

Provided by:

**Council of Development Finance Agencies**

**Online Resource Database**

[www.cdfa.net](http://www.cdfa.net)

*Date: April 1, 2006*



---

## **New Jersey Revenue Allocation District Financing Act**

TITLE 52. STATE GOVERNMENT, DEPARTMENTS AND OFFICERS  
SUBTITLE 3. EXECUTIVE AND ADMINISTRATIVE DEPARTMENTS  
CHAPTER 27D. DEPARTMENT OF COMMUNITY AFFAIRS  
ARTICLE 9. DEPARTMENT OF COMMUNITY AFFAIRS ACT

### **§ 52:27D-459. Short title**

Sections 11 through 41 of P.L. 2001, c. 310 (C. 52:27D-459 et seq.) shall be known and may be cited as the "Revenue Allocation District Financing Act."

### **§ 52:27D-460. Findings, declaration relative to Revenue Allocation District Financing Act**

The Legislature finds and declares that:

- a. There are areas within certain municipalities in this State that deter private capital investment because of the deteriorating condition of the land, buildings and infrastructure within those areas, or that have not experienced private capital investment due to inadequate infrastructure or adverse economic conditions.
- b. These areas also create an economic burden for the municipality due to the limited tax base and underutilization of resources.
- c. The scarcity of resources available to municipalities for redevelopment has severely hampered these municipalities' ability to rehabilitate these areas.
- d. In order to redevelop these areas in a beneficial manner, municipalities should be provided the means to finance certain costs of redevelopment so as to open new avenues for private investment; stimulate commercial, industrial, recreational, cultural, entertainment, civic and educational enterprise; and create favorable conditions for increases in economic activity, property values, employment opportunities and the provision of affordable housing.
- e. The use of new redevelopment tools as a catalyst for economic revitalization can be maximized if employed in conjunction with the redevelopment planning process established pursuant to P.L. 1992, c. 79 (C. 40A:12A-1 et al.).

f. The State should consider, where appropriate, one or more of the following: whether the redevelopment project or plan promotes approaches and concepts to reduce congestion; enhance mobility; assist in the redevelopment of our municipalities; and otherwise improve the quality of life of our citizens.

g. It is, therefore, in the public interest to authorize the use of revenue allocation financing by municipalities and the dedication of payments in lieu of taxes toward the retirement of debt incurred in redevelopment, as set forth hereunder, to encourage private investment within areas that are blighted or in need of redevelopment or would otherwise remain unused.

### **§ 52:27D-461. Definitions relative to Revenue Allocation District Financing Act**

As used in sections 11 through 41 of P.L. 2001, c. 310 (C. 52:27D-459 et seq.):

"Area in need of redevelopment" means a redevelopment area as defined pursuant to section 3 of P.L. 1992, c. 79 (C. 40A:12A-3).

"Board" means the Local Finance Board established in the Division of Local Government Services in the Department of Community Affairs.

"Bonds" means the bonds, notes and bond anticipation notes issued to finance projects pursuant to the "Revenue Allocation District Financing Act," sections 11 through 41 of P.L. 2001, c. 310 (C. 52:27D-459 et seq.).

"District" means the area or areas within a municipality designated as a revenue allocation district pursuant to the provisions of the "Revenue Allocation District Financing Act," sections 11 through 41 of P.L. 2001, c. 310 (C. 52:27D-459 et seq.).

"District agent" means that entity designated by the municipal governing body pursuant to section 14 of P.L. 2001, c. 310 (C. 52:27D-462) to administer a revenue allocation plan on behalf of the municipality.

"Eligible revenue" means the property tax increment and any other incremental revenues set forth in section 21 of P.L. 2001, c. 310 (C. 52:27D-469).

"Municipality" means the municipal governing body or an entity acting on behalf of the municipality if permitted by the federal Internal Revenue Code of 1986 or, if a redevelopment agency or redevelopment entity is established in a municipality pursuant to P.L. 1992, c. 79 (C. 40A:12A-1 et seq.) and the municipality so provides, the redevelopment agency or entity so established.

"Permitted investment obligations" means any securities permitted for purchase by local units of government pursuant to section 8 of P.L. 1977, c. 396 (C. 40A:5-15.1).

"Plan" means the final revenue allocation plan developed by a district agent pursuant to section

22 of P.L. 2001, c. 310 (C. 52:27D-470) and containing, among other elements, the proposed projects, estimated cost of the projects, sources of revenue, and the terms of any obligations, undertakings or commitments to be incurred by the district agent.

"Pledged revenues" means those eligible revenues designated in the plan for payment of project costs.

"Project" means the purchasing, leasing, condemning or otherwise acquiring of land or other property, or an interest therein, in the district or as necessary or convenient for the acquisition of any right-of-way or other easement to or from the revenue allocation district; the moving and relocation of persons or businesses displaced by the acquisition of land or property; the acquisition, construction, reconstruction or rehabilitation of land or property and the improvements thereon, or the financing thereof, including demolition, clearance, removal, relocation, renovation, alteration, construction, reconstruction, alteration or repair of any land, building, street, highway, alley, utility, mass transit facility, service or other structure, infrastructure or improvement in the district or necessary to effectuate the plan for the district, including infrastructure improvements outside the district, but only those which are integral to the effectuation of the district plan; the acquisition, construction, reconstruction, rehabilitation or installation of public facilities and improvements, or the financing thereof; acquisition, construction, reconstruction or rehabilitation of residential structures, or the conversion to residential use of structures previously designed or used for other purposes, or the financing thereof, nonprofit corporation or other suitable public or private person, firm, corporation or association, and which, to the extent economically feasible, shall constitute housing affordable to persons and families of low and moderate income pursuant to P.L. 1985, c. 222 (C. 52:27D-301 et al.) or rules and regulations adopted pursuant thereto; and all costs associated with any of the foregoing, including the cost of administrative appraisals, legal, financial, economic and environmental analyses, engineering or cleanup, planning, design, architectural, surveying or other professional and technical services necessary to effectuate the purposes of the "Revenue Allocation District Financing Act," sections 11 through 41 of P.L. 2001, c. 310 (C. 52:27D-459 - 52:27D-489 ).

