Article 15 – URBAN RENEWAL

§ 500. Short title. This chapter shall be known and may be cited and referred to as the "urban renewal law."

§ 501. Policy and purposes of article. There exist in many municipalities within this state residential, non-residential, commercial, industrial or vacant areas, and combinations thereof, which are slum or blighted, or which are becoming slum or blighted areas because of substandard, insanitary, deteriorated or deteriorating conditions, factors, and characteristics, with or without tangible physical blight. The existence of such areas constitutes a serious and growing menace, is injurious to the public safety, health, morals and welfare, contributes increasingly to the spread of crime, juvenile delinquency and disease, necessitates excessive and disproportionate expenditures of public funds for all forms of public service and constitutes a negative influence on adjacent properties impairing their economic soundness and stability, thereby threatening the source of public revenues.

In order to protect and promote the safety, health, morals and welfare of the people of the state and to promote the sound growth and development of our municipalities, it is necessary to correct such substandard, insanitary, blighted, deteriorated or deteriorating conditions, factors and characteristics by the clearance, replanning, reconstruction, redevelopment, rehabilitation, restoration or conservation of such areas, the undertaking of public and private improvement programs related thereto and the encouragement of participation in these programs by private enterprise.

It is necessary for the accomplishment of such purposes to grant municipalities of this state the rights and powers provided in this article. The use of such rights and powers to correct such conditions, factors and characteristics and to eliminate or prevent the development and spread of deterioration and blight through the clearance, replanning, reconstruction, rehabilitation, conservation or renewal of such areas, for residential, commercial, industrial, community, public and other uses is a public use and public purpose essential to the public interest, and for which public funds may be expended.

§ 502. Definitions. As used in this article and article fifteen-A of this chapter, the following terms shall mean:

1. "Governing body." (a) In a city, the board of aldermen, common council, commission or other body vested by its charter or other law with jurisdiction to enact ordinances or local laws, except that in a city having a population of one

million or more the term "governing body" shall, as to such city, mean the council or mayor, as appropriate, who shall act pursuant to this article in accordance with the powers vested in them by the charter of such city, or by other law; (b) in a town, the town board; (c) in a village, the board of trustees.

2. "Municipality." A city, town or village.

3. "Urban renewal." A program established, conducted and planned by a municipality for the redevelopment, through clearance, replanning, reconstruction, rehabilitation, and concentrated code enforcement, or a combination of these and other methods, of substandard and insanitary areas of such municipalities, and for recreational and other facilities incidental or appurtenant thereto, pursuant to and in accordance with article eighteen of the constitution and this article, including those programs authorized by and to effectuate the purposes of title one of the housing act of nineteen hundred forty-nine and section three hundred fourteen of title three of the housing act of nineteen hundred fifty-four, whether such programs and contracts pursuant thereto were in process on or before June sixteenth, nineteen hundred sixty-eight and all federal laws amendatory and supplementary thereto. The terms "clearance, replanning, reconstruction and rehabilitation" shall include renewal, redevelopment, conservation, restoration or improvement or any combination thereof as well as relocation activities and the testing and reporting of methods and techniques for the arrest, prevention and elimination of slums and blight; the term "program" may mean or include and be interchangeable with the term "project."

4. "Substandard or insanitary area." The term "substandard or insanitary area" shall mean and be interchangeable with a slum, blighted, deteriorated or deteriorating area, or an area which has a blighting influence on the surrounding area, whether residential, non-residential, commercial, industrial, vacant, or land in highways, railway and subway tracks, bridge and tunnel approaches and entrances, or other similar facilities, over which air rights and easements or other rights of user necessary for the use and development of such air rights, to be developed as air rights sites for the elimination of the blighting influence, or any combination thereof and may include land, buildings or improvements, or air rights and concomitant easements or other rights of user necessary for the use and development of such air rights, not in themselves substandard or insanitary, the inclusion of which is deemed necessary for the effective undertaking of one or more urban renewal programs.

5. "Agency." The officer, board, commission, department, or other agency of the municipality designated by the governing body, or as otherwise provided by law, to carry out the functions vested in the agency under this article or delegated to the agency by the governing body in order to carry out the purpose

and provisions of this article. The term "agency" shall include a corporate governmental agency established pursuant to article fifteen-A of this chapter.

