built in the previous decade. These declining construction totals reflect

TABLE III-3
STATUS REPORTS OF NEW JERSEY'S LOW RENT PUBLIC HOUSING PROGRAM:
TOTALS 1957-1983*

Year	Municipalities Participating	Projects	Total Units	Occupied Units	Units Reserved For Elderly	Total Development Cost (1,000's)
1957	37	112	26,839	22,434	\$213,591
1960	48	160	33,182	26,141	3,383	272,689
1965	58	225	42,089	32,345	11,163	368,799
1970	70	291	50,954	42,217	17,384	495,150
1977†	87	258	—	45,179	—	—
1983‡	90	307	—	49,502	—	—

*Years 1957-1970 Division of Housing, New Jersey Department of Community Affairs as reprinted in Julius Seaman, "New Jersey Housing Legislation and Program," Exhibit 3-2, p. 95.

†1978: NJ Department of Community Affairs, Division of Housing and Urban Renewal, *New Jersey Directory of Subsidized Rental Housing*, January, 1978.

‡1983: Units occupied or under construction. Division of Housing, Department of Community Affairs.

the increased utilization of limited-dividend and non-profit housing corporations as a vehicle to construct low income and senior citizen rental housing. Spurred by financial and mortgage interest subsidies available to these corporations under the federal Section 221(d)(3), 202, 236, 213 and 220 programs, 7,227 units were either planned, under construction or occupied as part of limited-dividend housing projects by 1971.³² In addition, another 5,690 units were constructed by limited-dividend projects funded by mortgage monies available from the New Jersey Housing Finance Agency.³³

Even with this shift to limited-dividend and non-profit housing corporations, by 1970, the number of existing local housing authorities had increased to 70, with 50,954 units of conventional public housing constructed for a total development cost \$495 million.

The decades of the 1950s and 1960s represented the height of conventional public housing construction in New Jersey. As the 1970s began, serious questions had arisen concerning the effectiveness of federal housing and urban programs and the impacts that these programs were having on America's cities and urban areas.³⁴ As part of President Nixon's "New Federalism," Congress enacted the *Housing and Community Development Act of 1974*, which merged many of the existing housing and urban renewal categorical grant programs into a single Community Development Block Grant entitlement program.

The enactment of the 1974 act significantly reduced the federal government's role in directly funding the construction of new conventional public housing. Since then, the primary focus of the federal government's housing program has been two-fold:

1. To rely on the efforts of state and local housing agencies to construct and rehabilitate housing; and,
2. To increase the choices available to low-income families and the elderly by utilizing a variety of rent subsidy programs to make standard rental housing more affordable.³⁵

These two approaches have been embodied in the Section 8 program created in the 1974 act. Under the original provisions of this program, construction of new units or the substantial renovation of existing low-income rental housing was promoted through the use of direct subsidies to private developers which had entered into an agreement with a local or state housing agency. Under the other major component of this program, the federal government provided rental subsidies to low-income families, the elderly, and handicapped individuals to cover those "fair market" rental costs in excess of 30% of gross family income.

The changes in the federal housing program in the 1970s were reflected in the activities of New Jersey's local governments and housing authorities. According to a 1983 inventory of subsidized housing in New Jersey, there are presently 136,050 subsidized housing units in the state. (See Table III-4) Of these, 49,502, or only 36.4 percent are conventional units, with the rest subsidized under Section 8 New/Substantial Rehabilitation, Section 8, Existing/Moderate Rehabilitation, and various federal and state mortgage guarantee and subsidy programs.

While New Jersey's local housing authorities are no longer engaged in the large-scale construction of public housing, they still represent an important

TABLE III-4
NEW JERSEY ASSISTED HOUSING INVENTORY:
OCCUPIED OR UNDER CONSTRUCTION—1983

County ¹	Section 8		Section 8 Existing Moderate Rehab ²	Mortgage Subsidized ³	Total Assisted Units
	Conventional Public Housing	New Construction Substantial Rehab			
Atlantic	2,192	1,129	436	2,490	6,247
Bergen	2,222	1,873	3,703	809	8,607
Burlington	211	195	530	402	1,338
Camden	2,688	2,905	759	1,303	7,655
Cape May	435	40	696	522	1,693
Cumberland	1,469	124	485	1,016	3,094
Essex	14,892	9,642	3,150	7,924	35,608
Gloucester	342	587	718	592	2,239
Hudson	9,859	5,373	2,606	5,029	22,867
Hunterdon	0	94	349	17	460
Mercer	2,253	1,509	614	1,987	6,363
Middlesex	2,337	1,354	1,357	606	5,654
Monmouth	2,202	2,038	2,095	1,911	8,246
Morris	565	767	918	288	2,538
Ocean	604	587	1,509	272	2,972
Passaic	3,219	1,593	1,515	2,428	8,755
Salem	411	80	301	540	1,332
Somerset	100	401	306	0	807
Sussex	80	190	309	222	801
Union	2,809	1,990	1,124	1,372	7,295
Warren	612	0	741	126	1,479
Totals	49,502	32,471	24,221	29,856	136,050

1. Figures include housing units operated and administered by county and municipal housing authorities.

2. Includes 6,402 Section 8 units administered by the Department of Community Affairs.

3. The mortgage subsidized units include projects subsidized through HUD 236, HUD 221 (d) (3), HUD 202, FMHA 515, and HUD 236, with NJHFA and NJHFA market projects.

Source: Division of Housing, Department of Community Affairs.

local public activity. Currently, 194 of New Jersey's 567 municipalities have either a municipal housing authority or are under the jurisdiction of a county housing authority. Most of these authorities are currently maintaining and operating existing public housing projects and administer the local Section 8 program. (See Figures III-2 and III-3)

The 1981-82 U.S. Census of Government provides an idea of the financial activity of New Jersey's local housing authorities. The seventy-eight "housing and community development" agencies which reported to the Census Bureau report an annual revenue of \$204.6 million dollars, with most monies coming from the federal government and rents. These 78 agencies report a total annual expenditure of \$193.1 million dollars with about \$120.4 million, or 62.3 percent, for current operations; \$43.5 million for capital outlays, and \$31.1 million for salaries and wages. In addition, these authorities show a total debt outstanding of \$554.2 million, secured primarily through the revenues of the local authority.

Local Redevelopment Programs

Local redevelopment activities in New Jersey have paralleled that of local public housing programs, reaching a peak during the period of the large federal Urban Renewal programs in the 1950s and 1960s.

Title I of the *Federal Housing Act of 1949* provided local public agencies with grants and loans to cover approximately two-thirds to three-quarters (depending on the size of the municipality and the amount of planning and administrative costs covered by the agency) of the "net cost" of an urban renewal project. Net costs represented the difference between the cost of property acquisition and improvements and the actual sale price to the developer or the fair market value of the land in question.³⁶ Spurred by these large federal subsidies, local redevelopment agencies began the large-scale acquisition and clearance of blighted areas in the state.

By 1960, thirty public agencies (including local housing authorities acting as redevelopment agencies) were administering 62 different renewal projects around the state (See Table III-5). These projects represented a total net cost of \$138.4 million, of which \$99.2 million were funded by the federal government.

This federal support was critical to the success of these projects because of the high costs incurred in acquiring and clearing central city sites, relocating families and businesses in these areas, and installing public facilities and other improvements. On average, the final fair market value paid by the developer for these properties was only one-fifth of the total public cost required to make this land available.³⁷

Federal urban renewal funding continued to be an important stimulus to local redevelopment activities through the 1960s. By 1970, sixty different local public agencies were administering 136 renewal projects throughout the state. These projects represented a total net cost of \$634.6 million with New Jersey's local governments picking up \$189.5 million of these costs. Table III-6 shows the breakdown of these projects by type.

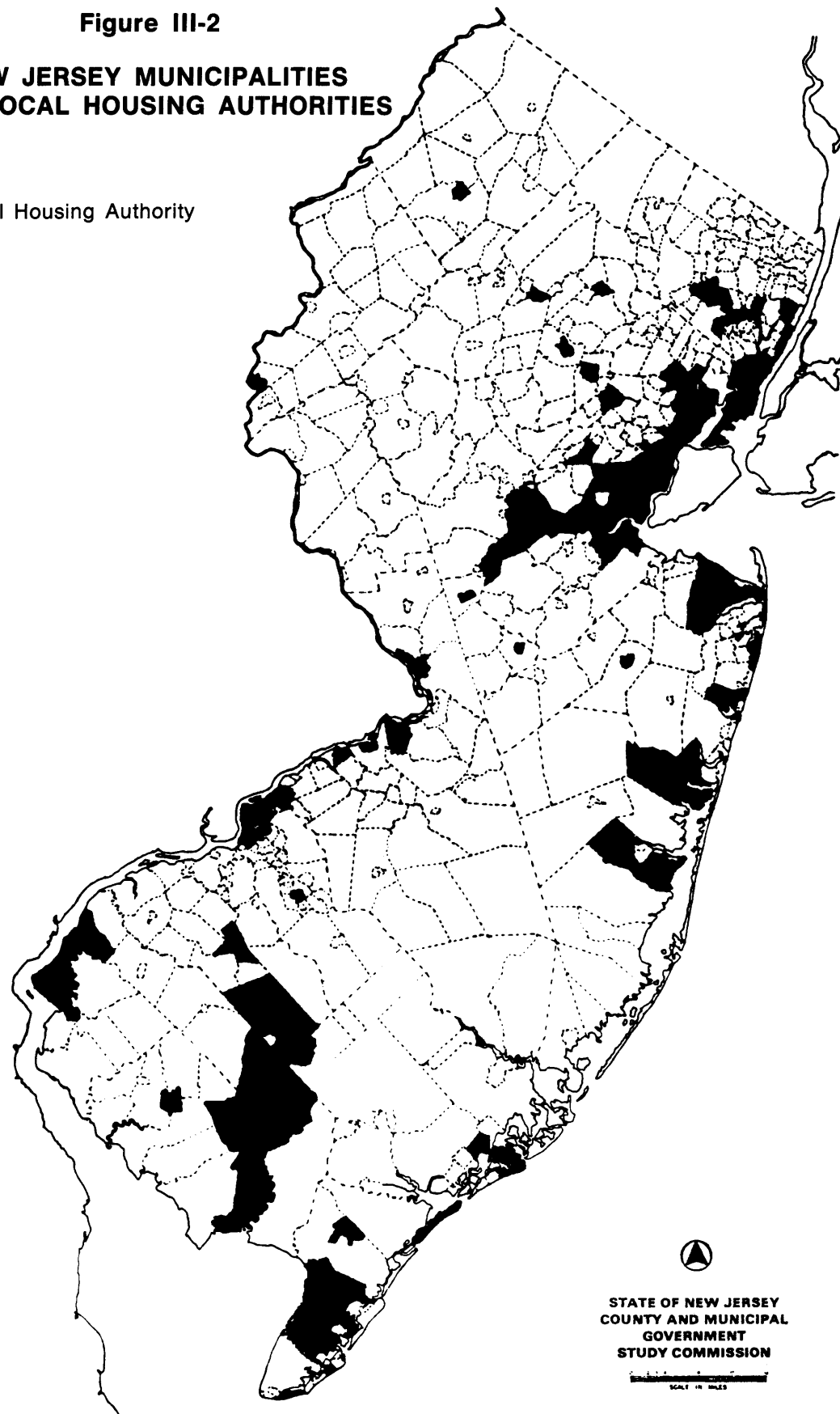
Community Development Block Grant Program:

By the early 1970s, serious questions had arisen with respect to the effec-

Figure III-2

**NEW JERSEY MUNICIPALITIES
WITH LOCAL HOUSING AUTHORITIES**

■ Local Housing Authority



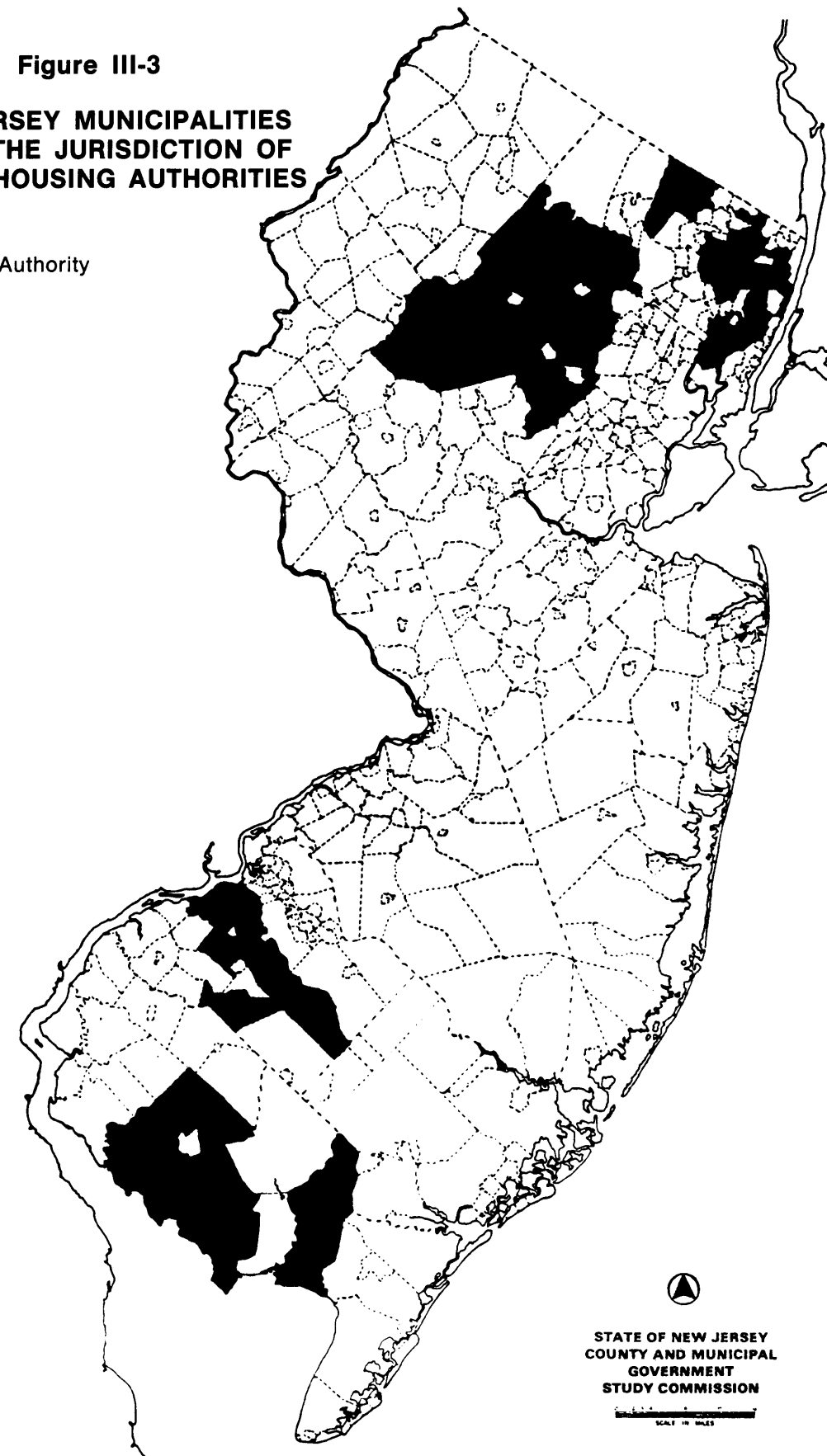
STATE OF NEW JERSEY
COUNTY AND MUNICIPAL
GOVERNMENT
STUDY COMMISSION

SCALE IN MILES

Figure III-3

**NEW JERSEY MUNICIPALITIES
UNDER THE JURISDICTION OF
COUNTY HOUSING AUTHORITIES**

■ County Authority



STATE OF NEW JERSEY
COUNTY AND MUNICIPAL
GOVERNMENT
STUDY COMMISSION

SCALE IN MILES

TABLE III-5

**STATUS REPORTS OF URBAN RENEWAL PROJECTS:
CUMULATIVE 1958-1972**

Date	Number of Agencies	Number of Projects	Gross Cost	Net Cost	Federal Grant	Municipal Share	Number of Projects Completed
May 1958	21	36	\$88,159,500	\$72,122,733	\$49,029,740	\$24,384,433	0
June 1959	26	50	137,349,780	106,656,969	74,548,264	34,613,170	2
December 1960	30	62	187,787,539	138,428,769	99,230,040	46,361,074	8
June 1961	36	75	204,453,161	159,879,274	115,262,960	52,419,440	8
September 1962	45	88	263,003,616	214,097,603	150,077,280	69,329,754	11
September 1963	43	93	337,020,365	265,521,191	189,977,220	87,070,060	13
September 1964	49	106	415,476,253	323,929,977	226,240,573	106,365,666	13
September 1965	52	118	607,577,177	495,357,402	345,807,353	158,925,463	14
September 1966	58	135	647,304,884	530,952,170	369,513,675	167,942,100	18
September 1967	66	147	732,402,398	603,441,812	437,065,515	183,596,471	23
September 1968	64	146	766,333,415	626,486,158	460,453,081	191,426,774	30
March 1969	62	143	762,287,553	625,994,261	457,381,441	188,518,452	31
June 1970	60	136	772,495,949	634,629,377	463,431,756	189,519,370	33
December 1972	59	161	—	—	536,990,000	—	—

Source: Julius Seaman, "New Jersey Housing and Legislation Program" in *Financing Housing and Urban Development*, Arthur A. Goldberg, ed., Bureau of Government Research, Rutgers.

TABLE III-6

URBAN RENEWAL PROJECT REUSES: 1970

Reuse	Project
Commercial	84
Public or Educational	44
Residential	24
Recreational	18
Parking	16
Industrial	14
Light Industrial	7
Total Projects	136*

*A single project may have several reuses.

Source: New Jersey Department of Community Affairs "Status Reports: Urban Renewal Projects in the State of New Jersey, June 30, 1970." As reprinted in New Jersey Legislature, Office of Fiscal Affairs, Division of Program Review, *The New Jersey Urban Renewal Assistance Program*, (75-2), March 1975, p. 23.

tiveness of Title I and subsequent federal aid programs enacted in the 1960s, including the Neighborhood Development and Model Cities programs. Specific complaints included the large amount of time to bring these projects to fruition, (only 33 of a total of 136 projects had been completed in New Jersey by 1970) the impact of large-scale clearance in central city neighborhoods, and the lack of flexibility provided to local governments in implementing these programs.

In 1974, Congress culminated a long national debate on the effectiveness of federal housing and urban renewal programs by enacting the *Housing and Community Development Act of 1974*, which combined the federal urban renewal program and several other categorical grant programs into a single entitlement block grant program in Title I of the new law. The new Community Development Block Grant Program now distributed federal aid monies on a formula basis to central cities of a Metropolitan Statistical Area (MSA) or metropolitan cities with a population of at least 50,000. The 1974 Act also broadened eligibility for federal aid to "urban counties" consisting of participating municipalities with a cumulative population of over 200,000.³⁸ Criteria used in the distribution formulas include population, poverty, overcrowded housing, age of housing and growth lag. Currently, 372 of New Jersey's 567 municipalities are eligible to receive monies under the Community Development Block Grant Program, including 32 entitlement cities and 340 participating municipalities in twelve urban counties in the state. (See Figure III-4 and Figure III-5)

While monies available under this program are targeted to projects aiding persons of low and moderate income, the Community Development Block Grant program provides recipients with greater discretion in the utilization of these monies than did the older categorical grant programs. In addition, the inclusion of urban counties as entitlement grant recipients effectively broadened municipal eligibility to include many suburban and rural communities that were not previously eligible for urban renewal monies.