"Project cost" means the cost of the plan or project in all or any part of the district and of all and any property, rights, easements, privileges, agreements and franchises deemed by the district agent to be necessary or useful and convenient therefor or in connection therewith, including interest or discount on bonds; cost of issuance of bonds; engineering and inspection costs; legal expenses; costs of financial and other professional estimates and advice; organization, administrative, operating and other expenses of the district agent prior to and during the planning and implementation of a development, plan or project, including such provision as the district agent may determine for the payment, or security for payment, of principal of or interest on bonds during or after the implementation of any development, plan or project.

"Property tax increment" means the amount obtained by:

(1) multiplying the general tax rate levied each year by the taxable value of all the property assessed within a district in the same year, excluding any special assessments; and

(2) multiplying that product by a fraction having a numerator equal to the taxable value of all the property assessed within the district, minus the property tax increment base, and having a denominator equal to the taxable value of all property assessed within the district.

"Property tax increment base" means the aggregate taxable value of all property assessed which is located within a district as of October 1 of the year preceding the year in which the district is authorized pursuant to the "Revenue Allocation District Financing Act," sections 11 through 41 of P.L.2001, c.310 (C.52:27D-459 et seq.).

"Redevelopment plan" means a redevelopment plan as the term is defined pursuant to section 3 of P.L. 1992, c. 79 (C. 40A:12A-3).

"Revenue increment base" means the amount of any eligible revenues, other than the property tax increment, collected in the calendar year immediately preceding the adoption of the plan.

"Taxing entity" means the county, the school district or districts, and the municipality authorized to levy a tax on the taxable property within a municipality.

#### **§ 52:27D-462. Establishment of districts**

The governing body of any municipality may by ordinance establish a district or districts. In the case of a municipality whose redevelopment powers are assigned by law to a regional planning commission, the commission may, by resolution, establish a district or districts in the area within which the commission has jurisdiction.

A revenue allocation district shall consist of all lots and streets within the borders of an area within a municipality or within areas of the municipality designated in the plan. The lots and streets shall be contiguous unless the municipality determines that non-contiguous areas of the municipality should comprise one district because those areas are part of a common development project or plan. The total taxable value in all districts designated shall not exceed 15 percent of the total taxable property assessed within the municipality, as determined by the municipal assessor, except that, upon a request by the governing body, the board may approve for inclusion in the district up to 20 percent of the total taxable property assessed in the municipality, as determined by the municipal assessor. The lots and streets to be designated as part of the plan shall be designated as a revenue allocation district as part of a duly adopted redevelopment plan approved by the governing body.

The ordinance or resolution, as appropriate, shall be adopted as provided in section 17 of P.L. 2001, c. 310 (C. 52:27D-465), and shall include or incorporate:

- a. a map designating the area or areas within the municipality as a district or districts;
- b. a certification by the municipal assessor that, upon the basis of property assessments as of October 1 of the year preceding the certification, the total taxable property value in all districts designated by the municipality, including the district being proposed in the ordinance, does not exceed 15 or 20 percent, as the case may be, of the total taxable property assessed in the

municipality, as provided in the ordinance adopted in accordance with the provisions of this section;

c. the designation of a district agent, which may be a county, a county improvement authority, the New Jersey Redevelopment Authority, the New Jersey Economic Development Authority or a municipality; provided, however, that if a district is created in an area under the jurisdiction of a regional planning commission which has been assigned redevelopment powers pursuant to law, that commission shall serve as the district agent in connection with that district;

d. a designation of all or any percentage of any eligible revenue or revenues as pledged revenues;

e. a statement of whether or not the municipality intends that any of the bonds issued by the district agent, if other than a municipality, be guaranteed by the municipality, or be issued as qualified bonds pursuant to the "Municipal Qualified Bond Act," P.L. 1976, c. 38 (C. 40A:3-1 et seq.), or both;

f. a proposed preliminary revenue allocation plan, as set forth in section 15 of P.L. 2001, c. 310 (C. 52:27D-463);

g. documentation that the district has been identified in the appropriate redevelopment plan; and

h. Such other conditions or limitations as shall be imposed on the district agent by the governing body.

#### **§ 52:27D-463. Proposed preliminary revenue allocation plan**

The proposed preliminary revenue allocation plan shall include:

a. a certification by the municipal tax assessor of the property tax increment base of the district;

b. a statement of the revenues, if any, to be pledged to support bonds of the district, the percentage of such revenues to be so pledged, and a certification by the chief financial officer of the municipality of the revenue increment base for each of the pledged revenues other than the property tax revenue base. If the amount of any such revenue base cannot be certified, then the chief financial officer shall estimate the amount and describe the basis for preparing the estimate and the manner in which the revenue increment base will be determined after adoption of the plan;

c. a description of the proposed project or projects, an estimate of their cost, a proposed construction schedule, the projected amount of bonds to be issued and whether interest on such bonds is exempt from taxation for federal income tax purposes and the projected debt service on the bonds issued to finance the project;

d. a description of the development expected or planned within the district, including the identification of the developers, if any, other than the district agent or the municipality, and their contractual relationship, if any, with the district agent or the municipality;

- e. an estimate of the taxable value of the assessed property within a district upon completion of the projects;
- f. a projection of the amount of the pledged revenues during the period in which any bond will be outstanding;
- g. a statement of whether or not the district agent intends to create a reserve for payment of project costs prior to the adoption of the final revenue allocation plan;
- h. a statement of whether or not tax abatements or exemptions or special assessments are expected to be granted in the district; and
- i. a fiscal impact statement for the taxing entities involved.