6. "Comprehensive community plan." The term "comprehensive community plan" shall mean and be interchangeable with "master plan" or "general plan."

7. "Urban renewal plan." A plan for an urban renewal project, which shall conform to the comprehensive community plan for the development of the municipality as a whole and which shall be consistent with local objectives. Such urban renewal plan shall include but shall not be limited to: a statement of proposed land uses; proposed land acquisition, demolition and removal of structures; proposed acquisition of air rights and concomitant easements or other rights of user necessary for the use and development of such air rights; proposed methods or techniques of urban renewal; proposed public, semi-public, private or community facilities or utilities; a statement as to proposed new codes and ordinances and amendments to existing codes and ordinances as are required or necessary to effectuate the plan; proposed program of code enforcement; a proposed time schedule for the effectuation of such plan, and such additional statements or documentation as the agency may deem appropriate.

8. "Commission." The planning commission or other analogous body or, if there be none, the board of estimate or other governing body of the municipality.

9. "Urban renewal area." An area designated by the governing body, or by the commission where so authorized to act by the governing body, pursuant to section five hundred four of this article as appropriate for urban renewal, except that in municipalities having a population of one million or more, such designation shall be made only after a public hearing held by the governing body or the commission, as the case may be.

10. "State capital grant." A capital grant or subsidy paid to a municipality or an agency established pursuant to the provisions of article fifteen-A of this chapter with monies appropriated therefor from the general fund of the state and not to be applied to the payment of principal and interest on any state loan made or contracted to be made pursuant to this article.

11. "Commissioner." The commissioner of housing and community renewal of the state of New York.

§ 503. Powers of municipalities. Every municipality is hereby authorized to plan and undertake one or more urban renewal projects and shall have the powers necessary or convenient to carry out and effectuate such project or projects and the purposes and provisions of this article, including but not limited to the

following powers:

(a) Cooperate with the federal government and apply for and accept advances, loans, grants, subsidies, contributions and any other form of financial assistance from the federal government, or from the state, county or other public body, or from any sources public or private, for the purposes of this article; and to give such security as may be required and to enter into and carry out contracts or agreements in connection therewith; and to include in any contract for financial assistance with the federal government for or with respect to an urban renewal project, or with respect to any other program authorized under the housing act of nineteen hundred forty-nine, and all other federal laws amendatory and supplemental thereto, such conditions imposed pursuant to federal laws as the municipality may deem reasonable and appropriate and which are not inconsistent with the purposes of this article. Such conditions may include but shall not be limited to (1) provisions requiring payment of not less than certain minimum salaries and wages to architects, engineers, technicians, laborers, mechanics and other personnel; (2) provisions prohibiting rebates and kick backs; and (3) provisions requiring contractors and subcontractors to furnish reports and other data to the secretary of labor;

(b) Provide local grants-in-aid, as provided under such federal laws, in the form of appropriations, cash, municipal services and facilities, or any other form;

(c) Borrow money and issue bonds or other obligations for the acquisition of property in the same manner as for the acquisition of property for other public purposes or as otherwise provided in article two of the local finance law;

(d) Provide for demolition and clearance of property, improvement of property, or development and use of air rights and concomitant easements or other rights of user necessary for the use and development of such air rights and air right sites, including the remedying of unsuitable topographical, subsoil or other physical conditions which impede development within the urban renewal area, and construction of foundations and platforms as well as other necessary site work by the municipality or by the person, firm or corporation to whom such property, air rights and easements or air rights site, is sold or leased, provided, however, that any such work upon or affecting railroad property, right-of-way or facilities shall be subject to the approval of and joint supervision by the railroad company or companies affected. No work upon or affecting railroad property, right-of-way or facilities shall be progressed without the approval of the railroad company or companies, and in connection with all such projects upon or affecting railroad property, right-of-way or facilities appropriate standards for safety of operations, ventilation and lighting shall be subject to the approval of the railroad company or companies affected. In the event that such

demolition, clearance, improvement or development is done by the municipality or funded by the municipality, the cost thereof may be financed in the same manner as acquisition costs. Any municipality with a population of one million or more persons may provide a loan for the purpose of carrying out such demolition, clearance, improvement or development and use to the person, firm or corporation to whom such property, air rights, easements or air rights site is sold or leased. Such loans shall be made upon terms and conditions approved by the agency, for a term not to exceed thirty years;