Since its enactment, the community development block grant program has been an important funding source for local redevelopment activities in New Jersey. Since 1980, nearly \$650 million has been distributed to New Jersey's entitlement municipalities and urban counties, or approximately \$108 million dollars per year in each of the last six federal fiscal years.³⁹ In fiscal year 1985, a total of \$57.8 million was awarded to the state's thirty-two entitlement municipalities and \$44.2 million to the state's twelve urban counties. The primary municipal recipients of these monies have been the cities of Newark and Jersey City, receiving a total of \$85.6 million and \$57.2 million respectively since 1980, or approximately 38 percent of the total funds distributed to New Jersey's entitlement municipalities in that period. Together, the state's "top six" municipal recipients of CDBG entitlement funds, including the cities of Newark, Jersey City, Camden, Paterson, Trenton, and Elizabeth have received 62 percent of the funds distributed to New Jersey's thirty-two entitlement municipalities during the last six years.⁴⁰

Bergen County is the largest urban county in New Jersey, with 62 participating municipalities and a total allocation in 1985 of \$9.8 million. Essex (\$6.0 million), Hudson (\$5.4 million) and Union (\$5.2 million) were the next three largest county recipients. Together, New Jersey's urban counties have received a total of \$255 million in Community Development Entitlement Grant monies since 1980.⁴¹

The enactment of the community development block grant program ended large-scale federal financing of new urban renewal projects through the subsidization of site acquisition and improvement costs. However, "hold harmless" funds were included in the 1974 act to continue funding existing urban renewal projects which had received previous federal commitments. Currently there are only two remaining renewal projects in New Jersey in which the total amount of approved federal funds has not been completely disbursed.

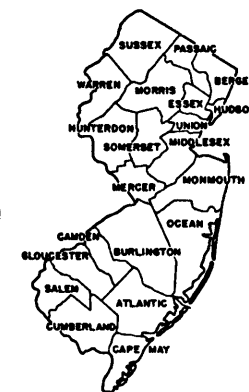
Activities financed under the current Community Development program include local economic development programs, public improvements, public service provision, and the rehabilitation of public and private properties. In addition, Community Development funds have been used by counties and municipalities to fund the administration and staffing of local housing and community development programs. Using these funds, many New Jersey cities transferred the redevelopment function from a separate agency into an internal department of housing and community development, or into a division of the municipal planning staff, with the governing body of the municipality assuming the actual redevelopment powers. Regardless of the location, Community Development funds have become an important source of staff funding for local housing and redevelopment efforts in New Jersey since 1974.

With the change to Community Development, this latter administrative structure has become more prevalent as a mechanism by which municipalities implement local redevelopment programs in New Jersey. In 1975, twenty municipalities had separate redevelopment agencies, with another 18 municipalities having designated the governing body as the local public agency for carrying out local urban renewal projects. At the current time, only 6 municipalities in New Jersey have separate redevelopment agencies independent of the local governing body. Only two of these, in East Brunswick and South

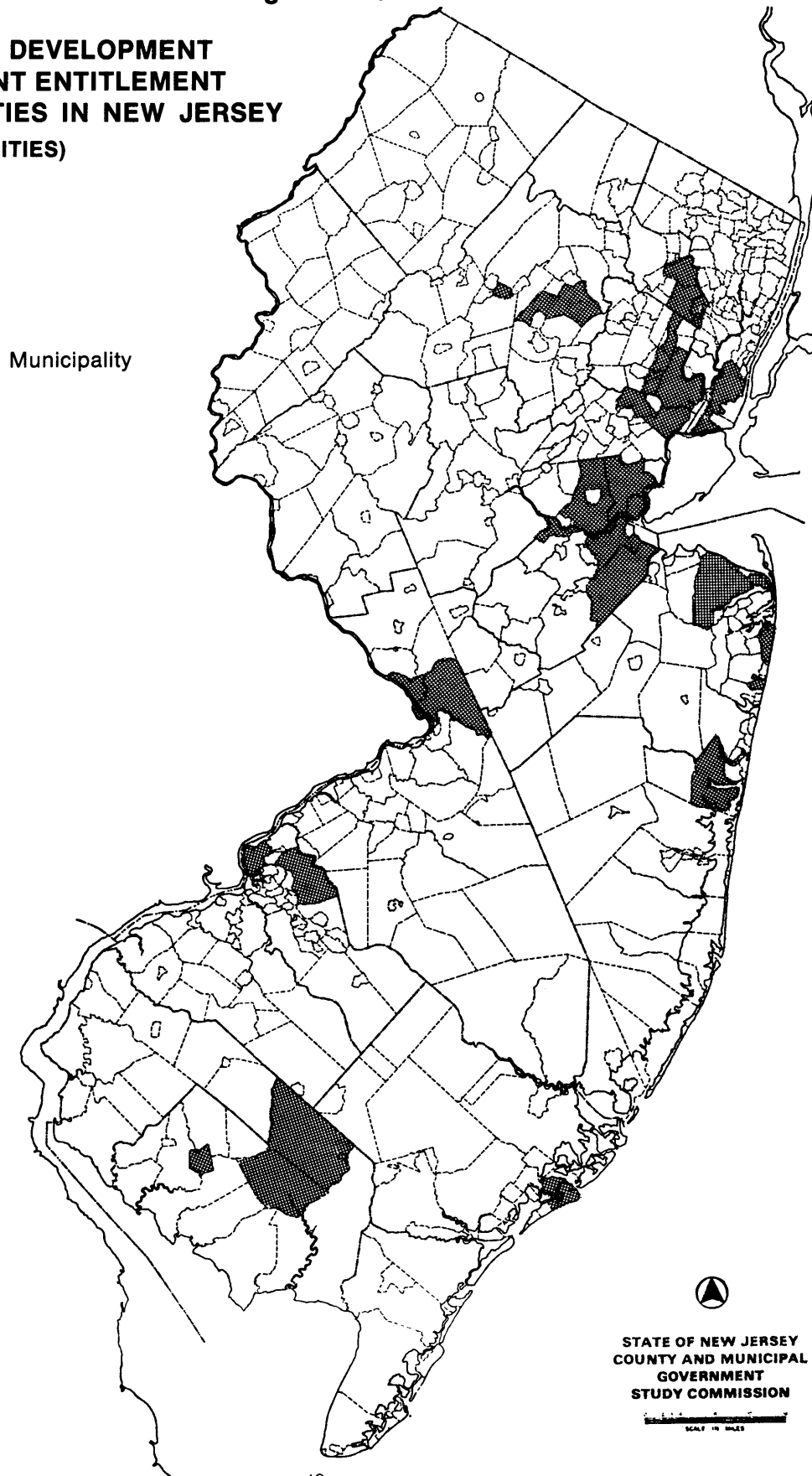
Figure III-4

COMMUNITY DEVELOPMENT BLOCK GRANT ENTITLEMENT MUNICIPALITIES IN NEW JERSEY (32 MUNICIPALITIES)

 Entitlement Municipality



COUNTY KEY MAP



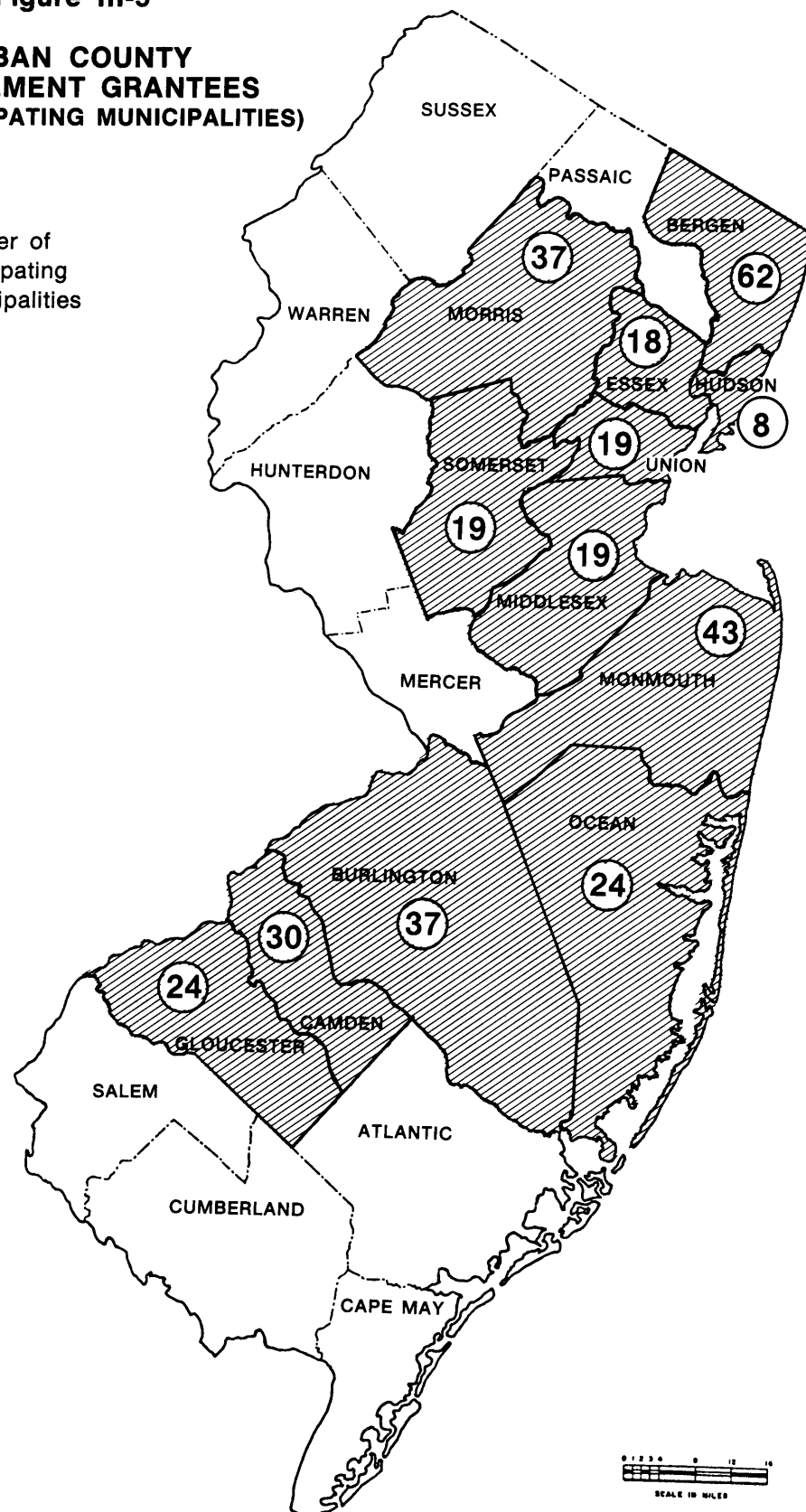
STATE OF NEW JERSEY
COUNTY AND MUNICIPAL
GOVERNMENT
STUDY COMMISSION

SCALE 1:50,000

Figure III-5

**URBAN COUNTY
ENTITLEMENT GRANTEES
(340 PARTICIPATING MUNICIPALITIES)**

○ = Number of
Participating
Municipalities



Amboy, have been created recently. Most of the others have transferred this function into a division or department of community development within the local government administration, with the municipality designating itself as the local redevelopment agency. In another 27 municipalities, the local housing authority is designated as the redevelopment agency of the municipality.

Urban Development Action Grants:

After the enactment of the original Housing and Community Development Act in 1974, it became clear that there still was a need to assist urban municipalities in funding the up-front capital costs inherent in local redevelopment efforts. In response to this need, Congress enacted the Urban Development Action Grant Program in 1977. Over the past decade, this has been the primary source of funding for redevelopment projects in New Jersey's major cities.

Unlike the old federal urban renewal program, which relied on massive public expenditures to attract development in urban areas, the U.D.A.G. program relies on leveraging a limited amount of federal dollars to attract private investment of capital several times the size of the original grant. Specifically, U.D.A.G.'s are awarded in those instances where the availability of a U.D.A.G. will generate at least \$2.50 in private investment for every \$1.00 of public funds. (In New Jersey the ratio has averaged about 5.2 to 1.) In essence, federal monies under the U.D.A.G. program have only been made available where there has been a serious interest and commitment by the private sector to invest in central cities.

With a smaller amount of federal dollars available and an emphasis on leveraging these dollars to attract private investment, local governments have begun to put a greater amount of the site acquisition and improvement costs, including the provision of infrastructure, on the private developer. The key governmental activity in this fiscal environment has been the development of attractive packages for these developers. These "packages" may include the use of eminent domain to acquire and assemble property for redevelopment, the securing of U.D.A.G.'s and other types of financing, and the provision of tax exemptions and abatements on redeveloped property.

To match up prospective developers with its redevelopment plans, a number of municipalities, in conjunction with local chambers of commerce or other business leaders, have formed local economic development corporations. Incorporated under New Jersey's not-for-profit statutes, these corporations are usually run by a board of directors which includes members from the public and private sector. Once established, a local economic development corporation acts as the municipality's "ombudsman" for economic development and redevelopment.

One of the primary activities of these corporations is the arranging of financing for developers and businesses which want to expand or rehabilitate existing facilities in the community. This can include the provision of a Small Business Administration loan, providing loans directly to the developer or business, guaranteeing loans secured by the developer from private sources, and providing technical assistance to the developer in the filling out of loan forms for U.D.A.G. and other grants. In addition, local economic development corporations facilitate development and redevelopment by matching up de-

velopers with potential sites, acting as a liaison between the developer and the local government, and providing management and job training services. Finally, local economic development corporations create a "climate" for investment by engaging in public relations and public information efforts, sponsoring local community events, including local trade shows and fairs, and engaging in a general campaign of "boosterism," highlighting the past successes and future potential of the community.

COMMISSION RECOMMENDATIONS:

A New Local Housing and Redevelopment Law

As can be seen from the discussions in the previous sections of this chapter, present state enabling acts provide counties and municipalities with a wide range of powers to plan, finance, and implement local housing and redevelopment programs in their communities. Yet, there remain important reasons to update and improve the current local redevelopment laws to provide for a more effective and efficient set of procedures and administrative guidelines for the implementation of local redevelopment programs. Specifically, gaps, redundancies and inconsistencies in the statutes have developed over the years as a result of the continual "layering" of new statutory provisions and cross-references. As presently formulated, New Jersey's local housing and redevelopment enabling acts represent a confusing and often ambiguous set of statutes placed throughout the various Titles of State law. In many instances, these statutes represent archaic "relics," incorporating procedures and approaches to housing and redevelopment that were developed to take advantage of federal aid programs which have since been eliminated or changed drastically. In other instances, statutes have been amended and new provisions added to address problems that have only been encountered in the implementation of a single redevelopment project. While once relevant, these provisions now only serve to confuse and complicate local redevelopment law.

Large municipalities which have extensive in-house legal, planning, and community development departments can often wade through the current provisions of redevelopment enabling law to reach a determination on what they can or cannot do under the present statutes. Even so, this process of legal interpretation can be time-consuming, causing critical delays in the implementation of redevelopment projects. For developers, these delays can result in significant added costs, potentially reducing their incentive to invest in deteriorated urban areas. If these delays prove to be extremely lengthy, municipalities can miss important opportunities to undertake the rehabilitation and redevelopment of their communities.

As can be seen from discussions in the previous chapters of this report, older suburban communities and rural centers can also benefit from redevelopment. However, in smaller municipalities which need redevelopment but do not have large legal and planning staffs, confusion in interpreting the current redevelopment laws can hinder or delay the implementation of local redevelopment programs. Even worse, a lack of understanding or limited awareness of the powers that are available to municipalities under current local housing and redevelopment laws can allow opportunities for local redevelopment in these communities to be missed entirely.

Clearly, the updating and revision of New Jersey's local redevelopment

laws would constitute more than a mere "house cleaning" of the current statutes for the sole purpose of easing the work load of local lawyers and planning officials. Rather, a thorough review and revision of these statutes would eliminate a significant constraint on the timely implementation of needed local redevelopment programs.

Based on its review of current local housing and redevelopment enabling laws and its analysis of the utilization of these statutes by local governments, the Commission believes that an update and revision of these statutes is long overdue. Therefore, the Commission recommends that the Local Housing Authorities Law, the Redevelopment Agencies Law, the Housing and Redevelopment Cooperation Law, and the Blighted Areas Act be consolidated into a single Local Housing and Redevelopment Law in Title 40A of the Revised Statutes.

In addition, the Commission has determined that the Urban Redevelopment Law, the Redevelopment Companies Law, and the Public Housing Law are no longer utilized or necessary, and recommends that they be repealed.

Basic Principles of a New Enabling Law

A new local housing and redevelopment law should clearly delineate the roles, powers and responsibilities of municipalities, counties, local redevelopment agencies, and housing authorities in the redevelopment process, and should clearly and concisely set forth the options available to local governments under State enabling law for financing and administering local housing and redevelopment programs. In addition to these basic principles, a new housing and redevelopment statute should:

1. Provide for local flexibility and control in the development, financing, and implementation of local redevelopment programs. The long term success of any redevelopment program is predicated on the ability of local governments to tailor programs to local resources and needs and to react quickly to changing circumstances and new opportunities. Any new redevelopment laws should provide local governments with increased control over the formulation and implementation of local redevelopment plans and a sufficient range of options from which to select those administrative and financing mechanisms most appropriate to local needs.

2. Provide for the broadest possible interpretation of the powers and responsibilities of local governments. New Jersey should take advantage of every opportunity to tap the resourcefulness of local governments and the private sector in developing long-term solutions to the deterioration of our cities, older suburban communities and rural centers. While it is necessary to provide appropriate regulation by the State to ensure the continued fiscal solvency of its local governments and special units of government, New Jersey's local redevelopment laws should be flexible enough to encourage the development of innovative techniques in the financing and implementation of local housing and redevelopment programs.

3. Allow all municipalities to utilize the provisions and powers of New Jersey's local redevelopment enabling laws. While State financial and technical assistance should be targeted to the neediest communities, many relatively sound communities do have areas that are in need of redevelopment. If a community can prove, in accordance with clearly defined criteria and guidelines, that it has an area in need of redevelopment or rehabilitation, then it

should be able to utilize all statutorially authorized techniques to eliminate or prevent the spread of these conditions.

4. Maintain, and in some cases increase, the public accountability of local entities involved in the redevelopment process. At the local level, this means the continuation of appropriate public review and input with respect to designation of areas in need of redevelopment and rehabilitation, the formulation of local redevelopment plans, and the public acquisition of property in the redevelopment area.

In addition to maintaining public input into the redevelopment process, a new local housing and redevelopment law should recognize the State's fiscal oversight role as set forth in the *Local Authorities Fiscal Control Law*, P.L. 1983, c. 313 (C. 40A:5A-1 *et seq.*). State review and approval of the ordinances creating local housing and redevelopment entities, as well as the annual budgets and bond issues of these agencies and authorities are necessary to ensure the continued fiscal solvency of New Jersey's local units of government.

The compilation of this information at the State level is also important in the continuing process of formulating, evaluating, and amending State aid programs and local redevelopment enabling acts. While unneeded regulations and approvals can be eliminated or streamlined, New Jersey needs a continuing flow of information on local redevelopment efforts and utilization of current State programs and statutory provisions to know what works, what should be changed, and what should be eliminated.

5. Maintain clear links to a comprehensive local and regional planning process. It is essential that local redevelopment plans be integrated with the comprehensive master planning process of the municipality and that all necessary hearings and planning board approvals be retained in any new redevelopment laws. Because of their potential regional impacts, the formulation and implementation of local redevelopment plans should also be linked to the comprehensive state and regional planning process.

A Model for a New Local Housing and Redevelopment Law

Applying the criteria set forth above to the problems and issues discussed in this chapter, the Commission recommends that a new local housing and redevelopment law incorporate the following components:

1. Policies and goals of the legislation:

A single clear statement of legislative intent should be incorporated into the new local housing and redevelopment law. Such a statement should incorporate those legislative findings contained in the *Redevelopment Agencies Law*, *Local Housing Authorities Law*, and *Housing and Redevelopment Cooperation Law* which continue to be relevant to today's problems and needs. Those passages which are antiquated or no longer relevant should be updated or eliminated. In addition, such a statement should stress the need to leverage or encourage private sector investment in communities in need of redevelopment and rehabilitation.

2. Definitions:

All relevant terms should be clearly defined and remain consistent throughout this statute and as referenced in other related statutes. The terms

"blight" and "blighted areas," as well as their definitions, should be changed as per the Commission's recommendations contained in item 6 of this section.

3. Public entities administering and implementing local redevelopment programs:

a) Local redevelopment agencies:

A new local housing and redevelopment law should clearly delineate the options available to municipalities and counties with respect to the governmental entities that can undertake housing and redevelopment projects in the community. In this context, municipalities should be encouraged to take on a greater role in the process of redevelopment. While some municipalities may prefer to have a separate governmental entity responsible for local redevelopment, local control, responsiveness, and accountability increase when the municipality assumes this responsibility itself.