**§ 52:27D-464. Submission of ordinance as application**

When an ordinance establishing or amending a district has passed first reading, it shall be submitted as an application, together with all included and incorporated certificates and documents and such additional documentation as the board may by rule prescribe, to the board.

The board shall approve the ordinance if it determines that:

- a. the planned developments are likely to be realized and would not likely be accomplished by private enterprise without the creation of the district and the revenue allocation financing of the proposed project or projects;
- b. the revenue increments and any other pledged revenues will be sufficient to pay debt service on bonds issued to effectuate the plan;
- c. the credit of the municipality and its ability to pay the principal of and interest on its debts and to provide essential public services will not be impaired;
- d. the creation of the district will contribute to the economic development of the municipality;
- e. the size of the proposed district and the amount of the pledged revenues do not exceed the size and amount necessary to accomplish the purposes of the plan;
- f. any insufficiency or shortfall in the amount of the revenue or guarantees pledged to pay debt service or bonds issued to effectuate the plan would not pose inappropriate risk or undue financial hardship to the taxpayers of the community;
- g. there are no other factors which, in the determination of the board, will impair the credit of the municipality or reduce its ability to pay punctually the principal of and interest on its debts and supply other essential public improvements and services; and

h. the planned development does one or more of the following: promote approaches and concepts to reduce congestion; enhance mobility; assist in the redevelopment of our municipalities; and otherwise improve the quality of life of our citizens.

**§ 52:27D-465. Written recommendations by board**

a. The board may make written recommendations as to any aspect of the ordinance and the preliminary revenue allocation plan and any related fiscal matters of the municipality which in the opinion of the board shall be changed in order to effectuate the plan. The board may condition its approval of the ordinance upon the adoption of its recommendations by the municipality.

b. The board shall approve, approve with conditions, or disapprove the ordinance within 60 days of its receipt of an application which the board has deemed to be complete. If the board does not act within 60 days the ordinance shall be deemed approved. If the board disapproves the ordinance it shall, within 30 days of signifying its disapproval, set forth its reasons in writing. The municipality may amend the ordinance and resubmit it to the board.

c. Upon receipt of the approved ordinance from the board, the municipal governing body may adopt the ordinance at a meeting of the governing body by a majority of the authorized membership thereof.

**§ 52:27D-466. No alteration of established district without amending ordinance**

After adoption of the ordinance establishing a district there shall be no expansion or contraction of the boundaries of the district, the designation of the district agent, or the designation of the pledged revenues without adoption of an amending ordinance approved by the board as provided in section 17 of P.L. 2001, c. 310 (C. 52:27D-465) .

**§ 52:27D-467. Property tax increment base for altered districts**

Whenever a district is expanded as permitted under section 18 of P.L. 2001, c. 310 (C. 52:27D-466) the property tax increment base for any area added to the district shall be the aggregate taxable value of all property assessed which is located within the added area as of October 1 of the year preceding the year in which the area is added, as certified by the municipal assessor. The revenue increment base of all other eligible revenues shall include the amounts of all other eligible revenues from sources within the added area in the calendar year preceding the year in which the area is added, as certified by the chief financial officer of the municipality.

Whenever a district is contracted as permitted under section 18 of P.L. 2001, c. 310 (C. 52:27D-466) the tax increment base and the increment base of all other eligible revenues of the district shall be adjusted as if that area had not been a part of the district at the time when it became part of the district.

**§ 52:27D-468. Powers, responsibilities of district agent**

The district agent shall have the following powers and responsibilities to the extent so designated by ordinance:

a. to make and enter into contracts or agreements with public agencies, nonprofit corporations or other suitable public or private persons, firms, corporations or associations, and to make loans or grants to, or guarantee the obligations of, any other public agency or corporation, as may be necessary, convenient or incidental to the execution of the plan and the exercise of the district agent's powers under the "Revenue Allocation District Financing Act," sections 11 through 41 of P.L. 2001, c. 310 (C. 52:27D-459 et seq.);

b. to enter into agreements or other transactions with, and accept grants, loans, appropriations or other assistance or cooperation from the United States or any agency thereof, or from the State or a county or municipal governing body or any agency thereof, or any nonprofit corporation or other suitable public or private person, firm, corporation or association in furtherance of the purposes of the "Revenue Allocation District Financing Act," sections 11 through 41 of P.L. 2001, c. 310 (C. 52:27D-459 et seq.);

c. to prepare and administer the plan according to the provisions of the "Revenue Allocation District Financing Act," sections 11 through 41 of P.L. 2001, c. 310 (C. 52:27D-459 et seq.);

d. to hire or consult with private consultants when preparing the plan, or to enter into agreements with public or nonprofit private agencies to prepare and administer the plan;

e. to issue bonds or cause bonds to be issued for any purpose of the district authorized by or pursuant to the "Revenue Allocation District Financing Act," sections 11 through 41 of P.L. 2001, c. 310 (C. 52:27D-459 et seq.), or to issue refunding bonds for the purpose of paying or retiring bonds previously issued by it, and to issue notes in anticipation of the issuance of bonds as provided in the "Revenue Allocation District Financing Act," sections 11 through 41 of P.L. 2001, c. 310 (C. 52:27D-459 et seq.);

f. to seek and receive funds from local, State and federal governments and from private sources for the purpose of implementing any authorized development or project or meeting any project cost;

g. to pay project costs, specifically including payments to a private developer, as reimbursement for project costs incurred by a private developer, in accordance with a redevelopment bond financing agreement entered into by the municipality or municipalities and the private developer;

h. to include in the terms of any resolution, bond or contract a provision that the payments in lieu of taxes or special assessments shall constitute a municipal charge for the purposes of R.S. 54:4-66.