(e) Develop, test and report methods and techniques and carry out demonstration and other activities in relation to or in connection with one or more programs of urban renewal or other programs relating to the arrest and prevention of conditions of deterioration or blight. In carrying out such demonstration and other activities a municipality may itself reconstruct, repair, rehabilitate or otherwise improve such real property or may sell, lease or otherwise dispose of such real property, for the effectuation of such activities or purposes by the purchaser or lessee thereof, pursuant to the provisions of section five hundred seven of this article;

(f) prepare or cause to be prepared a general neighborhood renewal plan for an area consisting of an urban renewal area or areas, together with any adjoining areas having specially related problems, and which is of such size that urban renewal activities may have to be initiated in stages;

(g) prepare or cause to be prepared a community-wide plan or program for urban renewal which shall conform to the comprehensive community plan for the development of the municipality as a whole.

(h) for the purpose of preserving the integrity of an urban renewal plan, to require, for a maximum period of three years after approval of an urban renewal plan pursuant to section five hundred five of this article, the consent of the agency to the issuance of a building construction or alteration permit or certificate of occupancy for a structure or use within the urban renewal area or within that part or portion of such area for which a plan has been so approved (except for construction, alteration or use which is necessary for the immediate protection of public health or safety). Such consent shall be based upon a determination by the agency that the proposed construction, alteration or use is not inconsistent with the plan.

(i) notwithstanding anything to the contrary contained elsewhere in this chapter, or in any general, special or local law, in addition to any other powers of a municipality, to appropriate the necessary funds for and authorize the payment of the actual reasonable moving and related expenses as well as supplemental and additional payments to be paid to individuals, families,

business concerns or non-profit organizations displaced by reason of urban renewal or other federally-aided activities, so that disproportionate injuries are not suffered as a result of such programs, in accordance with federal law, rules and regulations, as may be imposed by any contract for financial assistance between the municipality and federal government, in connection with an urban renewal project or other authorized program, pursuant to such conditions as the municipality may deem reasonable and appropriate and which are not inconsistent with the purposes of this article.

§ 503-a. Cooperation with agencies. For the purpose of aiding an agency established pursuant to the provisions of article fifteen-A of this chapter a municipality may:

1. Delegate to such agency such of its powers enumerated under section five hundred three of this article as it may deem appropriate, necessary or desirable to effectuate the purposes and provisions of this article and as are not inconsistent with the powers reserved to the governing body or the commission under this article or the powers granted to such agencies in article fifteen-A of this chapter.

2. Enter into agreements with such agency respecting action to be taken by the municipality to assist such agency in carrying out and effectuating the purposes and provisions of this article and of article fifteen-A of this chapter. Such agreements may extend over any period of time necessary to carry out and effectuate such purposes and provisions, notwithstanding any provision or rule of law to the contrary.

3. Appropriate and expend money and guarantee the principal of and interest on, or only the interest on, indebtedness contracted by such agency for the purpose of aiding such agency in the carrying out and effectuating of any urban renewal program within such municipality. Any obligations issued for such object or purpose shall be authorized and issued in the manner provided and subject to the provisions of the local finance law. Such obligations or guarantees shall be deemed to be issued or made for the purpose of effectuating an urban renewal program and the period of probable usefulness of said object or purpose shall be as set forth in subdivision forty-one-a of section 11.00 of the local finance law.

Any guarantee by a municipality of indebtedness contracted by such agency shall be authorized by a resolution of the finance board of the municipality (as defined in the local finance law), which resolution shall be adopted by at least a two-thirds vote of the total voting strength of the finance board and shall prescribe the manner in which such guarantee shall be evidenced. If the authorization of the issuance of obligations for such object or purpose by the

municipality is required by law to be subject to a permissive or mandatory referendum, then the authorization of the guarantee of indebtedness contracted by such agency for such object or purpose shall also be subject to such a referendum. Such referendum shall be governed by the provisions of the local finance law applicable to such permissive or mandatory referendum in such municipality.