While the creation of separate redevelopment agencies isolated from the vagaries of the local political process made sense when the first redevelopment laws were enacted, over the last three decades there has been established in various state statutes, including the *Municipal Land Use Law*, the *Eminent Domain Law*, the *Local Authorities Fiscal Control Law*, the redevelopment enabling act themselves, and other relevant provisions of Title 40 and 40A, appropriate review and oversight mechanisms to ensure that the local redevelopment process is not abused or mishandled.

Through the enactment of various State enabling acts, Constitutional provisions, and related court cases, it has become evident that the process of redevelopment constitutes an essential activity of New Jersey's municipal governments. The Commission feels that this fact should be recognized in a new local housing and redevelopment law.

Therefore, the Commission recommends that a new local housing and redevelopment law eliminate the statutory authorization for the creation of a separate redevelopment agency and provide that any municipality, by ordinance, can authorize itself to be the local redevelopment agency for the municipality and, in so doing, utilize all appropriate and statutorily authorized powers to plan, finance, and undertake redevelopment projects for the municipality.

b) Local housing authorities:

In those instances where a public housing project is to be constructed, operated, and maintained over a period of years, provisions should be included in the new law to provide for the establishment of a separate local housing authority. Local housing authorities should not be given the power to undertake redevelopment, except in the context of the implementation of a local housing project. The current provisions for the establishment of a county housing authority (NJSA 55:14A-4) or county public housing agency (NJSA 40:32A-1 and 2) should be included in a new local housing and redevelopment law.

The basic provisions of the current enabling laws with regards to membership on housing authorities should remain the same. However, the appointments made by the DCA to a local housing authority should be eliminated. With the requirement for the filing of ordinances and budgets with the State, these appointed positions would not be necessary.

c) Grandfather provisions:

The Commission does understand that in some communities a separate redevelopment agency or a housing authority with redevelopment powers has worked well. In these cases, the Commission recommends that provisions be included to allow these entities be grandfathered into the new law. However, the Commission further recommends that the statute authorizing the creation or continuance of a local housing authority or redevelopment agency should include a "sunset" provision, setting forth a specific time limit for local government action to review, assess, and extend the activities of any existing agency.

d) Notification to appropriate state agencies:

To allow the State to continue an appropriate oversight role, the ordinance creating a local housing authority or a local housing and redevelopment agency should be filed with the Local Finance Board, for its review and approval as per the provisions of the *Local Authorities Fiscal Control Law*, P.L. 1983, c. 313 (C. 40A:5A-1 *et seq.*), as well with the Division of Local Government Services in the Department of Community Affairs.

4. Powers of local housing authorities and redevelopment agencies:

In designating itself as the local redevelopment agency, municipalities should be provided with all those powers necessary to implement a comprehensive local redevelopment program. Specifically, these powers should include:

- a) General Corporate and Governmental Powers, including the power to:
 - Sue or be sued;
 - Adopt and alter a seal;
 - Adopt and amend by-laws, rules and regulations;
 - Enter into contracts and agreements with public and private entities;
 - Negotiate and pay salaries;
 - Acquire, own and hold real or personal property and provide for its improvements, repair or maintenance; and,
 - Insure all real and personal property.
- b) Financing powers, including the power to:
 - Issue tax exempt bonds, notes, and bond anticipation notes at par or less than par, and at private or public sales;
 - Receive grants and loans from federal, state, and local governments, as well as other authorities, agencies, and public entities;
 - Invest funds, purchase bonds, and receive interest on these investments;
 - Take out mortgage on real property owned by the agency;
 - Sell or lease dwellings, lands, buildings, or other real property;

- Obtain federal, State, or local guarantees on bonds issued by the agency or authority; and,
- Utilize tax increment financing techniques in accordance with the provisions of the *Tax Increment Financing Act*.

c) Other powers related to the implementation of local housing and redevelopment projects, including the power to:

- Use eminent domain in areas in need of redevelopment, in accordance with the procedures in the *Eminent Domain Law*, to acquire property;
- Clear land and construct site improvements, including streets and other infrastructure facilities, in accordance with a local redevelopment plan;
- Relocate residents and businesses;
- Convey land, buildings, or other real property to private and public entities for the purpose of redevelopment;
- Make all necessary studies, surveys, plans, and investigations;
- Enter into contracts with public and private entities for the provisions of services, utilities, and other necessary facilities; and,
- Make recommendations to the governing body and planning board to designate areas as being in need of redevelopment or rehabilitation.

Bonds issued by local housing authorities and redevelopment agencies should be secured by the revenues of the agency and, as such, be excluded from the gross debt of the municipality. Municipalities should, at their discretion, have the authority to guarantee the bonds of a local housing authority or and redevelopment agency with a pledge of the full faith and credit of the municipality.

In addition, county and municipal housing authorities, as well as county public housing agencies should be provided with all those powers given them in the current enabling acts, including the power to own, operate, and maintain local public housing projects, and to issue revenue bonds secured from the rents and other revenues or these projects. As noted previously, local housing authorities should not be given the power to undertake redevelopment programs, except in the context of the implementation of a local housing project or when they have been grandfathered into the new law.

As per the provisions of the *Local Authorities Fiscal Control Law*, P.L. 1983, c. 313, all local housing authorities and redevelopment agencies should file their annual budgets for review and approval by the Division of Local Government Services and submit all security agreements for the financing of its projects to the Local Finance Board for its review and approval.

5. Relationship of local redevelopment plans to the comprehensive planning process:

It is clear that the primacy of municipal home rule in establishing appropriate goals and strategies for the community should be maintained. Because of their potential regional impacts, however, the formulation and im-

plementation of local redevelopment plans should be linked to the comprehensive state and regional planning process. *As such, the Commission recommends that all proposed local redevelopment plans be filed with the State Planning Commission and the county planning board for their review and comment with respect to the regional impacts of the plan and its relationship to the goals and provisions of the State Development and Redevelopment Plan and the county plan, respectively. A time limit for State review and comment should be included in the law.*

6. Procedures for the determination and designation of blighted areas:

The concept of a "blighted" area has changed considerably since the term was introduced in earlier redevelopment statutes. Over the past three decades, the focus of public action with respect to redevelopment has shifted from the elimination of "unsanitary," congested and unsafe slums, to the rehabilitation and conservation of declining neighborhoods, and to the enhancement and improvement of underutilized commercial and industrial areas. It is evident that the concept of a "blighted" area is no longer relevant and, in fact, carries an unnecessarily negative connotation. In some cases, this can represent a political constraint in municipalities that are considering the redevelopment of parts of their communities.

In addition, the current procedures for designating areas as blighted or in need of rehabilitation are cumbersome and unnecessarily complicated, requiring (in the case of areas in need of rehabilitation) that the designation be made by either the municipality, county or Department of Community Affairs, depending on the type of tax abatement specified.

Therefore, the Commission recommends that a new local housing and redevelopment law allow municipalities to designate an area as either being an "area in need of redevelopment" or an "area in need of rehabilitation."

a) Areas in need of redevelopment:

Designation of areas in need of redevelopment should only take place after appropriate public hearings and a formal recommendation by the local planning board, with the municipal governing body approving or modifying any such recommendation. Once an area has been designated as being in need of redevelopment and the governing body has adopted a redevelopment plan for the area, the local housing and redevelopment agency should be able to acquire property by eminent domain or other means, clear and rehabilitate properties in the area, undertake redevelopment, and exercise all relevant financing, and other powers provided for in the new local housing and redevelopment law.

The definition of an area in need of redevelopment should be adapted from the current definition of a blighted area, broadening it to include the under-utilization of existing commercial and industrial properties in the community. Any designation of an area as being in need of redevelopment should have a specific time limit, requiring a periodic re-examination and renewal of the designation after a number of years (possibly six years or for a period running concurrently with the local master plan).

b) Areas in need of rehabilitation:

An area in need of rehabilitation should be defined as any area in need of redevelopment, plus areas where: 1) a significant portion of the residential,

commercial, and industrial structures are in a deteriorated or substandard condition; 2) there exists a continuing pattern of property tax arrearage and vacant or underutilized properties; and, 3) where a program of rehabilitation, improvement, and new infill construction will prevent further deterioration and promote the overall development of the community. A less formal review procedure should be instituted, with the Department of Community Affairs designating an area as being in need of rehabilitation upon application of the municipality. An area of the municipality or the entire municipality, could be designated if appropriate, as an area in need of rehabilitation. Such a designation should include a time limit, at which time a review of the original designation should take place.

Designating an area as being in need of rehabilitation should allow all properties in the area to be eligible for tax abatements for the purpose of rehabilitating or improving existing residential or commercial structures and for the construction of new "in-fill" housing or conversion of existing structures to multi-family housing. (See Commission recommendations in Chapter 5.) Areas in need of rehabilitation should also be eligible, in accordance with adopted State regulations, to receive aid and assistance under relevant state programs for neighborhood preservation, conservation, and rehabilitation. Local housing and redevelopment agencies should not be able to use eminent domain powers in an area in need of rehabilitation unless it is also designated as an area in need of redevelopment.

7. Local government assistance and cooperation in local housing and redevelopment projects:

Finally, any new local housing and redevelopment law should provide municipalities, counties, authorities and all other public entities with those powers necessary to assist and cooperate with local housing authorities and local redevelopment agencies. These powers should include all those powers set forth in the *Housing and Redevelopment Cooperation Law*, including the power to enter into contracts and service agreements, provide grants and loans, adopt and amend land use and other plans, zone or rezone all or part of the municipality, and issue bonds and notes on behalf of local housing authorities and redevelopment agencies. All bonds and notes issued in behalf of local housing authorities and redevelopment agencies should be reported to the Local Finance Board for their review and approval and, as per the provisions of the current statute, should be temporarily exempted from the gross debt of the municipality. In addition, counties and municipalities should be given the authority as per the provisions of P.L. 1984, c. 141, to pledge their full faith and credit to secure the payment of bonds and notes issued by the local housing authorities and redevelopment agencies.

Footnotes—Chapter III

1. Julius Seaman, "New Jersey Housing Legislation and Programs" in *Financing Housing and Urban Development*, ed. Arthur A. Goldberg, Bureau of Government Research, Rutgers University, 1974, p. 29. Mr. Seaman's article is one of the best and most comprehensive reviews of the history of early housing and redevelopment legislation in New Jersey and has been utilized extensively in the development of this chapter.
2. Ibid, p. 31.
3. Ibid.
4. Ibid.
5. While the Department of Community Affairs officially retains all the powers of the State Housing Authority, redevelopment became a local activity with the enactment of the *Local Housing Authority Law* in 1933. See following sections of this chapter.
6. Laurence Conway Gerckens, "Historical Development of American City Planning," in *The Practice of Local Government Planning*, ed. Frank S. So, et al., International City Managers Association, Washington, D.C., 1979, p. 41.
7. Ibid.
8. Counties were allowed to establish housing authorities under the provisions of P.L. 1938, c. 210 (NJSA 55:14A-4).
9. The original law called for the appointment of five members by the local governing body, and was subsequently amended by P.L. 1950, c. 67, §3 to include a member appointed by the executive officer of the Public Housing and Development Authority (the Commissioner of the Department of Community Affairs), and amended by P.L. 1975, c. 239, §1, to include a member appointed by the chief executive officer of the municipality or county.
10. While regional housing authorities can only be created by joint municipal action, P.L. 1947, c. 374, §4 (C. 55:14A-30) states that two or more local housing authorities can, in their areas of operation, "join or cooperate with one another in the exercise of any or all of the powers conferred" by NJSA 55:14A-1 to -8 and NJSA 55:14A-28.
11. P.L. 1975, c. 239, §1 increased the number of state appointments to regional housing authorities from one member to two.
12. These provisions were amended by P.L. 1984, c. 12 to allow the local governing body to lease or convey property when it is acting as the housing authority for the municipality or county.
13. The title of this act was changed to the *Housing and Redevelopment Cooperation Law* by P.L. 1979, c. 345.
14. P.L. 1956, c. 210 (C. 55:14B-9 to 13) expanded these provisions to include assistance and cooperation with local housing authorities and redevelopment agencies with respect to the implementation of redevelopment projects.
15. Gerckens, p. 45.
16. These constitutional questions had been raised with respect to the two "Peiser Acts" [*The Redevelopment Companies Law*, P.L. 1944, c. 169 (C. 55:14D-1 et seq.), and *The Urban Redevelopment Law*, P.L. 1946, c. 52 (C. 55:14E-1 et seq.)], especially with respect to the tax exemption provisions in the *Redevelopment Companies Law*. See discussion in Seaman, pp. 44-47 for an overview of these two statutes.
17. New Jersey Constitution Article VIII, Section III.
18. P.L. 1980, c. 121, §4, amended NJSA 40:55C-17 to provide for redevelopment in "areas in need of rehabilitation so as to prevent the existence of blighted conditions." Such a determination "may take into consideration the existence of blighted areas elsewhere in the municipality, deterioration of housing stock, age of housing stock, supply and demand for housing in the municipality, and arrearage in real property taxes due on residential properties." (See also notes 23 and 28)
19. The 1949 Act was amended by P.L. 1951, c. 248 to bring it into accordance with the blight definition contained in the 1949 supplement to the *Local Housing Authorities Law*.
20. P.L. 1985, c. 435.
21. P.L. 1986, c. 151 (NJSA 40:55-21.1(f)).
22. P.L. 1975, c. 206, §2. See also NJSA 40:55C-12 (k) which was also added by this act.
23. P.L. 1980, c. 121 authorized redevelopment agencies to undertake all powers specified in NJSA 40:55C-15 in "areas in need of rehabilitation," except for the acquisition of property by eminent domain.

24. See also the provisions of NJSA 40:55C-19.
25. This statute was amended by P.L. 1967, c. 313 to provide for tax abatements to non-profit, as well as limited-dividend, housing corporations and associations. The title of the statute was also changed to the *Limited-Dividend Nonprofit Housing Corporations or Associations Law*.
26. Gerckens, pp. 46-47. See also "Technical Report No. 1: Urban Renewal and Federal Programs, 1950-1960," of the *Northeastern New Jersey Regional Urban Renewal Survey*, Department of Conservation and Economic Development, Trenton, NJ, 1963, pp. 10, and 14-15.
27. Department of Conservation and Economic Development, p. 15.
28. NJSA 40:55C-31 was amended by P.L. 1980, c. 121, §5 to allow redevelopment projects in "Areas otherwise in need of rehabilitation to prevent the existence of blighted conditions."
29. As per Section 2 of P.L. 1984, c. 141, such financial assistance can include the unconditional guaranteeing of repayment of the bonds issued by the local housing authority or redevelopment agency.
30. Seaman, "New Jersey Housing Legislation and Programs," p. 38.
31. Ibid.
32. Seaman, pp. 98-100, from statistical information available from the Division of Housing, Department of Community Affairs.
33. Seaman, p. 101, from statistical information available from the division of Housing, Department of Community Affairs.
34. Gerckens, "Historical Development of American City Planning," pp. 52-53.
35. U.S. Advisory Commission on Intergovernmental Relations, *The States and Distressed Communities*, A-101, Washington, D.C., November 1985, p. 36.
36. Claude Miller and Arthur Alba Goldberg, "Applying for Urban Renewal Funds," in *Financing Housing and Urban Development*, Arthur A. Goldberg, ed., Bureau of Government Research, Rutgers University, 1974, pp. 126-127.
37. Department of Conservation and Economic Development, "Technical Report No. 1," *Northeast New Jersey Urban Renewal Survey*, p. 21.
38. This description of the provisions of the Community Development Block Grant Program is taken from the 1985 Annual Report of the Community Planning and Development Division of the Newark Office of the Department of Housing and Urban Development.
39. U.S. Department of Housing and Urban Development, *Community Development Block Grant Program: Directory of Allocation FY 1980-85*.
40. Ibid.
41. Ibid. Gloucester, Ocean and Somerset Counties entered the community development block grant programs as urban counties in 1984.

Chapter IV

STATUTORY BASIS FOR REDEVELOPMENT: PROPERTY TAX EXEMPTIONS FOR REDEVELOPMENT

As we have discussed throughout this report, the success of local redevelopment programs is predicated on the ability of municipalities to attract private sector development into their communities. An important disincentive to this private sector involvement is the high tax rates in communities in need of redevelopment. While various studies have shown that local tax rates are not primary determinant in a firm's locational decisions, given a situation in which other cost factors are equal, a high tax rate can tip the balance against these communities.

Because of these high tax rates, as well as the high costs of development and other disadvantages associated with deteriorated or blighted areas, municipalities in need of redevelopment must provide prospective private developers with substantial financial incentives to encourage private investment in their communities. One of the most important financial incentives that these communities can offer is an exemption or abatement from full payment of local property taxes.

New Jersey and its local governments have long recognized the important role that tax abatements and exemptions play in a comprehensive local redevelopment program, with this important public purpose twice recognized in New Jersey's Constitution and set forth in State law. Using the authority provided in its Constitution, New Jersey has enacted nine separate enabling acts which authorize municipalities to provide corporations and associations (as well as individual homeowners) with property tax abatements and exemptions for the purpose of local housing and redevelopment.

In this chapter, we will continue our analysis of New Jersey's local redevelopment enabling laws by describing the provisions of two early State tax exemption enabling acts, the first of the two property tax exemption provisions in New Jersey's Constitution, the four enabling laws enacted using this constitutional authority, and the utilization of these provisions by local governments in New Jersey. In addition, we will discuss the problems encountered by municipalities in developing and implementing local tax exemption strategies and recommend a model for a new property tax exemption statute for housing and redevelopment.

EARLY STATE ENABLING LEGISLATION:

The Redevelopment Companies Law

Municipalities have had the statutory authority to use local property tax exemptions to encourage private investment in blighted areas since the early 1940s. The *Redevelopment Companies Law*, P.L. 1944, c. 169 (C. 55:14D-1 *et seq.*) commonly known as the Peiser Act after its legislative sponsor, was the first such statute to authorize municipalities to provide tax exemptions on privately owned property for the purpose of redevelopment. The statute declared that blighted areas and substandard housing conditions exist in certain municipalities in the state, and that these conditions "depress and destroy the

economic value of large areas and, by impairing the value of private investments, threaten the sources of public revenue" (NJSA 55:14D-2). Further, the Legislature declared that the redevelopment of these areas could not occur without the investment of private capital, and that such investment should be encouraged through the "substantial contribution and cooperation" of federal, state, and local governments, including the use of eminent domain on behalf of private entities engaged in redevelopment and the provision of tax abatements and exemptions for these projects (NJSA 55:14D-2).

The Redevelopment Companies Law established the basic framework for all future enabling acts authorizing local property tax exemptions for housing and redevelopment purposes. Specifically, the statute:

- 1. Authorized the creation of a private company for the purpose of undertaking local redevelopment;*
- 2. Limited the dividends or profits of the company;*
- 3. Authorized the municipality to exempt all or a portion of the redeveloped property from local property taxes;*
- 4. Provided for in-lieu of tax payments by the redevelopment company;*
- 5. Established the contractual relationship between the redevelopment company and the municipality, setting forth the obligations of the redevelopment company and municipality under both the terms of the contract and the provisions of relevant statutes; and;*
- 6. Authorized the use of local government powers by the municipality on behalf of the redevelopment company.*

Under the provisions of the *Redevelopment Companies Law*, three or more individuals, including "one or more insurance companies, savings banks and loan associations," could establish a redevelopment company by filing documents of incorporation with the Secretary of State and the county clerk of the county in which the redevelopment company was formed (NJSA 55:14D-4 and -25). Once established, redevelopment companies were authorized to undertake redevelopment projects which were to be primarily residential in character, but could include commercial and industrial components, as well as cultural and recreational areas (NJSA 55:14D-3(8) and -14). These projects were to be undertaken in accordance with a plan for the "clearance, replanning and reconstruction or rehabilitation of a substandard or insanitary area or areas" which was to be approved by the planning board or governing body of the municipality after appropriate public hearings (NJSA 55:14D-3(7) and -15).

Upon approval of the plan by the appropriate local supervising agency, the governing body would enter into a contract with the redevelopment company to undertake the proposed project (NJSA 55:14D-15). A contract between a municipality and a redevelopment company could include requirements for the dedication of lands for parks, streets, and other public facilities by the redevelopment company. Under the provisions of such a contract the municipality could acquire property by eminent domain, so long as the contract specified that the costs of such acquisition would be defrayed by the redevelopment company (NJSA 55:14D-20). In addition, the statute authorized the municipality to appropriate monies and accept grants and loans from the federal and State governments to acquire land for a project (NJSA 55:14D-28).