Except as provided otherwise herein, nothing herein is intended to limit the powers granted under any other law or regulation to the entity acting as district agent under the "Revenue Allocation District Financing Act," sections 11 through 41 of P.L. 2001, c. 310 (C. 52:27D-459 et seq.).

### **§ 52:27D-469. Eligible revenues**

The plan may include one or more of the following eligible revenues if the municipality is otherwise authorized by law to collect such revenues:

- a. incremental payments in lieu of taxes, with respect to property located in the district, made pursuant to the "Five-Year Exemption and Abatement Law," P.L. 1991, c. 441 (C. 40A:21-1 et seq.) or the "Long Term Tax Exemption Law," P.L. 1991, c. 431 (C. 40A:20-1 et al.);
- b. incremental revenues from payroll or wage taxes with respect to activities carried on within the district;
- c. incremental revenue from lease payments made to the municipality or district agent with respect to property located in the district;
- d. incremental revenue from payments in lieu of taxes or service charges with respect to property located within the district;
- e. incremental revenue from parking taxes derived from parking facilities located within the district;
- f. admissions and sales taxes received from the operation of a public facility which the district agent is authorized by law to retain;
- g. sales and excise taxes which are derived from activities within the district and which are rebated to or retained by the municipality pursuant to the "New Jersey Urban Enterprise Zones Act," P.L. 1983, c. 303 (C. 52:27H-60 et seq.) or any other law providing for such rebate or retention;
- h. parking revenue from public parking facilities built as part of a project except for public parking facilities owned by parking authorities pursuant to the "Parking Authority Law," P.L. 1948, c. 198 (C. 40:11A-1 et seq.);
- i. assessments as allowed by law that are levied against properties in a district, if consented to by the governing body of the municipality in which the district is situated;
- j. the property tax increment.

The incremental revenue for the revenues listed in subsections b., c., d. and e. of this section shall be calculated as the difference between the amount collected in any calendar year from any eligible revenue source included in the plan, less the revenue increment base for that eligible revenue.

### **§ 52:27D-470. Adoption of final revenue allocation plan**

Before pledging any revenues, issuing any bonds, incurring any obligations or guaranteeing the obligations of any other entity with respect to the project costs of any project, the district agent shall adopt a final revenue allocation plan for that project. That plan shall include:

- a. a description of the project or projects to be financed, including the projected cost and construction schedule;
- b. a description of any development to be undertaken by any developer in connection with the project, including an estimate of the eligible revenues anticipated from the development;
- c. a description of the eligible revenues to be pledged to the support of the project, or to the bonds or other obligations to be issued or incurred by the district agent;
- d. a description of other anticipated projects for the district and the anticipated means of financing those projects;
- e. a copy of any proposed bond resolution, contract, lease or other agreement to be adopted or authorized by the district agent. Any proposed bond resolution shall include a description of the security features of the bonds, including reserve funds or other security enhancements, if any, such as a municipal guarantee, qualified bond authorization, bond insurance or letter of credit; the maturity schedule for the bonds; the estimated interest rate; the period of capitalized interest, if any; an estimate of the costs of issuance, with identification of bond counsel, financial advisers, underwriters and other professionals engaged to assist in the issuance of bonds; lien priorities among projects, if any; and such other information as the board may require; and
- f. a certification by the chief financial officer of the property tax increment base, if property tax increment revenue is to be pledged, and of the revenue increment base for each other pledged revenue. If the amount of any such revenue increment base cannot be certified, then the chief financial officer shall estimate the amount and describe the basis for preparing the estimate and the manner in which the revenue increment base will be determined after adoption of the final plan.

#### **§ 52:27D-471. Submissions of final revenue allocation plan**

A final revenue allocation plan shall be submitted to the governing body of the municipality for approval by ordinance. When an ordinance embodying a final revenue allocation plan has been introduced in writing at a meeting of the governing body and approved on first reading, which may be by title, by a majority of the authorized membership thereof, it shall be submitted, together with all included and incorporated certificates and documents and such additional supporting documentation as the board may by rule prescribe, to the board.

The board shall approve the plan if it determines that:

- a. the planned developments are likely to be realized and would not be accomplished by private enterprise without the creation of the district and the financing of the proposed project or projects;

- b. the pledged revenues will be sufficient to pay debt service on bonds and discharge any obligations undertaken by the district agent to effectuate the plan;
- c. the credit of the municipality and its ability to pay the principal of and interest on its debts and to provide essential public services will not be impaired;
- d. any insufficiency or shortfall in the amount of the revenues or guarantees pledged to pay debt service or bonds issued to effectuate the plan would not pose inappropriate risk or undue financial hardship to the taxpayers of the community;
- e. there are no other factors which, in the determination of the board, will impair the credit of the municipality or reduce its ability to pay punctually the principal of and interest on its debts and supply other essential public improvements and services; and
- f. the planned development does one or more of the following: promote approaches and concepts to reduce congestion; enhance mobility; assist in the redevelopment of our municipalities; and otherwise improve the quality of life of our citizens.