4. For the purpose of aiding such agency in carrying out and effectuating the purposes and provisions of this article and of article fifteen-A of this chapter, with or without consideration as it may determine, (a) dedicate, sell, convey, lease, grant or otherwise transfer any of its right, title and interest in any property, real or personal, to such agency, or grant easements, licenses or privileges therein to such agency; (b) make advances, loans, grants, subsidies, contributions and any other form of financial assistance to such agency; (c) incur the entire expense of any public improvements or facilities necessary or desirable under the urban renewal plan; (d) dedicate, close, vacate, pave, install, grade and plan, streets, roads, sidewalks or other public ways and places; (e) plan, replan, zone or rezone any area of the municipality or make variances to building codes or regulations; and (f) cause administrative, police, sanitation, fire protection or other municipal services to be furnished to the agency.

5. Do all other things necessary or convenient to carry out the above powers and to insure the expeditious undertaking and completion of an urban renewal program, or part thereof, by such agency.

§ 503-b. Transfer of projects. Notwithstanding any provision of this article, or of any general, special or local law or charter to the contrary, a municipality may, upon the establishment of a municipal urban renewal agency pursuant to the provisions of article fifteen-A of this chapter, convey, assign, grant or otherwise transfer all of its right, title and interest in any urban renewal program, or part thereof, and any right, title and interest in or to any real or personal property, contract, claim or other interest acquired or held by it in connection with such program, or part thereof, to such agency, with or without consideration, as it may determine.

§ 504. Site designation. An area shall be designated by the governing body, or by the commission where so authorized to act by the governing body, on its own initiative or on petition of the owners in fee of not less than fifty-one per cent of the land (excluding publicly owned land) or upon recommendation of the agency, upon a finding that such area is appropriate for urban renewal as defined in subdivision three of section five hundred two of this article. Such designation may be accompanied by a recommendation of the commission as to the predominant reuse and such other planning criteria as it may deem appropriate for the general

renewal of the area.

§ 504-a. Abandoned dwellings and mortgage foreclosures in Nassau, Suffolk or Westchester county. 1. Following site designation, pursuant to section five hundred four of this article, a municipality or an urban renewal or community development agency in Nassau, Suffolk or Westchester county may certify a one, two or three family dwelling as abandoned. Upon such certification, an action to foreclose any mortgage on such dwelling may be commenced by. Process in such action shall be served pursuant to subdivision four upon natural persons who are record owners.

2. Said certification of abandonment may be made if such municipality or agency finds that: (a) all or a part of the subject property lies within an area that has been designated by the governing body as in need of urban renewal, pursuant to such section five hundred four; (b) the subject property has been vacant for sixty consecutive days; and, (c) in the opinion of the certifying municipality or agency the subject property has become a danger to life, public health or public safety and/or has, because of its physical condition and appearance, caused a blighting influence to surrounding properties and is adversely affecting neighborhood property values.

3. Said premises shall be deemed vacant within the meaning of paragraph (b) of subdivision two of this section if three or more of the following conditions exist: (a) termination of service by the lighting company, which termination has lasted for fifteen days; or (b) termination of telephone service by the telephone company, which termination has lasted for fifteen days; or (c) failure to maintain the premises in reasonably good repair; or (d) information from the neighbors that the premises have been vacant for sixty days or more; or (e) accumulation of mail at the premises; or (f) blatant evidence of vandalism; or (g) lack of furnishings inside the premises.

4. Upon said certification of abandonment, the certifying municipality or agency may file or record in the office of the clerk of each county in which all or a part of the subject property is situated, without fee, a certification containing such findings and the facts upon which it is based, describing the property and providing that an action to foreclose any mortgage on said property, may be commenced by filing of the summons and verified complaint with personal service to be made either as provided in subdivisions one through four of section three hundred eight of the civil practice law and rules, or, with respect to natural persons who are record owners, by publishing, without the necessity for a court order, of a copy of the summons together with notice to the defendant, a brief statement of the nature of the action and the relief sought, the sum of money for which judgment may be taken in case of default, and a brief description of the property, at least once in each of three successive weeks in a newspaper

in the English language of general circulation in the municipality wherein all or a part of the property lies and by mailing a copy of the summons and verified complaint to the last known address of the record owner or owners of the premises, certified mail, return receipt requested and by tacking a copy of the summons and verified complaint, to the front door of the premises. Service shall be deemed complete twenty days after the last date of publication, date of mailing or date of posting, whichever occurs last.

5. All other parties to the lawsuit, other than record owners, shall be served with the summons and verified complaint as presently provided in the CPLR.