A municipality could, by ordinance, exempt property owned and improved by a redevelopment company from any increase in property tax due to the increased value resulting from the redevelopment project. This exemption period could be up to 25 years (NJSA 55:14D-26(a)). As an alternative, the municipality could declare that the property improved by the redevelopment company was public property and, as such, exempt from all property taxes. Such a designation was accompanied by an agreement by the redevelopment company to make an in-lieu of tax payment for local public service provision (NJSA 55:14D-26(b)). In either case, a project could not be modified or sold during the period of property tax exemption without the approval of the local supervising agency (NJSA 55:14D-16 and -23).

During the exemption period, the profits or dividends payable to the shareholders of a redevelopment company were limited to 6 percent per year (NJSA 55:14D-8).

While the Redevelopment Companies Law provided the basic model for future tax exemption statutes, it was ineffective in attracting new private development to the urban areas of the state.¹ In addition, questions were raised about the constitutionality of the statute's property tax exemption provisions.² Currently, there are no redevelopment companies operating in New Jersey, and the law remains unused.

The Urban Redevelopment Law

To address the problems and questions that were raised with respect to the *Redevelopment Companies Law*, the Legislature enacted the *Urban Redevelopment Law*, P.L. 1946, c. 52 (C. 55:14E-1 *et seq.*). Commonly known as the second "Peiser Act," the *Urban Redevelopment Law* authorized any corporation incorporated under New Jersey law, including banks, insurance companies, or savings and loan associations, to undertake a project for the clearance, planning, development or redevelopment of a "blighted area" of the municipality (NJSA 55:14E-3).³ Such a project could only have been undertaken upon approval of the local governing body.

Unlike the *Redevelopment Companies Law*, the land upon which the project was to be undertaken remained in the ownership of the municipality and was leased to the developer for a period of twenty-five years or up to sixty years with renewals of the lease (NJSA 55:14E-5(a) and -13). During this period, the buildings and improvements were owned by the corporation (NJSA 55:14E-13). When the project was fully amortized, the buildings and other improvements would be turned over to the municipality (NJSA 55:14E-5 and -24).⁴

As with the *Redevelopment Companies Law*, the municipality was authorized to acquire land by purchase, gift, or eminent domain for the project (NJSA 55:14E-5(a) and -6), and to appropriate monies or accept grants and loans from the federal or State governments for such purposes (NJSA 55:14E-15).⁵ In addition, provisions were made for tax exemptions and in-lieu of tax payments on the redeveloped property (NJSA 55:14E-11), and the dividends or profits of the corporation were limited (NJSA 55:14E-23).⁶

Although the tax exemption provisions of the statute were upheld by the court in *Redfern v. Board of Commissioners of Jersey City*, 137 N.J.L. 356 (1948)

the *Urban Redevelopment Law* was also ineffective in attracting new development into urban areas.⁷

While the Redevelopment Companies Law and the Urban Redevelopment Law were important first steps in establishing the legislative framework for future local property tax abatement statutes, they are no longer relevant to today's redevelopment programs and strategies. Therefore, the Commission recommends that both these laws be repealed.

The 1947 Constitution

To address the questions that had been raised concerning the constitutionality of the use of tax exemptions to encourage redevelopment in blighted areas of the state, the framers of New Jersey's 1947 Constitution included language in the new constitution declaring these activities a legitimate public purpose.⁸ As per the provisions of Article IV, Section II, paragraph 4:

The clearance, replanning, development or redevelopment of blighted areas shall be a public purpose and public use, for which private property may be taken or acquired. Municipal, public or private corporations may be authorized by law to undertake such clearance, replanning, development or redevelopment; and *improvements made for these purposes and uses, or for any of them, may be exempted from taxation, in whole or in part, for a limited period of time during which the profits of and dividends payable by any private corporation enjoying such tax exemptions shall be limited by law.* The conditions of use, ownership, management and control of such improvements shall be regulated by law. (emphasis added)

CURRENT TAX EXEMPTION STATUTES: COMPARATIVE PROVISIONS AND COMMISSION RECOMMENDATIONS:

Using the authority vested in its 1947 Constitution, New Jersey has enacted four property tax exemption statutes for the purpose of housing and redevelopment. These statutes include:

1. *The Limited-Dividend Nonprofit Housing Corporations or Associations Law*, P.L. 1949, c. 184 (C. 55:16-1 *et seq.*): Enacted two years after the 1947 Constitution and originally entitled *Limited-Dividend Housing Corporations Law*, this statute originally authorized the creation of private limited-dividend corporations to undertake housing projects and receive tax exemptions on these projects. This statute was amended extensively in 1967,⁹ and now provides for the creation of limited-dividend and non-profit housing associations and non-profit corporations in addition to limited-dividend housing corporations.
2. *The Senior Citizen Nonprofit Rental Housing Tax Law of 1965*, P.L. 1965, c. 92 (C. 55:14I-1 *et seq.*): Authorizes municipalities to grant property tax exemptions on senior citizen rental housing projects undertaken by non-profit corporations and receiving funding under the provisions of Section 202 of the *Federal Housing Act of 1959*.
3. *The Urban Renewal Corporation and Association Law of 1961*, P.L. 1961, c. 40 (C. 40:55C-40 *et seq.*): Commonly referred to as the *Fox-Lance Act* after its primary legislative sponsors,¹⁰ this law authorizes the creation of private limited profit urban renewal corporations or

associations which can enter into a written agreement with a municipality to plan, develop, construct or maintain a redevelopment project, and receive property tax exemptions on such projects.

4. *The Urban Renewal Nonprofit Corporation Law of 1965*, P.L. 1965, c. 95 (C. 40:55C-77 *et seq.*): Following the same format as the 1961 *Fox-Lance Act*, this statute authorizes private non-profit corporations to undertake redevelopment projects and receive tax exemptions on these projects.

Each of these statutes follows the same basic structure as the *Redevelopment Companies Law* and contains many common features. Each of the four laws provides for or specifies:

1. The creation of a private corporation or association for the purpose of undertaking a housing or redevelopment project, and defines the method by which the corporation or association is formed, and sets forth powers of such entities;
2. The type of projects that can be undertaken by these corporations or associations;
3. Where these projects can be undertaken;
4. The process by which the project is approved by the municipality and/or the State;
5. The State regulatory role, including the review and approval of the creation of the corporation or association, project approval, review and approval of the financial agreement, and any other regulatory responsibilities;
6. The contents of any written agreement which may be required between the private corporation or association and the municipality;
7. The term, or length of time the tax exemption is in effect;
8. The formula and schedule for in-lieu of tax payments made by the corporation and association; and
9. The limitation on the profits and dividends payable to the shareholder or partner.

What follows is a review of the provisions of each of the four tax exemption statutes enacted under the provisions of the 1947 Constitution. As will be seen, many of these provisions are common to each of the four laws, in some instances taking the exact language from the other statutes. Often the differences are so subtle that the reasons for the distinction has been lost over time.

Because of the growing importance of private sector initiatives in local redevelopment strategies, it is essential that municipalities have a clear and comprehensive tax exemption enabling statute which is easy to understand and use. The Commission's analysis suggests, however, that current enabling law for property tax exemptions is redundant, overly complex, and does not provide municipalities sufficient flexibility to design a property tax exemption strategy tailored to their own unique needs and economic conditions. It is the Commission's opinion that a complete revision of these statutes is appropriate

TABLE IV-I: PROVISIONS OF NEW JERSEY'S

Statute	Private Entity Created or Specified	Type of Project	Where Project Can Be Undertaken	Project Approval
Limited-Dividend Nonprofit Housing Corporations or Associations Law (P.L. 1949, c.184; amended by P.L. 1967, c.112)	Limited-Dividend or Nonprofit Housing Corporation formed by 3 or more persons filing "certificate of incorporation" under Title 14; or a Limited-Dividend or Nonprofit Housing Association formed by one or more persons filing a certificate of organization" as per provisions of relevant statutes.	Housing for "families in need of housing" including appurtenant facilities.	Blighted area or anywhere in the municipality if the governing body determines that the project "is an improvement for the clearance, replanning, or development of any blighted area."	By municipality, with final approval by the Department of Community Affairs if DCA determines that: 1) Project is in an area where rental units are not being provided by private enterprise. 2) The financial plan can "reasonably assure" success of the project.
Senior Citizen Non-Profit Housing Tax Law (P.L. 1965, c.92)	Any non-profit corporation established under the provisions of Title 15.	Non-profit rental housing for elderly and elderly families. Projects must receive aid from Section 202 of the Federal Housing Act of 1959.	Blighted area	Municipality by resolution finds project is an improvement for the "clearance, replanning, development of any blighted area."
Urban Renewal Corporation and Association Law of 1961 (Fox-Lance Act) (P.L. 1961, c.40)	Urban Renewal Corporation formed under Title 14 or 14A; Urban Reassociation under statutes governing associations.	Industrial, commercial, residential, cultural, or recreational projects or State Investment Projects.	1) Blighted area; 2) In, or adjacent to, a State Investment Blighted Area; or 3) In an area designated as an urban enterprise zone.	Written application is made to mayor, who makes recommendation for approval to local governing body.
Urban Renewal Non-profit Corporation Law of 1961 (P.L. 1965, c.95)	Non-Profit Urban Renewal Corporation under Title 15.	Same as Fox-Lance, except no provisions for a State investment project.	1) Blighted area; or, 2) In an area designated as an urban enterprise zone	Same as Fox-Lance

PROPERTY TAX EXEMPTION STATUTES

State Regulatory Role	Agreement Between Municipality and Entity	In-Lieu of Tax Payments	Limits on Profits and Dividends	Period of Abatement
DCA approves certificate of incorporation or organization and specific projects. DCA can supervise planning, development, and management of a project, review financial records of corporation or association, and institute legal proceedings against such corporations or associations.	No financial agreement specified, but during the exemption period the corporation or association must: 1) conform to requirements of all applicable ordinances; 2) agree to a limitation of profits; and, 3) provide in-lieu of tax payments	15 percent of the gross shelter rents or tax on property in the year the project is started (whichever is greater).	Cumulative profits or dividends of shareholders in the corporation and partners in the association are limited to 8 percent annually.	Up to 50 years
None	No financial agreement specified.	15 percent of annual gross shelter rents.	Nonprofit Corporation	Up to 50 years
None	1) Full compliance with terms of written agreement within 20 years (30 years for housing projects); 2) Limited profits 3) Excess profits to municipality.	15 percent of annual gross revenue or 2 percent of the total project cost. Special formula for condominium units.	1) Allowable Net Profit = 1¼% above mortgage financing or comparable mortgage rates times total project cost 2) 10 percent of the gross annual revenue kept as a contingency fund; 3) All excess profits paid to the municipality	1) Commercial and Industrial Project: 20 years from execution of the financial agreement or 15 years from completion of first unit. 2) Housing project: 35 years or 30 years from completion of first unit or, in the case of condominiums, recording of the master deed.
None	1) Full conformance with terms of agreement within 25 years; 2) No profits allowed; project 3) All profits to municipality	15 percent of annual gross revenue or 2 percent of total cost. No provisions for condominium units.	1) Nonprofit Corporation 2) 10 percent of gross annual revenues for contingency fund; 3) All other profits paid to the municipality.	25 years from execution of financial agreement, or 20 years from completion of first unit.

and necessary. *Therefore, the Commission recommends that the four tax exemption statutes described in this chapter be consolidated into a single statute eliminating redundant, unnecessary, or outdated provisions and incorporating all those powers and provisions in the current statutes which are necessary to implement an effective local property tax exemption program for housing and re-development.*

In the following sections we will review and compare various provisions of each of the current tax exemption enabling laws and recommend those features which should be included in a new consolidated statute.

Private Entities Eligible for Tax Exemptions

Each of the four statutes authorizes the creation of private corporations or associations which are given general corporate powers and other powers necessary to implement the purpose of the act under which they are created, including the planning, financing, construction, and operation of housing and/or redevelopment projects. These private entities include:

1. Limited-Dividend and Nonprofit Housing Corporations or Associations:

Under the provisions of *Limited-Dividend Nonprofit Housing Corporations or Associations Law*, P.L. 1949, c. 184 (C. 55:16-1 *et seq.*), three or more persons can form a limited-dividend housing corporation to undertake housing projects and receive property tax exemptions on properties developed as part of these projects. Limited-dividend housing corporations are formed by filing a certificate of incorporation as per the provisions of Title 14 of the Revised Statutes. Such a certificate must include:

1. The name of the proposed housing corporation;
2. A statement that the purpose for which the corporation is formed, is to acquire, construct, maintain and operate a housing project;
3. The expected duration of the corporation (for up to fifty years);
4. A listing of the amount and value of the shares to be issued;
5. A provision that the dividends paid to each shareholder shall not exceed 8 percent per year;
6. The names and addresses of each shareholder and the amount of shares issued to each;
7. A provision that no real property of the corporation shall be sold or transferred, except under the provisions of the *Limited-Dividend Nonprofit Housing Corporations or Associations Law* and the regulations of the Department of Community Affairs; and,
8. A declaration that the housing corporation has been formed to serve a public purpose and that "its operations shall be directed to providing for and making possible the clearance, planning, development or redevelopment of blighted areas and that it will at all times be subject to the supervision and control of the [Department of Community Affairs]" (NJSA 55:16-6).

Before any certificate is filed, it must first be approved by the Department of Community Affairs (NJSA 55:16-7 and -13).

Once certified, limited dividend housing corporations are provided with general corporate powers, including the power to: 1. Have succession by its corporate name; 2. Sue and be sued; 3. Have and alter a seal; 4. Issue stock as per the provisions of the certificate of incorporation approved by the Department of Community Affairs; 5. Acquire, own, lease, or sell real and personal property; 6. Borrow money or mortgage its property; 7. Pay dividends on its stock at a rate no more than 8 percent per year; 8. Make and amend by-laws; and, 9. Exercise all those powers "necessary and convenient" to carry out the purpose of the corporation (NJSA 55:16-8). In addition, all laws applicable to stock corporations organized under the laws of the State are applicable to housing corporations organized under the provisions of the *Limited-Dividend Nonprofit Housing Corporations or Associations Law*, except that housing corporations are exempt from the payment of any franchise or other State taxes (NJSA 55:16-19).

P.L. 1967, c. 112 changed the title of the original *Limited-Dividend Housing Corporations Law* to the *Limited-Dividend Nonprofit Housing Corporations or Associations Law* and authorized the creation of non-profit housing corporations and unincorporated housing associations to undertake the same type of housing projects as limited-dividend housing corporations. According to the provisions of the 1967 amendments, any one or more persons may form a limited-dividend housing association by filing a "certificate of organization" with the office of the clerk in the county in which the association is to be formed (NJSA 55:16-9.1). All those items required in the certificate of incorporation of a limited-dividend or non-profit housing corporation must be included in a certificate of organization of a housing association. As with limited-dividend housing corporations, such a certificate must be approved by the Department of Community Affairs (NJSA 55:16-7 and -13).

Limited-dividend or non-profit housing associations may be organized under the statutory provision governing partnerships, limited partnerships, limited partnership associations, trusts, single proprietorships or as unincorporated business associations, as long as those powers are consistent with the *Limited-Dividend Nonprofit Housing Corporations or Associations Law*. Housing associations are also authorized to:

1. Enter into contracts for the acquisition, construction, maintenance and operation of housing projects;
2. Lease, sell or exchange its capital assets;
3. Accept loans or grants from federal, State and municipal governments; and,
4. Obtain insurance or guarantees from the federal government for the payment of the principal and interest on any loan or mortgage (NJSA 55:16-9.2).

2. Senior Citizen Nonprofit Housing Corporations:

To allow non-profit corporations to take advantage of federal aid monies for senior citizen rental housing that were made available under the *Federal Senior Citizen Housing Program* established by Section 202 of the Federal Housing Act of 1959, New Jersey enacted the *Senior Citizen Nonprofit Rental Housing Tax Law*, P.L. 1965, c. 92 (C. 55:14I-1 *et seq.*). Under the provisions of this statute, any non-profit corporation that is incorporated under Title 15

of the Revised Statutes may obtain Section 202 monies in order to undertake a senior citizen housing project.

Senior citizen non-profit housing corporations are given "all the powers necessary and convenient" to carry out the purposes of the act, including the authority to secure federal aid and act as an "agent" of the federal government in the development and administration of a senior citizen housing project under the Section 202 program (NJSA 55:14I-4).

3. Urban Renewal Corporations and Associations:

Under the provisions of the 1961 *Fox-Lance Act*, an urban renewal corporation can be established under Titles 14 or 14A to undertake redevelopment projects and receive property tax exemptions, so long as its certificate of incorporation includes the following provisions:

1. The name of the corporation includes the words "urban renewal";
2. The purpose of the corporation is to "initiate and conduct projects for the clearance, replanning, and development of blighted areas" or areas adjacent to State investment blighted areas, and (in accordance with a financial agreement with the municipality) "to acquire by purchase or lease of not less than fifteen years from a public or private owner, plan, develop, construct, alter, maintain, or operate housing, business, industrial commercial, cultural or recreational projects [in any combination]" pursuant to the provisions of the *Urban Renewal Corporations and Associations Law*;¹¹
3. For the period that the corporation is obligated under a financial agreement with the municipality, it will develop, redevelop, or operate only a *single* project;
4. A declaration that the corporation "has been organized to serve a public purpose, that its operations shall be directed toward and making possible the clearance, replanning, development, or redevelopment of blighted areas," and that as long as the corporation remains the owner or administrator of the project, it will be subject to the regulations of the municipality and have its profits and dividends limited by state statute;
5. The corporation will not voluntarily transfer the project to another entity except (with the consent of the municipality) to another urban renewal corporation (NJSA 40:55C-54).

In addition, any two or more persons may form a partnership, limited partnership, limited partnership association, or any other unincorporated association or entity for the purposes of undertaking a redevelopment project and receiving a tax exemption, so long as the name of the association includes the words "urban renewal" and any certificate filed in accordance with the statutory provisions governing such entities contain all of the provisions that are required in a certificate of incorporation for an urban renewal corporation (NJSA 40:55C-55.1).¹²

4. Nonprofit Urban Renewal Corporations:

Finally, under the provisions of the *Urban Renewal Nonprofit Corporation Law of 1965*, P.L. 1965, c. 95 (C. 40:55C-77 *et seq.*), a non-profit urban renewal

corporation may be formed under Title 15 of the Revised Statutes (Corporations not for Pecuniary Profit) as long as its certificate of incorporation states that "One of the objects for which it is formed" is to "promote the development and redevelopment of blighted areas" and includes those other provisions contained in a certificate of incorporation for a limited-profit Fox-Lance corporation.

The main differences between a non-profit urban renewal corporation and association and an urban renewal corporation or association formed under the provisions of the original Fox-Lance law is that a non-profit urban renewal corporation can operate more than one project, that its sole purpose need not be urban redevelopment, and that on its dissolution all projects are transferred to the municipality.

Commission Recommendations:

Other than the fact that each of the above private entities are created under four different enabling acts, there does not appear to be any real reason to create so many different private corporations or associations to undertake housing and redevelopment projects. *The Commission recommends that the new consolidated tax exemption statute authorize the creation of private Housing and Redevelopment Corporations or Associations, which can be either limited-profit or non-profit entities organized under the appropriate provisions of Titles 14, 14A, 15, or those statutes governing limited partnerships and associations. In addition, these entities should be given general corporate powers or those powers provided in the laws governing associations which are not inconsistent with the new act. The primary purpose of housing and redevelopment corporations should be to acquire, construct, maintain, and operate housing and/or redevelopment projects (including housing projects for senior citizens) in accordance with municipal housing and redevelopment plans.*

The Department of Community Affairs should retain the authority to approve the certificate of incorporation or organization of any such corporation or association. Such a certificate should include a declaration that the corporation or association serves a public purpose and is organized for the purpose of undertaking housing or redevelopment projects in accordance with the provision of this act and related acts. All those relevant statements and provisions presently required in a certificate of incorporation or organization as currently set forth in the Limited-Dividend Housing Law and Fox-Lance statutes.