**§ 52:27D-472. Written recommendations by board**

- a. The board may make written recommendations as to any aspect of the plan and any related fiscal matters of the municipality or the district agent which, in the determination of the board, must be changed in order to effectuate the plan, and the board may condition its approval of the plan upon the adoption of its recommendations.
- b. The board shall approve, approve with conditions, or disapprove the plan within 60 days of its receipt of an application which the board has deemed to be complete. If the board does not act within 60 days the plan shall be deemed approved. If the board disapproves the plan it shall set forth its reasons in writing within 30 days of its disapproval. The governing body, upon recommendation of the district agent, may amend the ordinance and resubmit it to the board.
- c. Upon receipt of the approved ordinance from the board the municipal governing body may adopt the ordinance at a meeting of the governing body by a majority of the authorized membership thereof. Any changes to the plan as embodied in the ordinance, including the pledge or utilization of eligible revenues subject, however, to any rights of bondholders shall be by amendment of the ordinance adopted and approved by the same method as prescribed in section 17 of P.L. 2001, c. 310 (C. 52:27D-465) in connection with the proposed preliminary revenue allocation plan included in the ordinance establishing the district.

**§ 52:27D-473. Calculation of property tax increment**

If the preliminary revenue allocation plan has designated the property tax increment as a pledged revenue, the property tax increment shall be calculated and paid to the revenue allocation fund or the bond trustee, as appropriate, as provided hereunder.

a. Upon the striking of the tax rate in each year following the adoption of the ordinance creating the district, the chief financial officer of the municipality, with assistance provided by the assessor and collector, shall calculate the amount of property tax increment, if any, for each revenue allocation district within the municipality and shall certify to the district agent of each such district a copy of that calculation. Thereafter the chief financial officer shall, within 10 days after each date fixed by statute for the payment of property taxes, cause to be deposited in the revenue allocation fund of the district agent or paid to the trustees as provided in the resolution authorizing the issuance of bonds the percentage of the property tax increments certified in the plan as designated to be so deposited or paid. The calculation of the property tax increment shall be based on the amount to be billed at the quarterly payment date, regardless of whether or not the increment is actually collected from the taxpayers within the district.

b. Whenever an added assessment shall occur within a district, the chief financial officer of the municipality shall notify the district agent and thereafter shall, within 10 days of the date fixed by law for payment of property taxes on such added assessment, cause to be paid to the revenue allocation fund or the bond trustee, as appropriate, the property taxes, or a percentage thereof as designated in the plan, billed upon such added assessment, regardless of whether or not the tax or any portion thereof is actually collected.

c. Whenever an omitted assessment which if not omitted would have been included in the computation of the tax increment of a district occurs, the chief financial officer of the municipality shall notify the district agent and thereafter shall, within 10 days after the date fixed by statute for payment of taxes upon such omitted assessments, cause to be deposited to the revenue allocation fund or paid to the bond trustees of the district, as appropriate, the proportion of tax upon such omitted assessments designated in the plan for such deposit or payment, regardless of whether or not the tax or any portion thereof is actually collected.

d. In no event shall any changes in assessed valuation within a district due to appeals or correction of errors with respect to a tax year subsequent to the creation of the district alter the amount of property tax increment certified pursuant to this section for that tax year.

e. In no event shall any changes in assessed valuation within a district due to appeals or correction of errors alter the property tax increment base of the district.

f. Whenever a revaluation or general reassessment occurs in a municipality which has designated one or more districts, the property tax increment base for each district shall be adjusted to equal the absolute difference between the taxable value of the property in the district after revaluation or reassessment less the amount of the property tax increment base for the year immediately prior to the revaluation or reassessment divided by the adjusted tax rate. The adjusted tax rate shall be a fraction, the numerator of which is the total tax levy of the municipality before revaluation or reassessment and the denominator of which is the total taxable value of all taxable property in the municipality after revaluation or reassessment.

#### **§ 52:27D-474. Deposit of pledged revenues**

If the preliminary revenue allocation plan has designated any eligible revenues, in addition to

or other than the property tax increment, as a pledged revenue, the other pledged revenues shall be deposited as provided in this section.

a. The collector of any pledged revenues shall certify to the municipal chief financial officer the amount of the eligible revenue collected in the preceding calendar year no later than January 30 of each year and shall pay to the municipality such amount, or the percentage thereof designated in the plan, beginning in the first calendar year after the creation of the district.

b. The municipality shall include in its budget the amount certified as collected in the preceding year and shall pay to the district agent for deposit in the revenue allocation financing fund the amount certified in the plan as designated for such payment.

c. Payments in lieu of taxes shall be deposited in four equal installments, regardless of the date or dates fixed for such payments by statute, agreement or otherwise.

#### **§ 52:27D-475. Submission of operating budget**

The district agent shall submit its operating budget for the district annually to the Director of the Division of Local Government Services in the Department of Community Affairs. If the district agent certifies that the budget is in compliance with a preliminary or final financing plan and all other relevant statutes and rules, the director shall approve the budget within 45 days of receipt. If the director disapproves the budget he shall state the reasons therefor, in writing. The district agent may then make the necessary changes and resubmit the budget for approval. The director may adopt rules and regulations in accordance with the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), to ensure the fiscal integrity of districts and effectuate the intent of the "Revenue Allocation District Financing Act," P.L. 2001, c. 310 (C. 52:27D-459 et seq.).

#### **§ 52:27D-476. Revenue allocation fund for district**

The district agent shall establish and maintain a special fund called the "(Name of district agent) Revenue Allocation Fund," and herein referred to as "district fund" or "fund."

The fund shall be used by the district agent for purposes of the "Revenue Allocation District Financing Act," P.L. 2001, c. 310 (C. 52:27D-459 et seq.), including but not limited to:

a. paying the project costs;

b. paying the principal of and interest on bonds or other obligations issued or guaranteed pursuant to the "Revenue Allocation District Financing Act," P.L. 2001, c. 310 (C. 52:27D-459 et seq.);

c. prepaying the principal of and interest on the bonds or other obligations;

d. paying additional property tax increment revenue, if any, to taxing entities, as provided for in subsections b. and c. of section 29 of P.L. 2001, c. 310 (C. 52:27D-477) or in the final revenue

allocation plan; and

e. reimbursing the municipality for any payments made by the State pursuant to the "Municipal Qualified Bond Act," P.L. 1976, c. 38 (C. 40A:3-1 et seq.) to pay debt service on any qualified bonds issued pursuant to section 35 of P.L. 2001, c. 310 (C. 52:27D-483).