§ 505. Urban renewal plan and approval thereof. 1. Following the designation of an area pursuant to section five hundred four of this article, the agency shall prepare or cause to be prepared an urban renewal plan for such area in its entirety or, where the designated area is of such scope that the agency deems it necessary or advisable to have the urban renewal activities to be undertaken therein carried out in stages, an urban renewal plan for a part or portion of such designated area.

2. The urban renewal plan for the designated area, or for a part or portion of such area, shall be submitted to the commission which shall certify, after a public hearing held on due notice, whether such plan complies with the provisions of subdivision seven of section five hundred two of this article and conforms to the finding made pursuant to section five hundred four of this article. The commission shall submit its report to the governing body, not later than ten weeks from the date of referral of the plan to it, certifying its unqualified approval, its disapproval, or its qualified approval with recommendations for modifications therein.

3. After a public hearing, held on due notice after the report is received or due from the commission, the governing body may:

(a) if the commission shall have certified its unqualified approval, approve the plan by a majority vote;

(b) if the commission shall have certified its disapproval or shall have failed to make its report within ten weeks from the date such plan was submitted to it by the agency, nevertheless approve the plan, but only by a three-fourths vote;

(c) if the commission shall have certified its qualified approval together with recommendations for modifications, approve the plan together with the modifications recommended by the commission by a majority vote, or approve the

plan without such modifications but only by a three-fourths vote.

4. Upon approving the urban renewal plan for the designated area, or for a part or portion of such area, with or without modifications recommended by the commission, the governing body shall by resolution find that:

(a) The area is a substandard or insanitary area, or is in danger of becoming a substandard or insanitary area and tends to impair or arrest the sound growth and development of the municipality.

(b) The financial aid to be provided to the municipality is necessary to enable the project to be undertaken in accordance with the plan.

(c) The plan affords maximum opportunity to private enterprise, consistent with the sound needs of the municipality as a whole, for the undertaking of an urban renewal program.

(d) The plan conforms to a comprehensive community plan for the development of the municipality as a whole.

(e) There is a feasible method for the relocation of families and individuals displaced from the urban renewal area into decent, safe and sanitary dwellings, which are or will be provided in the urban renewal area or in other areas not generally less desirable in regard to public utilities and public and commercial facilities, at rents or prices within the financial means of such families or individuals, and reasonably accessible to their places of employment.

Upon approving an urban renewal plan for a part or portion of a designated area, the governing body shall, in addition to the foregoing, also find that the undertaking and carrying out of the urban renewal activities in stages is in the best public interest and will not cause any additional or increased hardship to the residents of such designated area.

5. In a city having a population of one million or more, any action of the council approving an urban renewal plan shall be filed with the mayor within five days of such action for approval or disapproval.

§ 506. Acquisition of property. 1. (a) A municipality, acting through its governing body, may acquire by purchase, gift, devise, lease, condemnation or otherwise, in accordance with the provisions of the appropriate general, special or local law applicable to the acquisition of real property by such municipality, real property or any interest therein, including but not limited to air rights,

and easements or other rights of user necessary for the use and development of such air rights, to be developed as air rights sites for the elimination of the blighting influences of an area or areas consisting principally of land in streets, alleys, highways, and other public rights of way, railway or subway tracks, bridge or tunnel approaches or entrances, or other similar facilities which have a blighting influence on the surrounding area, necessary for or incidental to a program of urban renewal for residential, commercial, industrial, public, semi-public, community or other uses or combinations of such uses in accordance with an urban renewal plan for a designated area, or for a part or portion of such area, provided, however, that the acquisition of any air rights over railroad tracks, rights of way or facilities and easements or other rights of user necessary for the use and development of such air rights are to be subject to the provision of section fifty-one-a of the railroad law. The acquisition of real property within a designated urban renewal area shall in every case be deemed to be and constitute a continuous rather than separate takings.