Types and Locations of Projects

Each of the current statutes specifies the type of project that is eligible to receive a tax exemption and where these projects can be constructed. Eligible projects include:

1. Housing Projects:

The purpose of limited-dividend and non-profit housing corporations and associations is to "acquire, construct, alter, maintain and operate housing projects for the purpose of providing accommodations for families in need of housing and of development or redeveloping blighted areas," (NJSA 55:16-4). Housing projects are defined as:

... any work or undertaking to provide decent, safe, and sanitary dwellings for families in need of housing; such undertaking may include any buildings, land (including demolition, clearance or removal of buildings from land), equipment, facilities, or other real or personal properties or interests therein which are necessary, convenient or desirable appurtenances ... including, but not limited to, streets, sewers, water, utilities, parks site preparation, landscaping, and administrative, community, health, recreational, educational, welfare, commercial, or other facilities (NJSA 55:16-3(6)).¹³

2. Senior Citizen Housing Projects:

In accordance with the Provisions of the *Senior Citizen Nonprofit Housing Tax Law*, non-profit corporations incorporated under Title 15 may obtain federal Section 202 monies to:

assist in the clearance, replanning, development or redevelopment of blighted areas [and] undertake the development, erection, ownership and operation of nonprofit rental housing projects to assure the availability of safe and sanitary dwellings for elderly families or elderly persons. (NJSA 55:14I-4)¹⁴

3. Urban Renewal Projects:

The main purpose of urban renewal corporations and associations created under the *Fox-Lance Act* or the *Urban Renewal Nonprofit Corporation Law of 1965* is to acquire (by purchase or by lease of not less than fifteen years from either a public or private owner) and "plan, develop, construct, alter, maintain or operate housing, business, industrial, commercial, cultural, or recreational projects" (NJSA 40:55C-52 and -86).¹⁵ A project, as defined by both the 1961 *Fox-Lance Act* and the *Urban Renewal Nonprofit Corporation Law* includes:

... the undertaking and execution of the redevelopment of a blighted area, in whole or in part, in accordance with an agreement ... between the corporation and a municipality, or agency, or authority, and in connection with a redevelopment plan adopted pursuant to the procedures specified in the *Redevelopment Agencies Law*, P.L. 1949, c. 306. Such a redevelopment plan includes: the designation of the particular proposed buildings to be constructed and their uses and purposes, the landscaping of the premises, the streets and access roads, recreational facilities, if any, the furnishing of public utilities, the financial arrangements and the terms and conditions of the proposed municipal cooperation and approval. (NJSA 40:55C-46 and -83).¹⁶

In 1985, the *Blighted Areas Act*, P.L. 1949, c. 187 (C. 40:55-21.1 *et seq.*) was amended to define an area designated as an Urban Enterprise Zone in accordance with the provisions of the *New Jersey Urban Enterprise Zone Authority Act*, P.L. 1983, c. 303 (C. 52:27H-60 *et seq.*) to be a blighted area for the purpose of providing a tax exemption under the provisions of the 1961 *Fox-Lance Act* and the *Urban Renewal Nonprofit Corporation Law of 1965*.

In 1983, the State broadened the activities of urban redevelopment corporations and associations by amending the *Fox-Lance Act* to include the construction of "state investment projects."¹⁷ According to the provisions of the

1983 law, a State investment project is defined as any improvement, "including the construction of buildings and related facilities" where there has been:

- a. A commitment for the lease or other disposition of more than 50 percent of the rentable area in the project to State agencies;
- b. A commitment or conditional commitment for federal financial assistance under the Urban Development Action Grant Program ...; and,
- c. An agreement for cooperation with the New Jersey Building Authority established pursuant to P.L. 1981, c. 120 (C. 52:18A-78.1 *et seq.*), or other State agency responsible for the construction or lease of buildings for office space and related facilities principally for the use of State agencies (NJSA 40:55C-46a).

Such a project can only take place in a "State investment blighted area," which is defined as an area "unlikely to be developed without State or federal assistance" and which either meets any of the conditions set forth in the *Blighted Areas Act*, P.L. 1949, c. 187, or where there exists the following conditions:

- a. Deterioration of industrial, manufacturing or commercial buildings or housing;
- b. Unproductive utilization of property, or
- c. Where the infusion of State, federal and private capital will assist in the alleviation of blighted areas in the municipality as defined in [the *Blighted Areas Act*, P.L. 1949, c. 187 (C. 40:55-21.1 *et seq.*)] (NJSA 40:55C-45.1).

A municipal governing body may declare an area a State investment blighted area if it meets the above conditions and:

1. The municipality qualifies for Urban Aid under P.L. 1978, c. 14 (C. 52:27D-178 *et seq.*);
2. The area has been determined to be an area in need of rehabilitation in accordance with standards and procedures set forth in the five-year tax exemption statute for commercial and industrial improvements, P.L. 1977, c. 12 (C. 54:4-3.95 *et seq.*);
3. The area has been designated by the New Jersey Building Authority or other state agency for the construction or lease of office space and related facilities; and,
4. The project is approved or conditionally approved for federal financial assistance under the Urban Development Action Grant program (NJSA 40:55C-53.1).

In declaring an area a State investment blighted area, the municipality does not have to follow a full blight hearing procedure as set forth in the *Blighted Areas Act*.

Commission Recommendations:

In accordance with the provisions of New Jersey's Constitution, each of the four statutes requires that a project be constructed for the purpose of redeveloping a blighted area before it can be eligible to receive a property tax

exemption. In the case of a housing project constructed under the Limited-Dividend Housing Law, the courts have liberally interpreted the statute to allow exemptions for projects anywhere in the municipality, so long as the project contributes to the elimination of blighted areas in the municipality and proper investigations and public hearings are undertaken.¹⁸ Also, urban renewal corporations or associations formed under the provisions of the 1961 *Fox-Lance Act* can undertake a redevelopment project in or adjacent to a statutorily defined State investment blighted area.

Finally, the *Blighted Areas Act* was amended in 1985 to define areas designated as an Urban Enterprise Zone as being blighted areas for the purpose of providing tax exemptions under the provisions of the *Fox-Lance Act*.

In recognition of the fact that the authority to provide tax exemptions stems from the provisions of the 1947 Constitution, the Commission recommends that the new tax exemption statute authorize municipalities to provide tax exemptions for housing and redevelopment projects constructed or operated in blighted areas or areas in need of redevelopment as defined in a new local housing and redevelopment law. In addition, the Commission recommends that the new law authorize exemptions for projects adjacent to areas in need of redevelopment or when a project contributes to the elimination or the prevention of the spread of blighted conditions in the municipality. In the latter case, exemptions should be granted only after appropriate hearings and public review.

To the best of the Commission's knowledge, no state investment projects have been constructed in New Jersey. With the probable reduction or elimination of the federal U.D.A.G. program, it is likely that no new ones will be proposed. *The Commission recommends that provisions for State Investment Projects or State investment blighted areas not be included in a new tax exemption statute.*

A similar linkage to a specific federal program is made in the *Senior Citizen Nonprofit Rental Housing Tax Law*, which requires that a senior citizen housing project receive assistance under the Section 202 program before it can be eligible for a tax exemption. Unfortunately, the program is also the target of proposed reductions and possible elimination.

The requirement that a corporation undertaking a senior citizen housing project receive Section 202 monies is no longer relevant or desirable given the recent and proposed cutbacks in this program. While an explicit link between a federal program and local activities authorized by a State enabling act may be necessary in some instances, the Commission recommends that this reference and any other linkage to specific federal programs not be included in a new tax exemption law.

Rather than provide an explicit link to a specific federal or State program, local housing and redevelopment corporations or associations formed under the provisions of a new tax exemption law should be given more general financing powers.

Housing corporations and associations formed under the current *Limited-Dividend Nonprofit Housing Corporations or Associations Law* can finance their projects in a number of ways. They can accept grants and loans from federal, State and local governments (NJSA 55:16-8 and -9.2(3)), obtain insurance and loan guarantees from the federal government (NJSA 55:16-8(14) and -9.2(4)),

and borrow money and mortgage their property (NJSA 55:16-8(6)). In addition, the governing body of the municipality may, by ordinance, provide money as a subsidy for the purpose of acquiring land for housing projects (NJSA 55:16-18.1).

To finance projects, urban renewal corporations and associations formed under the provision of the 1961 *Fox-Lance Act* are given the power to accept grants and loans from federal, State, and local governments and agencies, and to obtain federal insurance and guarantees on the repayment of the principal and interest of any loan, mortgage or "other extension of credit" (NJSA 40:55C-57). Non-profit urban renewal corporations are also given these powers, except, for some undefined reason, the ability to accept grants (NJSA 40:55C-90). *The Commission recommends that these financing powers; including the power to accept federal, State, and local grants and loans; the power to borrow money and mortgage their property; and the power to obtain federal and State mortgage guarantees; be given to private housing and redevelopment corporations and associations in a new tax exemption statute.*

Project Review and Approval

The method of project approval is one way in which the four tax exemption statutes differ, with State approval required with a housing project undertaken the provision of the Limited-Dividend Housing Law, and only local approval required for senior citizen projects and urban renewal projects.

Housing Projects:

In accordance with the provisions of the *Limited-Dividend Nonprofit Housing Corporations or Associations Law*, a project must be approved by both the State and the municipality. A limited-dividend or non-profit housing corporation or association must make written application to the Department of Community Affairs for the approval of any housing project (NJSA 55:16-12 and -13). Such an application must include a statement by the governing body of the municipality in which the project is being built that the project will meet an existing housing need, that the project conforms to all applicable municipal ordinances, and the local governing body approves of the acquisition or construction of the project (NJSA 55:16-12(1)). In addition, the application must include a description of the project (including architectural and site plan); a statement of construction cost or purchase price; the source, method, and amount of private capital to be raised for the project; a fiscal plan for the project, setting forth the rents, expenditures for preparation and maintenance, and payments to the municipality for service provision and other charges; and a statement that adequate light, air, and open spaces will be provided and that adequate safety and sanitation standards will be met (NJSA 55:16-12(2) through (6)).

The Department of Community Affairs is authorized to approve the purchase, acquisition, or construction of a housing project only if:

1. The project is within an area where "... dwellings conforming to reasonable standards of adequacy and renting at or below the average rent to be charged in the project, are not being provided in sufficient quantity through the ordinary operation of private enterprise"; and,
2. A financial plan has been presented to the Department to "reasonably

assure the successful completion and operation of the project" (NJSA 55:16-14).

Senior Citizen Housing Projects:

A senior citizen housing project requires only a finding of fact by the governing body of the municipality that the project "will be an improvement for the purpose of the clearance, replanning, development or redevelopment of a blighted area," to be eligible for a property tax exemption. The tax exemption is in effect only while the project is owned by a senior citizen non-profit corporation or until the corporation and municipality have determined that the continued operation of the project is no longer necessary.

Urban Renewal Projects:

In the case of a redevelopment project undertaken under the 1961 Fox-Lance Act an urban renewal corporation or association must submit a written application to the municipality for its approval before preceding with a project (NJSA 40:55C-58). Such an application should be designed to provide any facts required by the municipality, including but not limited to:

- a. A general statement of the nature of the proposed project, that the undertaking conforms to all applicable municipal ordinances, that its completion will meet an existing need, and that the project accords with the master plan or official map, if any, of the municipality.
- b. A description of the proposed project outlining the area included and a description of each unit [of the project] if the project is to be undertaken in units and [any] architectural and site plans as may be required.
- c. A statement of the estimated cost of the proposed project.
- d. The source, method and amount of money to be [obtained] through the investment of private capital, [including] the amount of stock or other securities to be issued.
- e. A fiscal plan for the project outlining a schedule of annual gross revenue,¹⁹ the estimated expenditures for operation and maintenance, payments for interest, amortization of debt and reserves, and payments to the municipality to be made pursuant to the financial agreement [between the municipality and the corporation or association] (NJSA 40:55C-58).²⁰

An application for project approval is submitted to the mayor of the municipality, who has 60 days to review the application and submit it, with recommendations, to the governing body. The governing body may approve or disapprove the application. If it is disapproved, the application may be revised and resubmitted (NJSA 40:55C-58). The statute does not set forth the criteria by which such an application is to be approved or disapproved by the local governing body, suggesting that the municipality generally has broad discretion in approving such projects.

Commission Recommendations:

The method of project approval is one way in which the four tax exemption statutes differ, with extensive State review of the project required with the Limited-Dividend Housing Law. While the Commission believes an ap-

propriate review and analysis of each application is necessary, it also believes that this can be accomplished in a more timely manner at the local level. State review and approval is appropriate only in those instances where the project is receiving state funding through a grant, loan, mortgage or loan guarantee. In those instances, it is to the State's best interest to determine whether the project is fiscally sound and conforms to State and local plans and policy goals. These requirements however, can best be incorporated into legislation authorizing such programs.

The Commission recommends that the new tax exemption statute provide for project review and approval by the municipality. Such a review should address the need for such a project, the conformance of the project to the local housing and redevelopment plans of the municipality, as assessment of the fiscal soundness of the project, and a determination of the necessity and desirability of granting a tax exemption given local conditions and needs.

State Regulatory Role

In addition to giving the Department of Community Affairs complete review and approval power over the establishment of limited-dividend and non-profit housing corporations and associations, as well as the review and approval of the construction or acquisition of housing projects, the *Limited-Dividend Nonprofit Housing Corporations or Associations Law* also gives the Department extensive powers over the budgets and general operations of these entities. Specifically, the statute gives the Department of Community Affairs the authority to make any regulations necessary to implement and to supervise the operations of any housing corporation or association and supervise the planning, development, and management of any housing project undertaken by these entities (NJSA 55:16-11). The Department, if it chooses to exercise this authority, may:

1. Prescribe a uniform system of accounts or records for the housing corporation or association;
2. Enter and inspect the lands, buildings and equipment of the housing corporation or association and examine its books and records;
3. Supervise the operation and maintenance of any housing project;
4. Fix and alter the rents in a housing project;
5. Set standards for and control tenant selection;
6. Require the payment of fees by the housing corporation or association to finance the Department's oversight and regulatory activities;
7. Order the housing corporation or association to either do or not do anything relating to the regulations of the Department and the provisions of the *Limited-Dividend Housing Law*; and,
8. Regulate the retirement of capital or redemption of stock by the corporation or association under certain circumstances (NJSA 55:16-16).

In addition, the Department of Community Affairs may condition its approval of a housing project by appointing a member of the board of directors of the housing corporation or, additionally, by designating a banking corporation to act as a financial trustee for a housing project (NJSA 55:16-15).²¹

Finally, the Department of Community Affairs may institute legal proceedings or actions against housing corporations or associations, supervise the reorganization of any housing corporation or association, and take any steps necessary to protect the public in the case of the foreclosure of a housing project financed by a housing corporation or association (NJSA 55:16-17).

Commission Recommendations:

At first glance, this delegation of authority to the Department may seem burdensome and unnecessary, given that no such authority is given to the Department under the *Senior Citizen Nonprofit Rental Housing Tax Law*, the *Fox-Lance Act* and the *1965 Urban Renewal Nonprofit Corporation Law*. However, these provisions do act as a fail-safe mechanism to protect the interest of low-income families living in projects undertaken by limited-dividend and non-profit housing corporations. If these "fail-safe" provisions are necessary, then at what level of government should this oversight role be located?

It is the Commission's opinion that this responsibility should be the municipality's, except in those instances where the project is receiving State assistance. Provisions for municipal oversight should be included in the written agreement between the municipality and the private housing and redevelopment corporation. In those cases where the private housing and redevelopment corporation is receiving State assistance, the oversight responsibility should be shared between the municipality and the State as should be defined in a new local tax exemption statute.

Agreement Between the Municipality and Corporation or Association

While no written agreement is required with a senior citizen housing corporation, in the resolution granting the tax exemption, the governing body of the municipality may require that the corporation:

1. File its certificate of incorporation with the clerk of the municipality and submit annual reports on its operations;
2. Inform the municipality of its operations, finances, and management, as well as its compliance with relevant provisions of the law;
3. Supply proof of compliance with federal regulations and the provisions of any agreements between the corporation and the federal government; and,
4. Make repairs as needed (NJSA 55:14I-6).

Under the provisions of the *Fox-Lance Act* and *The Urban Renewal Non-profit Corporation Law of 1965*, if a project is approved by the governing body, the municipality then enters into a written financial agreement with the urban renewal corporation or association. Such an agreement represents a contract between the municipality and corporation, requiring full performance by the corporation within twenty years from the date of the contract. This period is thirty years in the case of a housing project, or twenty-five years in the case of non-profit urban renewal corporations (NJSA 40:55C-59 and -92).

All financial agreements must specify that:

1. The profits and dividends payable by the corporation will be limited as provided in the statute;

2. All improvements in the project to be constructed or acquired by the corporation or association will be exempt from taxation;
3. The corporation or association will make in-lieu of tax payments to the municipality;
4. The corporation or association will submit annual audit reports to the municipality;
5. The corporation or association will permit inspection of its property and investigation of its contracts and records by the municipality;
6. Any dispute between the corporation and municipality will be solved by arbitration;
7. The financial agreement can be terminated by the corporation as per the provisions of this act; and,
8. The corporation or association is bound by the provisions of the Fox-Lance statute for the duration of the financial agreement (NJSA 40:55C-59).

A financial agreement between a non-profit urban renewal corporation and association and a municipality must contain all of the same provisions, except that it must stipulate that any profits of the corporation will be distributed to the municipality (NJSA 40:55C-92).

A financial agreement may also stipulate that the municipality will consent to the sale of the project to another urban renewal entity (NJSA 40:55C-60 and -93),²² the corporation will furnish a bond or other security to guarantee the completion of the project (NJSA 40:55C-61),²³ and the municipality will "undertake any work" authorized by state statutes to assist the corporation or association in completing the project (NJSA 40:55C-63 and -95). The financial agreement must also contain detailed information on how the corporation or association intends to manage the project, the manner in which the project is to be financed, a "good faith projection" of the initial sale price of any condominium which may be marketed as part of the project, and any rental schedules or lease terms associated with the project (NJSA 40:55-62 and -92).²⁴ A financial agreement may be modified as agreed to by the municipality and the corporation or association (NJSA 40:55C-64 and -96).

Commission Recommendations:

The written agreement represents a contract between two parties which sets forth the rights and responsibilities of each party under the terms of the contract. Because of the important public purpose attached to the activities of the corporation or association, the terms of such a contract should be as complete and detailed as possible. *The Commission feels that the provisions for a written agreement as currently contained in the Fox-Lance Act is sufficiently detailed and should be incorporated into the new tax exemption statute. Such an agreement should be in effect during the term of the tax exemption (as recommended in the following section) or until the corporation or association is released from the agreement by the municipality.*

Because of the potential fiscal impacts of such an agreement on the municipality, the Commission feels that a requirement for review and approval of such

an agreement by the Division of Local Government Services is prudent, and recommends that such a provision be included in the new law.

As recommended in the previous section, an appropriate "fail safe" mechanism should be included in the new law to authorize the municipality (or an agency designated by the municipality) to take over the operations of the corporation in response to mismanagement, mortgage foreclosure, or other emergencies which require the municipality to protect the health and welfare of the residents of these projects and the general public.

Length of the Tax Exemption Period

Both the *Limited-Dividend Nonprofit Housing Corporations or Associations Law* and the *Senior Citizen Nonprofit Rental Housing Tax Law* state that if the governing body of a municipality finds a housing project to be "an improvement made for the purposes of the clearance, replanning or development of any blighted area," then it may exempt such project from property taxes for a period of up to fifty years or for the "useful life" of the project (NJSA 55:16-18) and (NJSA 55:14I-5).

The provisions of the *Fox-Lance Act* and the 1965 *Urban Renewal Nonprofit Corporation Law* are not so straightforward.

Rehabilitation work and improvements undertaken by urban renewal corporations and associations as part of a housing or redevelopment project are exempt from property taxation for a period of not more than 20 years from the date of execution of the financial agreement between the municipality and corporation or association (NJSA 40:55C-65 and -67). In the case of non-profit urban renewal corporations organized under the 1965 act, the property tax exemption is for a period of twenty-five years (NJSA 40:55C-97 and -99). For a housing project undertaken by an urban renewal corporation or association established under the provisions of the *Fox-Lance Act*, the period of tax exemption is thirty-five years (NJSA 40:55C-65 and -67). However, housing projects undertaken by non-profit renewal corporations established under the provisions of the *Urban Renewal Nonprofit Corporation Law of 1965*, are exempt from taxation for a period of only twenty-five years.