**§ 52:27D-477. Payment of project costs; distribution of moneys**

a. Prior to the adoption of a final revenue allocation plan, the district agent may draw money from the revenue allocation fund for purposes of paying all project costs incurred in connection with the development of the final revenue allocation plan as provided in the approved operating budget, including a reserve for project costs if such reserve is part of the preliminary plan.

b. At the end of each calendar year, any moneys in the fund not pledged to bondholders or otherwise required by the district agent for development of the plan shall be distributed to the appropriate taxing or revenue collecting entities that shall forgo the pledged revenues. The revenues shall be distributed by the district agent in proportion to the taxing effort of each taxing or revenue collecting entity in the year of distribution; except that no revenues deposited in the fund shall be included in the calculation of any adjustment payments payable to an intermunicipal account pursuant to statute.

c. After the adoption of the final revenue allocation plan the district agent may decide to distribute to the taxing or revenue collecting entities that shall forgo the revenues pursuant to the "Revenue Allocation District Financing Act," sections 11 through 41 of P.L. 2001, c. 310 (C. 52:27D-459 et seq.) a portion of the revenue increments received by the district agent not pledged to the payment of debt service or necessary to pay project costs. The revenues shall be distributed in proportion to the taxing or revenue collecting effort of each such taxing or revenue collecting entity in the year of distribution.

d. Moneys in the fund may be invested in the State of New Jersey Cash Management Fund established pursuant to section 1 of P.L. 1977, c. 281 (C. 52:18A-90.4) or in any securities that a local government is permitted to purchase pursuant to section 8 of P.L. 1977, c. 396 (C.40A:5-15.1).

**§ 52:27D-478. Termination, dissolution of district**

Subject to the limitations contained in the "Revenue Allocation District Financing Act," sections 11 through 41 of P.L. 2001, c. 310 (C. 52:27D-459 et seq.), each district shall remain in existence until obligations for any project in that district cease to be outstanding; provided, however, the district may be terminated if sufficient moneys have been deposited in the revenue allocation fund, which, when invested in obligations of or guaranteed by the United States government, will be sufficient to pay when due the principal of and interest on the bonds at maturity or any redemption date or full payment of any other obligations, and if the board approves the dissolution of the district. The Division of Local Government Services in the Department of Community Affairs may recommend to the municipality the dissolution of a

district which has not taken substantial steps to implement the plan, so long as there are no bonded obligations outstanding or contractual obligations to pay any part of project costs.

#### **§ 52:27D-479. Calculation of general tax rate**

a. In calculating the general tax rate levied each year, the aggregate amount of the ratable increments of the revenue allocation districts that have been pledged to bondholders or are otherwise required by the district agent for the development of the plan shall not be considered a part of the total taxable value of land and improvements within the municipality.

b. In calculating the net valuation on which school district taxes are apportioned, the aggregate amount of the ratable increments in the revenue allocation district shall be excluded.

c. For purposes of this section, "ratable increment" means the taxable value of all property assessed within a revenue allocation district for the tax year, minus the property tax increment base.

#### **§ 52:27D-480. Powers of district agent following adoption of ordinance**

Upon approval of the resolution by the board and adoption of an ordinance approving or adopting: a. the final revenue allocation plan by the municipal governing body, or b. a determination regarding a particular project for which there exist sufficient eligible revenues within the district to pay the principal of and interest on obligations issued to finance such project, the district agent shall have the power to incur indebtedness, borrow money and issue its bonds or notes for purposes of financing a project or funding or refunding its bonds or notes. If the district agent is the municipal governing body, any pledge of revenues or funds and obligations incurred shall be limited to the revenues and property accruing to the municipality as district agent and shall not be deemed to include any other municipal revenue or property unless such revenues are pledged or obligations are incurred pursuant to the "Revenue Allocation District Financing Act," P.L. 2001, c. 310 (C. 52:27D-459 et seq.). The district agent may from time to time issue its bonds or notes in such principal amounts as in the opinion of the district agent are necessary to provide sufficient funds for all or any portion of project costs, including the payment, funding or refunding of the principal of or interest or redemption premiums on any bonds or notes issued by it, whether the bonds or notes or interest to be funded or refunded has or has not become due; the establishment or increase of such reserves to secure or to pay the bonds or notes or interest thereon; and all other costs or expenses of the district agent incident to and necessary to carrying out its corporate purposes and powers.

Any provisions of law to the contrary notwithstanding, a bond issued pursuant to the "Revenue Allocation District Financing Act," sections 11 through 41 of P.L. 2001, c. 310 (C. 52:27D-459 et seq.) shall be fully negotiable within the meaning and for all purposes of Title 12A of the New Jersey Statutes, and each holder of the bond, or a coupon appurtenant thereto, by accepting the bond or coupon shall be conclusively deemed to have agreed that the bond or coupon is and shall be fully negotiable within the meaning and for the purposes of that title.

## **§ 52:27D-481. Issuance of bonds, notes**

Bonds or notes of the district agent shall be authorized by a resolution or resolutions of the district agent and may be issued in one or more series and shall bear such dates, mature at such times, bear interest at such rates of interest per annum, be in such denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable from such sources and in such medium of payment at such places within or without the State, and be subject to such terms of redemption, with or without premium, as the resolution or resolutions may provide.