(b) Property so acquired by a municipality shall be exempt from taxation until sold, leased for a term not exceeding ninety-nine years or otherwise disposed of in accordance with the provisions of this article of this chapter; provided however, that any such municipality shall have the power and authority, with respect to such property, to pay or transfer, out of funds available to it for the effectuating of such urban renewal program, annual sums in lieu of taxes to any taxing jurisdiction providing services to the urban renewal area, or to the part or portion thereof within such taxing jurisdiction, in order that no such taxing jurisdiction shall suffer an inequitable loss of revenue by virtue of such urban renewal program; provided, further, that the amount so paid or transferred for any year with respect to any such property shall not exceed the lesser of (1) the sum last levied for the benefit of such taxing jurisdiction as an annual tax on such property prior to the time of its acquisition for urban renewal purposes or (2) such amount as shall be approved by the commissioner, pursuant to such rules, regulations, limitations and conditions as he may prescribe, as an eligible and proper charge against such urban renewal program. Upon the sale, lease or disposition of such property to any person, firm or corporation not entitled to an exemption from taxation or entitled to only a partial tax exemption such property shall immediately become subject to taxation in whole or in part, as the case may be, and shall be taxed pro rata for the unexpired portion of the taxable year.

As used in this paragraph, the term "taxing jurisdiction" means any municipal corporation or district corporation, including any school district or any special district, having the power to levy or collect taxes and benefit assessments upon real property, or in whose behalf such taxes or benefit assessments may be levied or collected.

c. Notwithstanding any other provisions of this article, a municipality may

acquire by purchase, gift, devise, lease, condemnation or otherwise, upon recommendation of the agency and in accordance with the appropriate provisions of any general, special or local law or charter applicable to the acquisition of real property by such municipality, such real property or any interest therein, within an area designated pursuant to this article as appropriate for urban renewal, as it may deem ultimately necessary or proper to effectuate the purposes of this article although temporarily not required for such purposes, provided that the early acquisition of such property is approved as follows:

(1) In a municipality where there is a planning commission, the agency shall submit the proposal for early acquisition to the commission for its approval. Such planning commission shall, not later than ten weeks from the date of the referral of the proposal to it, after a public hearing held on due notice, submit its report to the governing body certifying its unqualified consent, its disapproval, or its qualified consent with recommendations for modifications of the proposal.

After public hearing held on due notice after the report is received or due from the planning commission, the governing body may:

(i) if the commission shall have certified its unqualified consent, approve the proposal by a majority vote:

(ii) if the commission shall have certified its disapproval or shall have failed to make its report within ten weeks from the date such proposal was submitted to it by the agency, nevertheless approve the proposal, but only by a three-fourths vote:

(iii) if the commission shall have certified its qualified consent together with recommendations for modifications of the proposal, approve the proposal together with the modifications recommended by the commission by a majority vote, or approve the proposal without such modifications but only by a three-fourths vote.

(2) In a municipality where there is no planning commission, the agency shall submit the proposal to the governing body which, after public hearing held on due notice, may either approve or disapprove the proposal.

§ 507. Disposition of property. 1. In addition to employing any other lawful method of utilizing or disposing of any real property, and appurtenances thereto or any interest therein owned by a municipality or acquired by it pursuant to section five hundred six of this article, a municipality may sell, lease for a term not exceeding ninety-nine years, or otherwise dispose of any such real

property and appurtenances thereto, to any person, firm or corporation at the highest marketable price or rental at public auction or by sealed bids pursuant to the provisions of any general, special or local laws applicable to the sale or disposition of real property by said municipality.

2. Notwithstanding anything to the contrary contained in this article and notwithstanding the provisions of any general, special or local law applicable to the sale of real property by a municipality, such real property and appurtenances thereto may be sold, leased for a term not exceeding ninety-nine years or otherwise disposed of for the effectuation of any of the purposes of the urban renewal program in accordance with the urban renewal plan:

(a) to any limited profit housing company organized pursuant to the provisions of article two of the private housing finance law without public auction or sealed bids;

(b) to any limited dividend housing company organized pursuant to article four of the private housing finance law or redevolpment company organized pursuant to article five of the private housing finance law, without public auction or sealed bids provided that notice of such sale, lease or other disposition is published and a public hearing is held before the governing body not less than ten days after such publication;