If the urban renewal project is undertaken in "units," then the period of tax abatement for any unit lasts for fifteen years in a standard urban project, thirty years for each unit in a housing project undertaken by an urban renewal corporation or association established under the 1961 *Fox-Lance* statute, and twenty years for a project undertaken by a non-profit urban renewal corporation (NJSA 40:55C-65 and -97). If the project is devoted to condominium ownership, then the period of property tax exemption is for thirty years after the recording of the master deed (NJSA 40:55C-65).²⁵ Thus, urban renewal corporations or associations have a five-year period from the execution of the financial agreement to the completion of project construction.

The reason why there are such distinctions between the different type of projects under the two laws are not clear. Very few fully residential projects have been undertaken under the *Fox-Lance Act* and its 1965 counterpart because of the longer term for property tax exemption provided for in the *Limited-Dividend Nonprofit Housing Corporations or Associations Law*.

To provide for both an adequate exemption period and uniformity in the new

statute, the Commission recommends that the new property tax exemption statute provide for a tax exemption period up to thirty years from the completion of the entire project or each unit, or up to thirty-five years from the execution of the financial agreement between the municipality and corporation or association.

Payment In-Lieu of Taxation Formulas

All four statutes provide for payments in-lieu of property taxes during the exemption period. Under the provisions of the *Limited-Dividend Nonprofit Housing Corporations or Associations Law*, housing corporations or associations must make in-lieu of tax payments to the municipality for public services which are provided to the project. Such payments shall be either an amount equal to 15 percent of the gross shelter rents obtained from the project or the property taxes assessed on the property in the year the housing project is commenced. In either case, property tax exemptions granted by the municipality are in effect only for the period of time when the project is owned by the housing corporation or association.

Senior citizen non-profit housing corporations must also make annual in-lieu of tax payments to the municipality equal to 15 percent of the annual gross rents from the project (NJSA 55:14I-5).

For urban renewal corporations and associations, in-lieu of tax payments (for projects other than condominium projects) are equal to 15 percent of the annual gross revenue of the project.²⁶ In instances where the gross revenue cannot be easily determined, then the in-lieu of tax payment is equal to 2 percent of the "total project cost" or total "project unit cost" as determined by the provisions of NJSA 40:55C-47 or NJSA 40:55C-84.²⁷ In-lieu of tax payments may not, however, be less than the taxes paid on the property in the year preceding its acquisition (NJSA 40:55C-65).

In-lieu of tax payments required for condominium projects are equal to 15 percent of the annual gross revenue from each unit for the first ten years of operation of the project. After the tenth year of operation, annual in-lieu of tax payments are equal to either 15 percent of the annual gross revenues of the project or an increasing percentage of the actual taxes due on the property (whichever amount is greater) for that particular year (NJSA 40:55C-65).

One of the reasons why many municipalities do not use *Fox-Lance*, particularly with respect to large-scale commercial and industrial projects, is the long term loss of property tax revenues. In particular, residential property owners are the most vociferous in offering opposition to the adoption of local *Fox-Lance* agreements. The perception of these homeowners is that *Fox-Lance*, if used extensively, will shift the burden of the property tax away from commercial and industrial properties and on to the residential property taxpayer.

To a certain extent, this has proven to be true. According to studies done for both the City of Newark and Princeton University in the late 1970s, the amount of revenues received from in-lieu tax payments on properties receiving tax exemptions under *Fox-Lance* have proven to be less than the municipality would have realized if the project had been fully taxed after the project was completed.²⁸ However, these studies (and proponents of *Fox-Lance* and other tax exemptions) also point out that the annual payments in-lieu of taxes on

these exempted properties have usually been more than the tax revenues generated by them before development had occurred.

Local redevelopment officials in municipalities which have used Fox-Lance and other tax exemptions extensively, including Newark and Jersey City, cite the numerous disincentives associated with deteriorated urban centers and argue that such development would not have occurred without the use of tax exemptions. These disincentives include high construction costs, difficulties in land assemblage, inefficient transportation facilities, deteriorated infrastructure, and lack of amenities. Given these disincentives and the high tax rates in these municipalities, developing effective strategies to promote local redevelopment through private investment can be extremely difficult.

Rather than being a give-away of the local tax base, local redevelopment officials argue that the judicious use of tax exemptions allows them to offer prospective developers a tax bill that is competitive with other municipalities.

In addition, these officials argue that securing private development through the use of property tax exemptions results in secondary benefits to the community beyond the revenues which are realized from in-lieu of tax payments. These benefits include:

1. Job creation, which has a positive multiplier impact on the local economy and, in the case of Newark, provides additional revenues through local payroll taxes; and,
2. The creation of a positive climate for further development in the community.²⁹

One way to assess the appropriateness of using tax exemptions to attract private development is to determine whether or not the in-lieu of tax payments are adequate to meet the costs of providing public services to these projects.³⁰ Using a methodology developed by Newark's Bureau of the Budget to measure the costs of public service delivery to various types of development, Paul Zoubek of the Newark Economic Development Corporation (N.E.D.C.), found that in-lieu of tax payments do not cover the cost of municipal services.³¹ However, as Zoubek noted, if the in-lieu of tax payment formulas were adjusted slightly, these service costs would be met. In the case of owner-occupied industrial projects, adjusting the in-lieu of payments formula from 2 to 2.25 percent of project costs would allow in-lieu of tax payments to meet public service costs. For commercial-office projects, adjusting the formula for in-lieu payments from 15 percent of gross rentals to a range of 17 to 19 percent would match municipal service costs. For tenant-leased industrial projects, in-lieu of tax payments should range between 18 and 20 percent of the gross revenues of the project.³²

Both critics and proponents of tax exemptions have recommended for some time that municipalities should have more flexibility in the selection of the most appropriate in-lieu of tax payment formula for a particular project. In determining what that formula is, the municipality needs to understand the importance of tax exemptions in the locational decisions of private developers and firms. The N.E.D.C. report states that the importance of tax exemptions in a firm's locational decision making will vary depending on the type of firm. Zoubek argues that Newark and other municipalities using Fox-Lance must have the flexibility to first determine how important exemptions will be to a

prospective developer before negotiating an in-lieu of tax payments formula.

The N.E.D.C. report defines three goals upon which a municipal tax exemption policy should be based. These include:

1. The promotion of a positive business climate;
2. Offering incentives to prospective developers; and,
3. Maximizing tax revenues.³³

The balance of these goals will vary from project to project and will depend on the role that tax exemption plays in the locational decisions of the firm which is offered the exemption and a cost/benefit analysis of the impact of the project on the municipality's tax base, public service delivery costs, and local economy.

Commission Recommendations:

The Commission agrees with the concept of providing for local flexibility and encouraging a process of negotiation in awarding a local property tax exemption and the establishment of an appropriate in-lieu of tax payment formula for a particular project. Such a process should include an analysis by the municipality of the costs and benefits of the project and an assessment of the importance of tax exemptions in the locational decisions of the firm in question. As such, the Commission recommends that a tax exemption statute for housing and redevelopment provide for a flexible range of in-lieu of tax payment formulas to encourage negotiation between the municipality and private housing and redevelopment corporation or association before a tax exemption is granted.

While in-lieu of tax payment formulas used with Fox-Lance and the 1965 *Urban Renewal Nonprofit Corporation Law* came close to meeting public service delivery costs to commercial and industrial projects, Zoubek found that in-lieu of tax payments represented only a third of municipal costs in delivering services to limited-dividend housing projects.³⁴ The gap was so great, that Zoubek doubted whether adjustments to the in-lieu of tax payment formula would be worthwhile. Rather, he suggested that the State provide municipalities with subsidies to address this gap. The Commission believes that such a subsidy program is impractical at the present time. *The Commission recommends that municipalities take great care in assessing the appropriateness of providing tax exemptions to residential projects and in selecting the most appropriate in-lieu of tax payment formula for such projects.*

Phase-in of In-lieu of Tax Payments

One of the real problems with the current *Fox-Lance Act*, and the other tax exemption statutes, is the abrupt termination of the tax exemption at the end of the period specified in the statute. Looking at Fox-Lance exemptions specifically, the original concept of the *Fox-Lance Act* was that, at the end of the tax exemption period, the tax base of the municipality would have been strengthened sufficiently to allow for tax rates which would be competitive with other municipalities. Unfortunately, this has not been the case. In actuality, many commercial and industrial projects face the prospect of losing their Fox-Lance exemption and receiving tax bills three to four times as high as their current in-lieu of tax payments.

The sudden termination of Fox-Lance exemptions have become a serious problem for cities, such as Newark, which have used Fox-Lance extensively. Without an extension of existing Fox-Lance exemptions, commercial office space in projects receiving these exemptions could wind up taxed at a rate several times more per square foot than available space in outlying municipalities. Owners of these projects would have to pass along these rates to their tenants in the form of increased rentals. This would exacerbate the outflight of businesses from New Jersey's central cities and stymie current redevelopment efforts.

Regardless of arguments made by critics of property tax exemptions—that these cities have relied too heavily on Fox-Lance and were now suffering the consequences—immediate action was necessary to alleviate a serious problem. This action was taken with the enactment of P.L. 1986, Chapter 86. The new law amended the *Fox-Lance Act* and the *Urban Renewal Nonprofit Corporation Law of 1965* to provide a fifteen-year extension for existing projects whose Fox-Lance exemptions are due to expire shortly. The new law also provides for the adoption of a new financial agreement between the municipality and the urban renewal corporation or association that would include a phased increase in the in-lieu of tax payments for the project. This phase-in is accomplished in three five-year steps over the fifteen year extension.

Commission Recommendations:

The Commission commends the quick action taken on this issue by the Governor and the Legislature. However, the Commission also recognizes that this new law only authorized extensions for projects in existence as of the date of its enactment, and does not address the continuing economic impact from the abrupt termination of property tax exemptions for future projects. Therefore, the Commission recommends that a new consolidated tax exemption statute provide for a phased increase in the in-lieu of tax payments to occur in five-year steps over the length of the exemption period. The formula for these phased increases should follow the model as set forth in P.L. 1986, Chapter 86.

Another complaint which has arisen with regard to the use of Fox-Lance tax exemptions is that during the tax exemption period both the county and the local school district do not get a share of the in-lieu of tax payments. This can be an important source of lost revenue, particularly in counties with large urban centers which use tax exemptions on a large number of commercial and industrial projects. *The Commission recommends that in establishing a phase-in mechanism for in-lieu of tax payments in a new long-term tax exemption statute, the Legislature and the Governor should consider the option of providing for a phase-in of tax payments to the county and local school district.*

Limitations on Profits and Dividends

In exchange for the benefit of a tax exemption (and in accordance with New Jersey's Constitution), corporations or associations agree to a limitation on their profits or dividends. The formulas for allowable profits are different in each of the four tax exemption statutes.

The cumulative dividends or profits for each shareholder in a limited dividend housing corporation or persons having a proprietary interest in a housing association are limited to 8 percent per year (NJSA 55:16-5). If the

housing corporation or association is dissolved, any surplus in excess of 8 percent is paid to the State, except in those instances where the State and the municipality granting the tax exemption to the housing corporation or association have agreed to share the surplus. According to the statute, the term "surplus" does not include any increase in assets due to the amortization of mortgaged property or increase in the market value of property held by the corporation or association (NJSA 55:16-5.1).

During the period of tax exemption, an urban renewal corporation or association also is subject to a limitation of profits and dividends (NJSA 40:55C-66).³⁵ The allowable net profit of an urban renewal corporation or association is computed by first adding 1¼ percent to the interest rate on the corporation's initial permanent mortgage (this rate includes any insurance premiums on a government insured mortgage) or, if there is no permanent mortgage financing on the project, to what the municipality determines to be the prevailing rate on mortgage financing on "comparable improvements in the municipality" (NJSA 40:55C-48). This "allowable profit rate" is then multiplied by the total project cost or total project unit cost (if the project is to be built in units) to compute the allowable net profit (NJSA 44:55C-49).

If the net profits of the corporation or association exceeds the allowable net profit in a particular year, the excess must be paid to the municipality as an additional service charge (NJSA 40:55C-66).³⁶ However, the corporation or association may keep a reserve fund to protect against "vacancies, unpaid rentals and contingencies." This contingency fund must not exceed ten percent of the gross annual revenues of the corporation or association. Upon termination of the tax exemption periods, or upon sale of the project to another urban renewal entity, such reserve monies plus any excess profits must be paid to the municipality (NJSA 40:55C-66 and -67).

In the case of non-profit urban renewal corporations, all profits are paid to the municipality (NJSA 40:55C-92 and -98). However, non-profit urban renewal corporations are also allowed to maintain a fund against vacancies, unpaid rentals and other contingencies which is not to exceed 10 percent of the gross revenues of each project operated by the corporation (NJSA 40:55C-98). These contingency funds and any profits are to be paid to the municipality upon termination of the tax exemption period or upon sale of the project to another urban renewal entity (NJSA 40:55C-98 and -99).

The Senior Citizen Non-Profit Rental Housing Act does not specify how any excess profits are to be handled.

Commission Recommendations:

The Commission recommends that the basic structure for profit limitation as embodied in the current statutes be retained in the new tax exemption law, with corporations and associations undertaking housing projects subject to a limitation of profits of eight percent per year and corporations and associations undertaking commercial and industrial projects, subject to a limitation on net profits as currently specified in the Fox-Lance Act.

Footnotes—Chapter IV

1. Julius Seaman, "New Jersey Housing Legislation and Programs," in *Financing Housing and Urban Development*, Arthur Abba Goldberg, ed., Bureau of Government Research, Rutgers University, New Brunswick, 1974, p. 46.
2. Ibid.
3. The *Urban Redevelopment Law* was amended by P.L. 1949, c. 185 to include a definition of "blighted areas" and to set forth a procedure for designation of such areas in a municipality (see NJSA 55:14E-21 and -22).
4. NJSA 55:14E-24 was added to the *Urban Redevelopment Law* by P.L. 1949, c. 185, §18.
5. Unlike the *Redevelopment Companies Law*, the acquisition of property by eminent domain was done at the municipality's expense.
6. Profits of the corporations and dividends payable to the investors are limited to six (6) percent of the unamortized capital investment in the project at the beginning of that particular year of operation.
7. Seaman, pp. 46-47.
8. A narrative of the proceedings with regard to the inclusion of this paragraph in the Constitution is contained in State of New Jersey, *Constitutional Convention of 1947, Convention Proceedings Record*, Volume I, pp. 284, 411, 420, 643, and especially 742-5.
9. P.L. 1967, c. 112.
10. Senators Donald Fox (D-Essex) and Wesley Lance (R-Hunterdon).
11. The language concerning the operation adjacent to State investment blighted areas was added by P.L. 1983, c. 139, § 7. See also discussion of this statute in the following sections.
12. If the association is not required to file a certificate under the statutory provisions governing these entities, then, under the provision of the Fox-Lance Act, it must file a certificate in the office of the clerk of the county in which it is operating.
13. In addition, housing projects may be veterans housing projects constructed under the provisions of P.L. 1946, c. 323 (C. 55:14G-1 *et seq.*).
14. Elderly persons are defined as persons over the age of 62 and elderly families as families with the head of household over 62 years of age.
15. The phrase "by purchase or lease of not less than 15 years from a public or private owner" was added by P.L. 1968, c. 310.
16. NJSA 40:55C-83 does not include any State investment projects as added to NJSA 40:55C-46 by P.L. 1983, c. 139.
17. P.L. 1983, c. 139.
18. *Cervase v. Kawaia Towers, Inc.*, 124 N.J. 547 (1973).
19. See Note 25 for a definition of Annual gross revenue.
20. The requirements for an application for a non-profit urban renewal corporation are set forth in NJSA 40:55C-91.
21. No reference is made to housing associations in this section.
22. P.L. 1978, c. 93, §10 amended NJSA 40:55C-60 to provide for the sale of condominium units as part of the project. Provisions for condominium projects do not apply to non-profit urban renewal corporations. See also notes 23 and 24.
23. This does not apply to non-profit urban renewal corporations.
24. The language concerning condominium sales was added to NJSA 40:55C-62 by P.L. 1978, c. 93, §11. This provision does not apply to non-profit urban renewal corporations under NJSA 40:55C-92.
25. P.L. 1978, c. 93. This provision does not apply to non-profit urban renewal corporations.
26. Annual gross revenue is defined as "the total annual gross rental and other income of an urban renewal corporation or association from the project" (NJSA 40:55C-51 and -85). If any real estate taxes, insurance premiums, or operating and maintenance expenses are to be paid by the tenant, then these are to be included in the annual gross revenue. With respect to condominium projects, annual gross revenues are equal to the annual aggregate mortgage payment on each unit in the project, plus any payments for maintenance and other fees (NJSA 40:55C-58.1).
27. Total project cost includes land and improvement costs; architects, attorneys and engineers fees; surveying and testing fees; actual construction costs; insurance, interest and finance charges during construction; costs incurred for obtaining permanent financing; commissions and other expenses incurred in initial leasing or sale of units of the project; real estate taxes during the construction period; and the developers overhead based upon a percentage of the actual construction cost (this percentage decreases from 10 percent as the actual construction cost increases). Total project unit cost includes all items listed above as applied to individual units of the project (NJSA 40:55C-47 and -84).
28. Nancy G. Beer, *New Jersey's Business Property Tax Abatement Program (Fox-Lance) and Urban Revitalization*, Center for New Jersey Affairs, Woodrow Wilson School, Princeton University, September 1978, p. 4; and Paul Zoubek, *Property Tax Abatement in Newark: A Cost/Benefit Analysis*, Newark Economic Development Corporation, 1978, pp. 23-24.
29. Beer, p. 29; and Zoubek, p. 13.
30. Zoubek, p. 13.
31. The methodology for completing cost of public service delivery is described on pp. 14-15 of Zoubek's report.
32. Zoubek, pp. 16, 18, and 20.
33. Zoubek, p. 25.
34. Zoubek, p. 32.
35. All profits of a non-profit urban renewal corporation are paid to the municipality as per the provisions of NJSA 40:55C-92 and -98.
36. Net profits are defined as the gross revenues of the corporation or association minus all operating and non-operating expenses, including annual service charges, payments of excess profits, and annual amortization of the total project cost over the life of the improvements. Expenses do not include depreciation or obsolescence, interest on debt, taxes on income, or salaries and bonuses (NJSA 40:55C-50).

Chapter V

TAX ABATEMENTS AND EXEMPTIONS FOR REHABILITATION

In addition to encouraging new development and investment in blighted areas or areas in need of redevelopment, a comprehensive local redevelopment program should also include a program for rehabilitation and improvement of properties in areas which are not yet completely blighted. However, property owners in these areas are often reluctant to improve homes or businesses for fear of the resulting increase in property taxes. By providing property tax relief to home owners and businesses willing to invest in their properties, municipalities can stabilize neighborhoods and commercial areas and reverse existing patterns of deterioration and decline.

As with the property tax exemptions discussed in the previous chapter, the authority to offer such relief must come from State enabling law.

Effective December 4, 1975 a new paragraph was added to the New Jersey State Constitution which provided the Legislature with the power to enact laws enabling municipalities to grant exemptions and tax abatements in areas which are "in need of rehabilitation." As set forth in Article VIII, Section I, paragraph 6:

The Legislature may enact general laws under which municipalities may adopt ordinances granting exemptions or abatements from taxation 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. Such exemptions shall be for limited periods of time as specified by law, but not in excess of five years.

During the years following the addition of this paragraph to the Constitution, the New Jersey Legislature has enacted three laws enabling certain "qualified" municipalities to offer tax exemptions or abatements for homeowner improvements; improvement, construction, or expansion of commercial and industrial property; and improvement of and conversion to multiple dwellings.

HOMEOWNER IMPROVEMENTS:

The first of these three statutes was enacted in 1975, as P.L. 1975, c. 104 (C 54:4-3.72 *et seq.*). In its findings, the Legislature declared that efforts were underway at both the state and federal level to encourage the investment in and rehabilitation of deteriorated residential areas, that the deterioration of such neighborhoods was the result of "the unwillingness of the owners and investors of residential properties to properly maintain and improve their properties out of fear of the resulting increase in property taxes." By exempting some types of improvements from property taxation, much of this "unwillingness and fear" would be "dissipated" and rehabilitation of these properties would be encouraged (NJSA 54:4-3.72). To encourage such investment, the statute authorized municipalities to enact local ordinances providing tax exemptions and abatements to homeowners for improvements on one or two family residential properties.