Notwithstanding the provisions of any other law to the contrary related to such district agent, bonds or notes of the district agent may be sold at public or private sale at such price and in such manner as the district agent shall determine. Every bond shall mature and be paid not later than 35 years from the date thereof.

Bonds or notes may be issued under the provisions of the "Revenue Allocation District Financing Act," sections 11 through 41 of P.L. 2001, c. 310 (C. 52:27D-459 et seq.) without any other proceeding or the occurrence of any other conditions or other things than those proceedings, conditions or things which are specifically required by the "Revenue Allocation District Financing Act," sections 11 through 41 of P.L. 2001, c. 310 (C. 52:27D-459 et seq.).

Bonds or notes of the district agent issued under the provisions of the "Revenue Allocation District Financing Act," sections 11 through 41 of P.L. 2001, c. 310 (C. 52:27D-459 et seq.) shall contain a statement to the effect that they are issued pursuant to the "Revenue Allocation District Financing Act," sections 11 through 41 of P.L. 2001, c. 310 (C. 52:27D-459 et seq.) and entitled to the provisions of the "Revenue Allocation District Financing Act," sections 11 through 41 of P.L. 2001, c. 310 (C. 52:27D-459 et seq.).

## **§ 52:27D-482. Bonds, notes considered general obligations**

Each issue of bonds or notes of the district may, if it is determined by the district agent, be general obligations thereof payable out of any revenues, receipts or funds held by the district agent, subject only to any agreements with the holders of particular bonds or notes pledging any particular revenues or funds, and may be secured by one or more of the following:

- a. pledge of eligible revenues and any other revenues derived from leases, sales agreements, service contracts or similar contractual arrangements with one or more persons, firms, partnerships or corporations, whether or not the same relate to the project or part thereof financed with the bonds or notes;
- b. pledge of grants, subsidies, contributions or other payments to be received from the United States of America or any instrumentality thereof, or from any State, county or municipal governmental body or agency;
- c. a first mortgage on all or any part of the property, real or personal, of the district agent then owned or thereafter to be acquired; or

d. pledge of any moneys, funds, accounts, securities and other funds, including the proceeds of the bonds or notes.

### **§ 52:27D-483. Guarantee of bonds**

The municipal governing body may provide for the guarantee of any such bonds and may issue general obligation bonds to provide for the funding of such guarantee which shall be authorized pursuant to the provisions of the "Local Bond Law," N.J.S. 40A:2-1 et seq. Such guarantees shall be set forth in the final revenue allocation plan approved pursuant to section 23 of P.L. 2001, c. 310 (C. 52:27D-471) . To the extent that the municipality provides for a full faith and credit guarantee of any loan to a redeveloper or any bonds but determines not to authorize the issuance of bonds or notes to provide for the funding source thereof, it may do so by resolution approved by a majority of the full governing body. To the extent that bonds or notes are authorized as provided above, such bonds or notes shall be authorized pursuant to the provisions of the "Local Bond Law," N.J.S. 40A:2-1 et seq., and shall be deductible from the gross debt of the municipality until such time as such bonds or notes are actually issued, and only up to the amount actually issued, to fund such guarantee.

The district agent may file an application with the board to qualify an issue of its bonds pursuant to the "Municipal Qualified Bond Act," P.L. 1976, c. 38 (C. 40A:3-1 et seq.) provided, however, that only municipal qualified bonds issued by a municipality, as defined in the "Municipal Qualified Bond Act," P.L. 1976, c. 38 (C. 40A:3-1 et seq.) shall constitute debt of such municipality and be secured by the full faith and credit of such municipality. Intention to file such an application shall be set forth in the final revenue allocation plan approved pursuant to section 23 of P.L. 2001, c. 310 (C. 52:27D-471) . Bonds may be issued by the district agent as municipal qualified bonds upon the review and approval of the board as provided in the "Municipal Qualified Bond Act," P.L. 1976, c. 38 (C. 40A:3-1 et seq.). In considering the ordinance, the board may require the governing body to adopt resolutions restricting or limiting any future issuance of bonds for any purpose.

Upon the issuance of such bonds and certification to the State Treasurer of the name and address of the paying agent, the maturity schedule, interest rates and dates of payment of debt service, the State Treasurer shall withhold municipal qualified revenues payable to the municipality in amounts sufficient to pay debt service on such bonds as the same shall mature and become due. The State Treasurer shall on or before each principal and interest payment date forward such withheld amounts to the paying agent for the sole purpose of paying debt service on such bonds. As such withheld amounts are forwarded to the paying agent, the district agent shall return a like amount of eligible revenues received by the district agent, if any, which may be applied to the payment of municipal operating expenses.

Any financial instrument issued by a district agent that is secured in whole or in part by eligible revenues shall be subject to the review and approval of the board. That review and approval shall be made prior to approval of a resolution or agreement authorizing the financing. The board shall be entitled to receive from the applicant an amount sufficient to provide for all reasonable professional and other fees and expenses incurred by it for the review, analysis and

determination with respect thereto. As part of its review, the board shall specifically solicit comments from the Office of State Planning in addition to comments from the public. As part of the board's review and approval, it shall consider where appropriate one or more of the following: whether the redevelopment project or plan promotes approaches and concepts to reduce congestion; enhance mobility; assist in the redevelopment of our municipalities; and otherwise improve the quality of life our citizens.