TABLE V-I: PROVISIONS OF THE FIVE-YEAR

Five-year Abatement and Exemption Statute	Type of Project or Improvement	Entity Designating Area in Need of Rehabilitation	Criteria for Designating of Area in Need of Rehabilitation
Home Improvements P.L. 1975, c.104 (C. 54:4-3.72 to -3.79)	Homeowner improvements (including additions and enlargements) to one- or two-unit residential dwellings.	County planning Board—(on own or by municipal request) municipality may appeal in accordance with NJAC 5:22-1.2. (DCA prepares notice to residential property owners in areas in need of rehabilitation.)	1) Area previously blighted or near blighted area; or 2) Housing and Health Code violations in 25% of dwelling units; or, 3) At least 25% of dwelling units are 40+ years old; or 4) At least 25% of dwelling units are in buildings in tax arrearage. ^(A)
Commercial and Industrial Improvements and Projects P.L. 1977, c.12 (C. 54:4-3.95 to -3.112)	Improvement, construction and enlargement (less than 30% increase in volume) of commercial and industrial structures.	Department of Community Affairs upon application of municipality. (Division of Local Government Services must notify all qualified municipalities.)	1) Physical deterioration of building maintenance; 2) Age of building and other structures; 3) Arrearage in real property taxes; 4) If area is blighted as per <i>Blighted Area Act</i> (can be entire municipality). ^(B)
Multiple Dwellings P.L. 1979, c.233 (C. 54:4-3.121 to 3.129)	Improvement to existing multiple dwellings or conversion of other types of structures to multiple dwellings.	Municipal governing body as per criteria set forth by DCA. (DCA promulgates rules)	1) Area has been blighted; or, 2) Housing and health code violations in 25% of dwelling units in area; or, 3) At least 25% of dwelling units are 40+ years old; or, 4) At least 25% of properties in tax arrearage. ^(C)

^(A)Criteria adopted by DCA (NJAC 5:22-1.3); ^(B)NJSA 54:4-3.96; ^(C)Criteria adopted by DCA (NJAC 5:22-2.2)

TAX ABATEMENT AND EXEMPTION STATUTES

Qualifying Municipality	Application Approval Process		Tax Exemption Provisions	Tax Abatement Provisions
	Exemption	Abatement		
Any municipality with an area in need of rehabilitation as designated by the DCA.	Written application to the tax assessor on form prescribed by Division of Taxation. Must be filed within 30 days of completion of improvement.	Same as exemption	1st \$4,000 \$10,000 or \$15,000 of increased value due to improvement (amount set by ordinance) on each unit exempted from taxation.	Tax abatement provided on original assessed value of residential property for up to 30% of assessed value of improvement. Percentage may be phased down over five years.
1) Urban aid municipalities; or 2) Depressed rural center; or, 3) Municipality certified to receive urban aid by DCA, except for population, AFDC children, deteriorated structures, or any of these three criteria.	Written application approved by tax assessor or governing body as defined in the local ordinance. Must be filed within 60 days of project completion.	Written application approved by governing body. Agreement filed with Division of Local Government Services	Full assessed value of improvement exempted.	Payment in-lieu of taxes may be: 1) 2% of project cost; or, 2) 15% of annual gross revenues; or, 3) In-lieu of tax payment phased-in as follows: Year 1-0 Tax Year 2-Up to 20% taxed Year 3-Up to 40% taxed Year 4-Up to 60% taxed Year 5-Up to 80% taxed
Any municipality	Written application to the tax assessor on forms prescribed by Division of Taxation. Application must be filed within 30 days of project completion.	Same as exemption	Up to the full value of the improvement or conversion alteration	Tax abatement provided on original value of property for no more than 30% of the cost of improvement or exemption Year 1-Up to 30% of cost Year 2-Up to 25% of cost Year 3-Up to 20% of cost Year 4-Up to 15% of cost Year 5-Up to 10% of cost

In order for a municipality to offer tax exemptions and abatements on home improvements and rehabilitation, the county planning board—on its own initiative or in response to a petition by the governing body of the municipality—must first determine that a residential neighborhood within the municipality is “in need of rehabilitation.”¹ In making such a determination, the county planning board may consider such criteria as the existence of areas within the municipality that have been declared blighted, the deterioration in housing maintenance, the age of the housing stock, and the arrearage in real property taxes due on residential property (NJSA 54:4-3.74). If the county planning board does not respond to a petition within thirty days, the municipality may request a hearing before an administrative law judge, and a final determination by the Commissioner of the Department of Community Affairs.²

A qualified municipality (i.e., one which has residential areas that have been designated as being “in need of rehabilitation”) may enact a general ordinance providing for a five-year property tax “exemption” on the first \$4,000, \$10,000, or \$15,000 (as specified in the ordinance) of increased value resulting from improvements to residential units in areas in need of rehabilitation (NJSA 54:4-3.75 (a)).³ Such exemptions can be taken for each residential unit in any property which is more than 20 years old. Home improvements are defined as the modernization, rehabilitation, renovation, alteration, or repair of a dwelling which does not change its permitted use (NJSA 54:4-3.73(d)).

In 1981, the original statute was amended by P.L. 1981, c. 544, to state that a municipality which enacts an ordinance providing for a five-year tax exemption for home improvements may also grant a five-year “abatement” of the taxes on a portion of the original assessed value of the property before the improvements were made (NJSA 54:4-3.75(b)).⁴ Such a property tax abatement cannot exceed 30 percent of the annual amount of the exemption authorized by the local ordinance. It is important to note that under the provisions of each of the three statutes, an “exemption” is the reduction or elimination of taxes on the value of the *improvement* or new construction, while an “abatement” refers to a reduction in the property taxes on the *original assessed value* of the property.

The true taxable value of the property receiving a property tax exemption and abatement is determined by the assessor on October 1 of the year following the completion of the improvements. The formula used by the assessor to determine the total assessed value of the property receiving an exemption or abatement is as follows:

Total Assessed Value	=	Assessed value of the property for the tax year before the exemption or abatement	+	Any portion of the assessed value of the improvements not exempted from taxation	-	The amount of the abatement allowed on the original assessed value of the property
(NJSA 54:4-3.76)						

If any additional improvements are made to the property during the five-year period of the original exemption and abatement, the homeowner can qualify for an additional exemption and/or abatement up to the maximum permissible amount as defined by the local ordinance (NJSA 54:4-3.77).

Residential property owners interested in receiving an abatement or an exemption must make a written application (on forms provided by the Department of the Treasury) to the assessor of the taxing district within thirty days after the completion of the improvement (NJSA 54:4-3.78). Every application which is filed within the time limits for improvements as defined by the statute must be approved. Upon approval, the exemption (or exemption and abatement) is recorded on the official tax records.

The Commissioner of Community Affairs is authorized to promulgate rules and regulations for implementing the act (NJSA 54:4-3.79), and prepare a notice describing the exemption program for distribution by municipalities to residential property owners in an area declared as being in need of rehabilitation (NJSA 54:4-3.79(a)).

COMMERCIAL AND INDUSTRIAL PROJECTS:

In 1977, the State Legislature passed the second of the three five-year tax abatement and exemption statutes, this time for the construction and rehabilitation of commercial and industrial properties. In P.L. 1977, c. 12 (C. 54:4-3.95 *et seq.*), the Legislature stated the problems and issues in a clear and comprehensive manner. Specifically, the Legislature declared that:

- a. The downward transition of many New Jersey communities from sound and stable neighborhoods to blighted areas directly reflects the changing economic base of those communities.
- b. Deterioration of residential neighborhoods is inseparably related to the decline in the commercial and industrial life of those communities.
- c. Property taxation in such communities is commonly at rates so high that it becomes more feasible for investors, small business and industry to abandon an urban facility rather than improve it and be faced with paying what is effectively a substantial tax penalty for such improvements.
- d. The impact of the migration of economic enterprise from urban centers results not only in the health and safety hazards that are common with abandoned structures, but also in increased unemployment, diminished incomes, consequent family and social problems, and residential decay and abandonment.
- e. The construction and rehabilitation of commercial and industrial buildings and structures to this State to increase opportunities for re-employment, and ultimately to broaden State and local tax bases, is in the public interest.
- f. The availability of property tax exemptions and abatements can help induce the construction and rehabilitation of industrial and commercial facilities in areas threatened with economic and social decline.

Under the provisions of the 1977 law, a municipality which:

1. Qualifies for urban aid under P.L. 1978, c. 14 (C. 52:27D-178);
2. Is certified to qualify for urban aid under P.L. 1978, c. 14, except for population, the number of children enrolled in the federal Aid to Families with Dependent Children program, the existence of publicly financed housing, or any combination of these three criteria; or,

3. Qualifies for aid under the *Depressed Rural Centers Aid Act*, P.L. 1977, c. 260 (C. 52:27D-162 *et seq.*);

may pass a general ordinance providing for a five-year property tax "exemption" and "abatement" on the improvement, expansion, or construction of new commercial and industrial facilities in areas in need of rehabilitation (NJSA 54:4-3.96(f) and -3.97).

Upon application of the governing body in a qualified municipality, the Department of Community Affairs may designate an area as being in need of rehabilitation for the purposes of providing industrial and commercial tax abatements and exemptions (NJSA 54:4-3.96). In making such a designation, the Department may consider the physical deterioration of building maintenance, the age of buildings and other structures, and arrearage in property taxes due on lands and improvements in the area. An area may also be designated as being in need of rehabilitation if it is designated as a blighted area as per the provisions of the *Blighted Areas Act*, P.L. 1949, c. 187 (C. 40:55-21.1 *et seq.*). Where the deterioration is widespread, the Commissioner of Community Affairs may designate the entire municipality as an area in need of rehabilitation.

Exemptions

Municipalities with an area in need of rehabilitation may enact a general ordinance providing for both property tax exemptions and abatements for commercial and industrial properties (NJSA 54:4-3.97). A five-year property tax "exemption" may be granted for the "modernization, rehabilitation, renovation, alteration or repair of a commercial or industrial structure that does not increase the volume of the structure by more than 30 percent."

Any ordinance enacted by a municipality providing for five-year property tax exemptions on commercial and industrial properties may specify that the tax assessor approve all qualified improvements upon a proper application, or may define certain categories of improvements that will require the review and approval of the local governing body, or require that all applications for exemptions be reviewed by the governing body (NJSA 54:4-3.98(a)).

In order to receive a tax exemption for an improvement, a written application (on a form designed by the Division of Local Government Services in the Department of Community Affairs) must be submitted to the tax assessor within sixty days of the completion of the project (NJSA 54:4-3.98(c)). Each properly completed application for an exemption on a qualified improvement must be approved by the tax assessor or reviewed and acted upon by the governing body (depending on the provisions of the ordinance) within sixty days from the date the application is filed.⁵

If an exemption is granted, the value of the improvements are excluded from the total assessed value of the property for five years from the date the improvements are completed. However, the tax obligation on the property taxes that were payable cannot be less than the assessed value of the property in the year preceding the construction of the improvements (NJSA 54:4-3.98(b)).

Abatements

A property tax "abatement" may be granted for the construction of new

facilities which will "provide employment within the municipality, assist in the economic development of the municipality, maintain or increase the tax base in the municipality, or diversify and expand commerce within the municipality." In addition, an abatement may be granted for the expansion of the volume of an existing commercial or industrial structure by no more than 30 percent (NJSA 54:4-3.96(c) and (e)). However, a project may not result in the removal of a commercial or industrial facility from another qualified municipality (NJSA 54:4-3.96(e)). An application for a tax abatement on a commercial or industrial project must include:

1. A general description of the project;
2. A legal description of all real estate required for the project;
3. Plans, documents and other drawings describing the design of the project;
4. A description of the number and type of the employees to be employed at the completed project;
5. A statement of the reasons why an exemption is needed;
6. Estimates of the cost of completing the project;
7. A statement of the current tax assessment, estimated payments during the abatement period, and the estimated tax payments that would be made in the first year after the abatement ends;
8. A description of the lease agreements associated with the project; and,
9. Any other information required by the municipality (NJSA 54:4-3.100).

If the application is approved by the governing body, the municipality must enter into a written agreement with the applicant for the provision of in-lieu of property tax payments by the applicant (NJSA 54:4-3.99 and -3.101). In-lieu of tax payments may be based on any one of the three following formulas:

1. *Cost Basis*: The applicant pays the municipality an annual payment equal to 2 percent of the total project cost (NJSA 54:4-3.101(a)).
2. *Gross Revenue Basis*: The applicant pays the municipality an annual payment equal to 15 percent of the annual gross revenues of the project (NJSA 54:4-3.101(b)).
3. *Tax Phase-In*: The applicant pays a percentage of the taxes otherwise due. These payments are phased in over the five-year abatement period as follows:
 - Year 1: No payment
 - Year 2: Not less than 20 percent of the taxes otherwise due
 - Year 3: Not less than 40 percent of the taxes otherwise due
 - Year 4: Not less than 60 percent of the taxes otherwise due
 - Year 5: Not less than 80 percent of the taxes otherwise due (NJSA 54:4-3.101(c))

At the termination of the five-year exemption and abatement period, a project is subject to all real property taxes as provided by State law and local

ordinances. However, a municipality may enter into an agreement with the property owners to provide a tax exemption under the provisions of the *Fox-Lance Act* (NJSA 54:4-3.108).

Within thirty days of the execution of a property tax abatement agreement, the municipality is required to submit a copy of the agreement to the Division of Local Government Services in the Department of Community Affairs and to the Commissioner of Labor (NJSA 54:4-3.106). The Director of Local Government Services is also required to notify all municipalities that become eligible to enact local property tax exemption and abatement ordinances for commercial and industrial projects and to submit an annual report to the Legislature on the implementation of this act (NJSA 54:4-3.112).⁶

MULTIPLE DWELLINGS:

The third of the three five-year tax exemption and abatement statutes was enacted in 1979 as P.L. 1979, c. 233 (C. 54:4-3.121 *et seq.*). This statute follows the same general structure as the previous two laws, and provides municipalities with the authority to enact a general ordinance for property tax exemptions and abatements on the improvement of existing multi-family buildings and the conversion of other types of structures to multi-family housing units.

To provide these tax exemptions and abatements, the municipal governing body must first determine that:

1. Certain areas in the municipality are in need of rehabilitation; and,
2. In these areas one or more multiple dwellings are in need of rehabilitation, or one or more structures can be readily converted to multiple dwellings (NJSA 54:4-3.123).⁷

This determination must be made in accordance with criteria set forth by the Department of Community Affairs, and may take into consideration the existence of blighted areas in a municipality, the deterioration of housing stock, the age of housing stock, the supply and demand for housing in the municipality, and the tax arrearage on residential properties in the municipality.⁸

Exemptions

Upon designating an area in need of rehabilitation, a municipality may enact an ordinance providing for a five-year exemption from property taxation on any improvements to an existing multiple dwelling in the area and/or the conversion of another type of structure to a multiple dwelling (NJSA 54:4-3.124(a)). Exemptions may be up to the full assessed value of the improvement or conversion alterations, provided that the new assessment is not less than the tax assessment before the property was improved or converted.

Abatements

The municipality may also grant a five-year property tax abatement on the tax due on the property which is improved or converted (NJSA 54:4-3.124(b)). However, this abatement may not exceed the total cost of the improvement or conversion alteration. Abatements are to be granted according to the following schedule:

1. Year 1—up to 30 percent of the cost of the improvement or conversion alteration;
2. Year 2—up to 25 percent of the cost of the improvement or conversion alteration;
3. Year 3—up to 20 percent of the cost of the improvement or conversion alteration;
4. Year 4—up to 15 percent of the cost of the improvement or conversion alteration; and,
5. Year 5—up to 10 percent of the cost of the improvement or conversion alteration.

The procedure for applying for a tax exemption and abatement is the same as that prescribed in P.L. 1975, c. 104 (Home Improvements). A written application must be submitted to the local tax assessor within thirty days of the completion of the construction or improvement (NJSA 54:4-3.129). An application for an exemption or abatement that is filed within the specified time limit and is for an improvement or conversion alteration that qualifies under the provisions of the act must be approved by the tax assessor. However, no application can be granted for any property that is in tax arrearage or which property taxes are overdue (NJSA 54:4-3.128). All exemptions and abatements are made an official record of the local tax district.

The total assessed value of properties receiving exemption and/or abatement are calculated by the assessor in the same manner as for home improvements:

Total Assessed Value	=	Assessed value of the property for the tax year previous to the granting of the exemption and/or abatement	+	Any portion of the assessed value of the improvements not exempted from taxation	-	The amount of the abatement allowed on the original assessed value of the property
(NJSA 54:4-3.125)						

LOCAL UTILIZATION:

Using information on the number of municipalities which have been designated as having areas in need of redevelopment by county planning boards (for Chapter 104 abatements and exemptions for home improvement) and the Department of Community Affairs (for Chapter 12 abatements and exemptions for commercial and industrial projects), as well as the reports on the assessed value of exempted improvements which are filed with the Division of Taxation by local tax assessors, a fairly comprehensive picture can be developed on the current activity and recent trends in the utilization of these statutes.

Of these statutes, Chapter 104 abatements and exemptions for home improvements appear to be the most widely used, with 127 municipalities designated by county planning boards as having an area in need of rehabilitation and, as such, qualified to enact a local ordinance. (See Figure V-1) According to records filed with the Division of Taxation in 1985, ninety-three of these municipalities reported exemptions and abatements, representing a total assessed value of \$48.8 million. (See Table V-2.)

Figure V-1

**MUNICIPALITIES WITH AREAS IN
NEED OF REHABILITATION FOR
HOME IMPROVEMENT ABATEMENTS
AND EXEMPTIONS**
(P.L. 1975, c. 104)

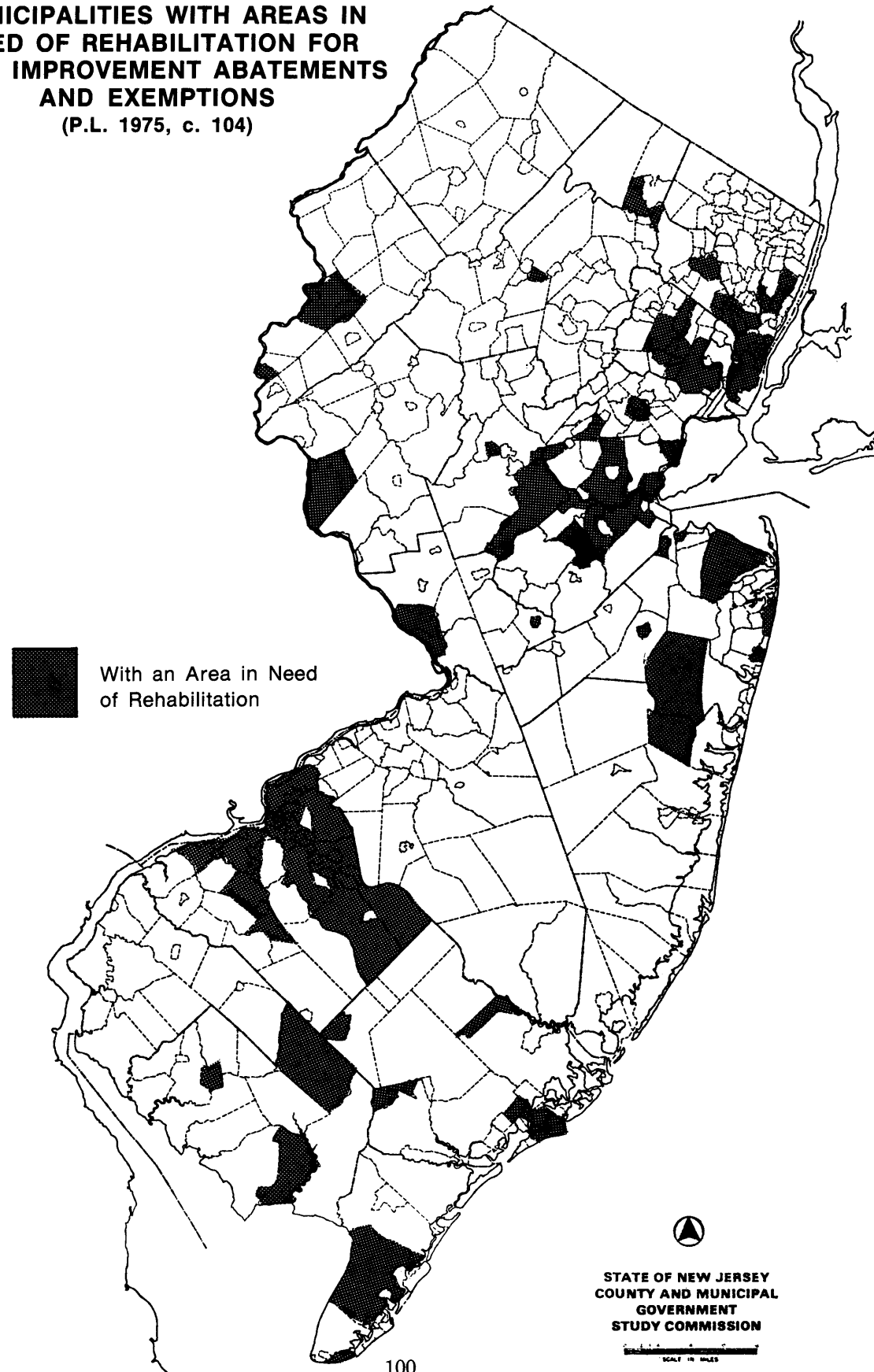


TABLE V-2

**STATEWIDE TOTAL OF ASSESSED VALUE OF EXEMPTIONS
AND ABATEMENTS UNDER CHAPTERS 104, 12 and 233
1982-1985**

Year ¹	Home Improvements (Chapter 104)	Multiple Dwellings ² (Chapter 233)	Commercial and Industrial (Chapter 12)
1985	\$48,799,304	\$ 38,480	\$27,508,210
1984	39,347,168	40,390	22,908,065
1983	31,934,055	80,390	18,361,195
1982	20,347,495	286,310	16,548,050

1. Yearly variations may be due to both the increased assessed value of individual improvements and the addition of new projects to the total. In addition, property owners may spread the value of improvements over the course of several years (i.e., a total exemption of \$10,000, with \$5,000 of improvements exempted one year and \$5,000 the next year.)