**§ 52:27D-484. Power of district agent to secure payment**

In any resolution of the district agent authorizing or relating to the issuance of any bonds or notes, the district agent, in order to secure the payment of the bonds or notes and in addition to its other powers, shall have power by provisions in that resolution, which shall constitute covenants by the district agent and contracts with the holders of the bonds or notes, to:

- a. secure the bonds or notes as provided in section 35 of P.L. 2001, c. 310 (C. 52:27D-483);
- b. covenant against pledging all or any part of its revenues or receipts from its lease, sales arrangement, service contracts or other security instruments, of the revenues or receipts under any of the foregoing or the proceeds thereof, or against mortgaging or leasing all or any part of its real or personal property then owned or thereafter acquired, or against permitting or suffering any of the foregoing;
- c. covenant with respect to limitations on any right to sell, mortgage, lease or otherwise dispose of any project or any part thereof or any property of any kind;
- d. covenant as to any bonds and notes to be issued and the limitations thereon and the terms and conditions thereof and as to the custody, application, investment, and disposition of the proceeds thereof;
- e. covenant as to the issuance of additional bonds or notes or as to limitations on the issuance of additional bonds or notes and on the incurring of other debts by it;
- f. covenant as to the payment of the principal of or interest on the bonds or notes, or any other obligations, as to the sources and methods of the payment, as to the rank or priority of the bonds, notes or obligations with respect to any lien or security or as to acceleration of the maturity of the bonds, notes or obligations;
- g. provide for the replacement of lost, stolen, destroyed or mutilated bonds or notes;
- h. covenant against extending the time for the payment of bonds or notes or interest thereon;
- i. covenant as to the redemption of bonds or notes and privileges of exchange thereof for other bonds or notes of the district agent;
- j. covenant as to the fixing and collection of rents, fees, rates and other charges, the amount to be raised each year or other period of time by rents, fees, rates and other charges and as to the use

and disposition to be made thereof;

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

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

m. covenant as to the construction, improvement, operation or maintenance of any project and its other real and personal property, the replacement thereof, the insurance to be carried thereon, and the use and disposition of insurance moneys;

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

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

p. vest in a trustee or trustees within or without the State such property rights, powers and duties in trust as the district agent may determine, including the right to foreclose any mortgage, which may include any or all of the rights, powers and duties of any trustee appointed by the holders of any bonds or notes issued pursuant to this section and to limit or abrogate the right of the holders of any bonds or notes of the district agent to appoint a trustee under the "Revenue Allocation District Financing Act," P.L. 2001, c. 310 (C. 52:27D-459 et seq.), and to limit the rights, duties and powers of the trustee;

q. execute all mortgages, leases, sales agreements, service contracts, bills of sale, conveyances, deeds of trust and other instruments necessary or convenient in the exercise of its powers or in the performance of its covenants or duties;

r. pay the costs or expenses incident to the enforcement of the bonds or notes or of the provisions of the resolution or of any covenant or agreement of the district agent with the holders of its bonds or notes;

s. limit the rights of the holders of any bonds or notes to enforce any pledge or covenant securing bonds or notes; and

t. make covenants other than or in addition to the covenants authorized by the "Revenue

Allocation District Financing Act," P.L. 2001, c. 310 (C. 52:27D-459 et seq.) of like or different character, and to make such covenants to do or refrain from doing such acts and things as may be necessary, or convenient and desirable, in order to better secure bonds or notes or which, in the absolute discretion of the district agent will tend to make bonds or notes more marketable, notwithstanding that the covenants, acts or things may not be enumerated herein.

#### **§ 52:27D-485. Pledge of district agent valid, binding**

Any pledge of revenues, receipts, moneys, funds, levies, sales agreements, service contracts or other property or instruments made by the district agent shall be valid and binding from the time when the pledge is made. The revenues, receipts, moneys, funds or other property so pledged and thereafter received by the district agent or a subsidiary shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of any pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the district agent irrespective of whether the parties have notice thereof. Neither the resolution nor any other instrument by which a pledge under this section is created need be filed or recorded except in the records of the district agent.

#### **§ 52:27D-486. Immunity from personal liability**

Neither the directors of the district agent nor any person executing bonds or notes issued pursuant to the "Revenue Allocation District Financing Act," P.L. 2001, c. 310 (C. 52:27D-459 et seq.) shall be liable personally on the bonds or notes by reason of the issuance thereof.

#### **§ 52:27D-487. Establishment of reserves, funds, account**

The district agent may establish such reserves, funds or account as may be, in its discretion, necessary or desirable to further the accomplishment of the purposes of the district agent or to comply with the provisions of any agreement made by or any resolution of the district agent.

The State and all public officers, governmental units and agencies thereof, all banks, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees and other fiduciaries may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any bonds or notes issued pursuant to the "Revenue Allocation District Financing Act," P.L. 2001, c. 310 (C. 52:27D-459 et seq.), and such bonds or notes shall be authorized security for any and all public deposits.

#### **§ 52:27D-488. Bonds exempt from taxation**

Bonds, notes or other obligations issued pursuant to the "Revenue Allocation District Financing Act," P.L. 2001, c. 310 (C. 52:27D-459 et seq.) are for an essential public and governmental purpose, and the bonds, notes or other obligations, their transfer and the interest and premium, if any, thereon and the income therefrom, including any profit made on the sale

thereof, and all assessments, charges, funds, revenues, income and other moneys pledged or available to pay or secure the payments of the bonds, or interest thereon, shall be exempt from taxation of every kind by the State and the municipality, except transfer inheritance and estate taxes unless exemptions from those taxes have been provided under other laws.

**§ 52:27D-489. Severability**

If any section, part, phrase, or provision of the "Revenue Allocation District Financing Act," P.L. 2001, c. 310 (C. 52:27D-459 et seq.) of the application thereof to any person, project or circumstances, be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the section, part, phrase, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of the "Revenue Allocation District Financing Act," P.L. 2001, c. 310 (C.52: 27D-459 et seq.) or the application thereof to other persons, projects or circumstances.