2. Due to limitations on the available number of data processing formats available at the Division of Taxation, listings for multiple dwellings may have appeared in other partial exemption and abatement categories.

Source: "Summary of Addenda to Abstract of Ratables by County—Assessed Value of Partial Exemptions and Abatements," Bureau of Local Property Taxation, Division of Taxation, Department of Treasury.

Chapter 12 abatements for industrial and commercial projects have been used less extensively. Of the 168 municipalities qualified to apply for a designation, only twenty-seven have been certified by the Department of Community Affairs as having an area in need of rehabilitation in their community. (See Figure V-2) In 1985, the total assessed value of commercial and industrial improvements exempted from taxation under Chapter 12 in these communities was assessed approximately \$27.5 million.

The use of abatements and exemptions for home improvements (Chapter 104) and commercial and industrial projects (Chapter 12) have increased dramatically since the early 1980s. Between 1982 and 1985, the reported total assessed value of Chapter 104 abatements and exemptions increased by nearly 140 percent—from \$20.3 million in assessed value in 1982 to \$48.8 million in 1985. The increase in the use of exemptions and abatements for home improvements is the result of additional municipalities enacting local ordinances and new improvements receiving exemptions and abatements in municipalities with existing ordinances. The largest increase in assessed value was recorded in Hudson County (\$6.5 million), followed by Camden, Middlesex, and Monmouth Counties, each reporting approximately a \$4 million increase in assessed value in the four-year period from 1982 to 1985. (See Table V-3)

In this same period, the total assessed value of Chapter 12 abatements and exemptions for commercial and industrial projects increased by approximately two-thirds, from \$16.5 million in 1982 to just over \$27.5 million in 1985. Because commercial and industrial projects will have a relatively high

**MUNICIPALITIES WITH AREAS
IN NEED OF REHABILITATION
FOR THE PURPOSE OF
COMMERCIAL AND INDUSTRIAL
ABATEMENTS AND
EXEMPTIONS**
(P.L. 1977, c. 12)

With an Area in Need of
Rehabilitation

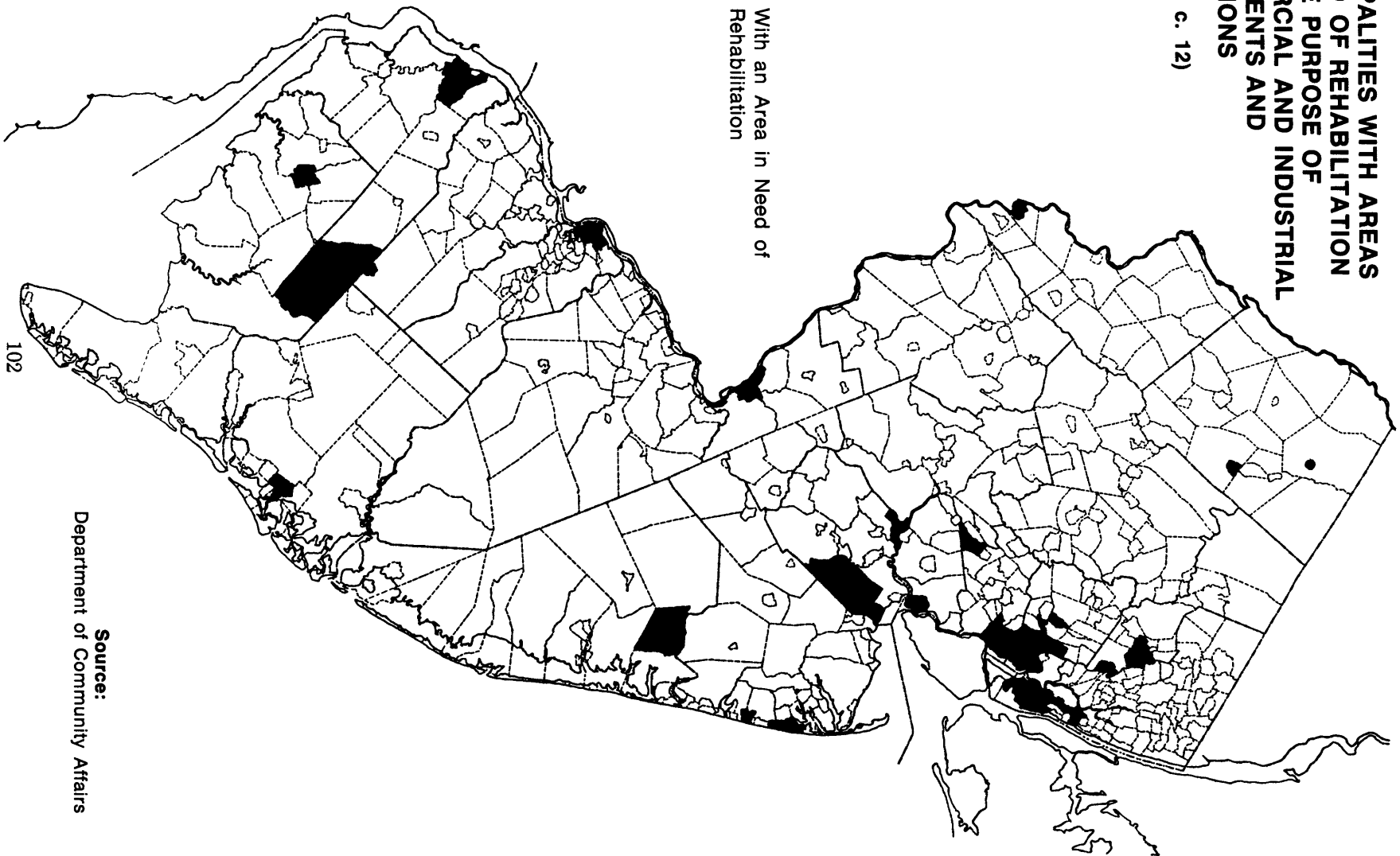


Figure V-2

Source:
Department of Community Affairs

TABLE V-3

**ASSESSED VALUE OF CHAPTER 104 TAX EXEMPTIONS AND ABATEMENTS
FOR HOME IMPROVEMENTS BY COUNTY: 1982-1985**

County	Assessed Value				Net Change 1982-1985
	1982	1983	1984	1985	
Atlantic	\$ 102,500	\$ 106,500	\$ 142,300	\$ 298,700	\$ 196,200
Bergen	1,610,900	2,517,700	3,096,390	3,564,680	1,953,780
Burlington	1,091,410	2,012,630	2,834,120	4,071,210	2,979,800
Camden	5,615,980	7,285,730	8,547,093	9,523,094	3,907,114
Cape May	-0-	-0-	-0-	-0-	-0-
Cumberland	860,200	1,636,500	2,341,400	3,267,900	2,407,700
Essex	815,800	1,020,300	1,150,900	1,092,400	276,600
Gloucester	678,800	1,342,500	1,988,900	2,456,800	1,778,000
Hudson	3,041,200	5,273,350	6,984,200	9,518,650	6,477,450
Hunterdon	-0-	-0-	-0-	-0-	-0-
Mercer	455,570	536,450	610,980	495,520	39,950
Middlesex	973,100	2,074,900	3,575,000	4,992,700	4,019,600
Monmouth	1,446,200	2,971,850	4,441,550	5,489,600	4,043,400
Morris	-0-	-0-	84,850	114,450	114,450
Ocean	-0-	-0-	-0-	-0-	-0-
Passaic	2,071,350	2,214,350	-0-	-0-	(-2,071,350)
Salem	51,200	152,100	334,200	229,600	178,400
Somerset	789,500	1,311,100	1,575,500	1,792,300	1,002,800
Sussex	-0-	-0-	-0-	-0-	-0-
Union	-0-	-0-	-0-	7,700	7,700
Warren	743,785	1,478,095	1,639,785	1,864,000	1,120,215
TOTALS	\$20,347,495	\$31,934,055	\$39,347,168	\$48,779,304	\$28,431,809

Source: "Summary of Addenda to Abstract of Ratables by County—Assessed Value of Partial Exemptions and Abatements," Bureau of Local Property Taxation, New Jersey Department of the Treasury.

assessed value compared to individual homeowner improvements, the addition or subtraction of a single project will have a large impact on the total assessed value reported in a particular year, making the importance of this trend more difficult to assess. As an example, nearly the entire \$4.6 million increase in total assessed value reported under Chapter 12 between 1984 and 1985 is the result of the \$4.3 million in new assessed value reported from Pleasantville. (See Table V-4)

Between 1982 and 1985, Lakewood, Newark and Old Bridge have been the most extensive users of Chapter 12 exemptions and abatements, with Lakewood reporting an assessed value of \$9.5 million; Newark, \$5.1 million and Old Bridge, \$3.6 million in 1985. Together with the \$4.3 million reported from Pleasantville, these four municipalities account for 82 percent of the total assessed value under Chapter 12 in 1985. (A total of 15 municipalities reported Chapter 12 abatements in 1985.)

TABLE V-4

ASSESSED VALUE OF CHAPTER 12 TAX EXEMPTIONS AND ABATEMENTS FOR COMMERCIAL AND INDUSTRIAL PROJECTS BY COUNTY: 1982-1985

County	1982	Assessed Value 1983	1984	1985
Atlantic	\$ —0—	\$ —0—	\$ —0—	\$ 4,278,600
Bergen	—0—	—0—	—0—	—0—
Burlington	—0—	—0—	—0—	—0—
Camden	62,700	52,875	22,900	148,355
Cape May	—0—	—0—	—0—	—0—
Cumberland	997,800	1,103,300	1,027,400	1,965,300
Essex	3,584,400	5,839,400	4,835,400	5,118,900
Gloucester	—0—	19,900	15,900	15,900
Hudson	109,750	—0—	234,000	164,000
Hunterdon	—0—	—0—	—0—	—0—
Mercer	1,390,760	949,780	1,042,900	710,220
Middlesex	858,100	1,249,700	2,169,600	3,568,200
Monmouth	10,000	170,000	400	—0—
Morris	—0—	—0—	—0—	—0—
Ocean	8,249,300	8,857,500	10,925,800	9,495,300
Passaic	—0—	—0—	2,320,150	1,816,200
Salem	158,400	—0—	—0—	—0—
Somerset	—0—	—0—	—0—	—0—
Sussex	—0—	—0—	—0—	—0—
Union	—0—	—0—	—0—	—0—
Warren	1,126,840	—0—	313,615	227,145
TOTALS	\$16,548,050	\$18,361,195	\$22,908,065	\$27,508,120

Source: "Summary of Addenda to Abstract of Ratables by County—Assessed Value of Partial Exemptions and Abatements," Bureau of Local Property Taxation, Division of Taxation, Department of Treasury.

Little information is available on the local utilization of Chapter 233 abatements and exemptions on multiple dwellings. What information is available suggests that this statute has not been used extensively, with only 8 municipalities reporting Chapter 233 abatements and exemptions to the Division of Taxation since 1982.

The true extent of the utilization of this statute is obscured, however. Due to limitations in the number of entries available on the data processing forms used to report partial exemptions and abatements, entries for assessed value of Chapter 233 improvements and conversions may have been included in other reporting categories. According to records filed with the Division of Taxation, improvements and conversions which received exemptions represented a total assessed value of only \$38,480 in 1985.

COMMISSION RECOMMENDATIONS:

In municipalities which have enacted local ordinances under the provisions of the five-year tax exemption and abatement laws, there appears to be general satisfaction with the statutes and few problems in implementing local tax abatement and exemption programs. Some municipalities are reluctant, however, to enact a local ordinance because of concern over loss of potential ratables. This appears to be more of an issue with Chapter 12 exemptions and abatements for commercial and industrial properties. In addition, local tax assessors do have some complaints about the dual reporting mechanism required for reporting local tax exemptions.

The feature which makes the five-year abatement and exemption statutes popular is the relative ease in declaring an area in need of rehabilitation compared to the complex procedure for declaring an area blighted, which is required for the four tax exemption statutes discussed in the previous chapter. In fact, the use of this type of designation was expanded in 1980 to allow municipalities and redevelopment agencies to undertake redevelopment projects (except for the use of eminent domain) in areas in need of rehabilitation.⁹

If there has been any complaint in using the area in need of rehabilitation designation, it is the need to secure a separate designation for each of the three types of exemptions and abatements. In the case of home improvements (Chapter 104), the county planning board makes the designation upon application by the municipality (the municipality can appeal to an administrative law judge). In the case of commercial and industrial projects (Chapter 12), the Department of Community Affairs makes the designation. For Chapter 233 exemptions and abatements on multiple dwellings, the local governing body makes the designation based on criteria established by the Department of Community Affairs. In each of the three statutes, the criteria for making such a designation (whether they are set forth in the statute or promulgated in regulations issued by the Department of Community Affairs) are essentially the same.

It is the Commission's opinion, that the requirement for a separate in need of rehabilitation designation for each type of project unnecessarily complicates an otherwise effective set of statutes. In addition, each of the three statutes share enough common provisions to make their consolidation logical and worthwhile. *Therefore, the Commission recommends that the five-year tax abatement and exemption statutes be consolidated into a single enabling act with one procedure for designating an area in need of rehabilitation.*

Provisions of a New Statute

In the new statute, an area in need of rehabilitation should be defined as any blighted area or area in need of redevelopment as per the Commission's recommendations in Chapter III, plus areas where: 1) a significant portion of the residential, commercial, and industrial structures are in a deteriorated or substandard condition; 2) there exists a continuing pattern of property tax arrearage and vacant or underutilized properties; and, 3) where a program of rehabilitation, improvement, and new infill construction will prevent further deterioration and promote the overall development of the community. A designation of an area as being in need of rehabilitation should be made by the Department of Community Affairs upon application by the municipality. If appropriate, an entire municipality should be designated as an area in need of rehabilitation. Such a designation should be based on regulations and specific criteria adopted by the Department. Any designations should include a time limit, at which time a review of the original designation should take place.

Once an area within a municipality, or the entire municipality, has been designated as an area in need of rehabilitation, the local governing body should then be able to enact a local ordinance providing for five-year tax exemptions and abatements for the improvement of one or two unit residential structures; the improvement, expansion, or construction of new commercial and industrial projects; the conversion to, or improvement of, existing multiple dwellings; or any one or combination of the above types of projects.

Because of the importance of in-fill construction in a comprehensive strategy for improvement of areas in need of rehabilitation, the Commission recommends that a new five-year abatement and exemption statute provide for tax abatements and exemptions for the construction of new single family or multiple dwelling projects. Such provisions should provide for the phase in of in-lieu of tax payments over the five-year period of the exemption. Provisions for five-year tax exemptions on the construction of new multiple dwelling structures is contained in Senate Bill 1732 of the 1986-1987 Legislative Session. The Commission endorses the concepts contained in that bill and recommends that they be incorporated in a new tax abatement and exemption statute.

The different provisions for in-lieu of tax payments and the phase-in payments as contained in the current enabling acts should be included in a new law. However, any new statute should more clearly define the time period in which tax abatements are to begin or end.

In the case of commercial and industrial projects, the requirement for a written agreement between the municipality and the property owner should be included in a new law. However, the municipality should only be required to file such agreements with the Division of Local Government Services in the Department of Community Affairs. The current requirement for a filing with the Department of Labor and Industry is antiquated and no longer necessary.

Footnotes—Chapter V

1. P.L. 1979, c. 284 substituted the term "in need of rehabilitation" for "endangered by blight" which was used in the original language enacted in 1975. See committee statement in NJSA 54:4-3.72.
2. N.J.A.C. 5:22-1.2. The criteria by which the administrative law judge is to make a determination is set forth in N.J.A.C. 5:22-1.3.
3. The \$10,000 limit was added in 1977 and the \$15,000 limit was added in 1981.
4. It was anticipated that these abatements would balance out the high interest rate which existed for home improvement loans at the time of the bill's enactment. This type of abatement had been made available in conjunction with multiple dwelling improvements under the provisions of P.L. 1979, c. 233 and industrial and commercial improvements under P.L. 1977, c. 12. See committee statement in NJSA 54:4-3.72.
5. An exemption or abatement cannot be granted to a licensed gambling casino (NJSA 54:4-3.110), or to a property in which the property taxes are delinquent (NJSA 54:4-3.107).
6. These requirements were added by P.L. 1983, c. 118 §2.
7. Such conversions can include industrial properties, as well as the conversion of "unutilized public school buildings." This last category was added to the statute by P.L. 1983, c. 72 §1.
8. The criteria for municipal determination are set forth in N.J.A.C. 5:22-2.3.
9. P.L. 1980, c. 121.

**FUTURE PUBLICATIONS OF THE
COUNTY AND MUNICIPAL
GOVERNMENT STUDY COMMISSION**

- Judicial Unification
- A Status Report on Solid Waste Management
- The Optional Municipal Charter Law
- An Analysis of the Corrections System
- Local Code Enforcement
- Independent Boards and Municipal Government
- Services for the Elderly: Current and Future Needs
- The Municipal Welfare System

COVER CREDITS:

Design: Stephen Guy

Sketch: Hintz-Nelessen Associates

Photo: Courtesy New Jersey News Photos

ABOUT THE COMMISSION

The New Jersey legislature established the County and Municipal Government Study Commission with the charge to "study the structure and functions of county and municipal government . . . and to determine their applicability in meeting the present and future needs of the State and its political subdivisions."

To achieve as broad a representation as possible in carrying out this legislative charge, a Commission of fifteen members was created, nine of whom are named by the Governor, three of whom are senators named by the President of the Senate, and three of whom are assemblymen, named by the Speaker of the General Assembly. Of the Governor's appointments, three are nominees of the New Jersey Association of Counties, three are nominees of the New Jersey State League of Municipalities, and three are from among the citizens of the State.

The Commission's initial report, *Creative Localism: A Prospectus*, recommended a comprehensive and systematic study of the patterns of planning, financing, and performing functions of government. This assessment seeks to develop more effective approaches for service provision among municipal, county, and state governments through statutory amendment and changes in administrative practices and policies.

In light of these goals, the Commission has examined alternative forms of service provision on a larger-than-municipal scale and has evaluated current systems for the provision of services. This research has led to a series of structural studies dealing with county government, joint services, consolidation, and municipal government forms. The Commission also engages in functional studies that are focused upon the services that local governments provide or should provide. These functional studies have included examinations of transportation, housing, social services, health, solid waste management, flood control, libraries, law enforcement, and state mandated functions. In addition, a series of informational periodicals and handbooks are published for the use of officials, administrators, and others interested in New Jersey government.

While the Commission's research efforts are primarily directed toward continuing structural and functional studies, its staff is often asked to assist in the drafting of legislation and regulatory action based upon Commission recommendations. The Commission also serves as a general resource to the Legislature, executive agencies, local government officials, and civic organizations, as well as to related activities at the national level.