(c) to any person, firm or corporation designated by the agency and approved by the governing body as a qualified and eligible sponsor in accordance with established rules and procedures prescribed by the agency, provided that (1) the agency has published, in at least one newspaper of general circulation in the municipality at least ten days prior to such sale, lease or other disposition, a notice which shall include a statement of the identity of the proposed sponsor and of his proposed use or reuse of the urban renewal area or of the applicable portion thereof; such notice shall be in such form and manner as may be prescribed by the agency and, in the case of projects aided by a state loan, periodic subsidy or capital grant or in which application has been made for such loan, subsidy or grant, as approved by the commissioner; (2) such proposed sponsor agrees to pay the minimum price or rental fixed by the agency for such real property; (3) such proposed sponsor matches any bid higher than the said minimum price or rental, and (4) such sale, lease or other disposition shall require effectuation of the purpose thereof within a definite and reasonable period of time. In the event that such qualified and eligible sponsor does not agree to pay the minimum price or rental fixed by the agency or fails to match any higher bid than such minimum price or rental, a municipality may, in its sole discretion and only if consistent with the urban renewal plan, sell or lease for a term not exceeding ninety-nine years any such real property and appurtenances thereto, to any person, firm or corporation, the property acquired from such person, firm or corporation or

substantially equivalent property within the urban renewal area, provided that such former owner (1) agrees to pay the said minimum price or rental and (2) matches any higher bid than said minimum price or rental, and

(d) to any person, firm or corporation designated by the agency as a qualified and eligible sponsor pursuant to the provisions of clause (1) of subsection (c) of this subdivision without public auction or sealed bids, provided that (1) the price or rental to be paid by such sponsor for such property and all other essential terms and conditions of such sale, lease or other disposition shall be included in the notice published by the agency pursuant to the said clause (1) of subsection (c) of this subdivision, (2) that such sale, lease or other disposition be approved by the governing body after a public hearing held not less than ten days after the publication of such notice, and (3) such sale, lease or other disposition shall, in the case of projects aided by a state loan, periodic subsidy or capital grant or in which application has been made for such loan, subsidy or grant, be approved by the commissioner.

(e) for the effectuation of any of the purposes of the urban renewal program and in accordance with the urban renewal plan, a municipality may grant, sell, convey or lease, without public hearing or public letting, to a public utility subject to the jurisdiction of the public service commission, for construction and maintenance of public utility systems, and the conduct and operation thereof, for such length of time as it may deem advisable, franchises, easements or rights of ways, in, over, below, along or across any lands acquired by the municipality pursuant to this article, upon such terms and conditions, for such consideration and subject to such restrictions as in the judgment of its governing body shall seem proper, provided, the governing body shall first determine that the use and enjoyment for such purposes of such lands is not inconsistent with the purposes and provisions of the urban renewal plan.

3. Any deed, lease or instrument by which real property and appurtenances thereto, or air rights and concomitant easements or other rights of user necessary for the use and development of such air rights over streets, alleys, highways or other public rights of way, railway or subway tracks, bridge or tunnel approaches or entrances, or other similar facilities, or air rights sites and necessary sitework, the foundations and platforms constructed or to be constructed in connection therewith, or any interest therein is conveyed or disposed of pursuant to this section shall contain provisions requiring the purchaser, lessee or grantee to replan, clear, rehabilitate, restore, renew, conserve, improve, reconstruct or redevelop such property in accordance with the urban renewal plan as approved by the governing body and within a definite and reasonable period of time subject to the terms of the contract relating thereto between the municipality and the sponsor, and provisions insuring the use of such real property for purposes consistent with such urban renewal plan.

4. (a) Leases authorized by this section may contain provisions subordinating the fee interest of a municipality to a sponsor for purposes of pledging or assigning such fee interest to the primary leasehold mortgagee of said lease, provided that the amount to which the fee is subordinated shall not exceed the lessee's cost of completing its obligation to replan, clear, rehabilitate, restore, renew, conserve, improve, reconstruct or redevelop such property in accordance with the lease provisions.

(b) A municipality may execute such instruments as may be required to implement the provisions of this subdivision.

(c) Leases and such other instruments as may be required shall contain provisions stating that (1) the municipality shall assume no liability for any debt underlying the pledge or assignment of the fee interest; (2) the municipality, at its option, may satisfy any obligation for which the fee interest is assigned or pledged; and (3) no foreclosure action shall be maintained against such subordinated fee interest until the obligation of the sponsor to replan, clear, rehabilitate, restore, renew, conserve, improve, reconstruct or redevelop such property has been completed in accordance with the lease provisions.

(d) A municipality shall not subordinate its fee interest, as authorized by this subdivision, to any leasehold mortgagee if the municipal fee interest is to be assigned or pledged to another governmental agency, public authority or public benefit corporation created and organized for the purpose of providing primary or secondary financial assistance for commercial, industrial or business development.

5. In a city having a population of one million or more, the governing body may, as part of its review of the land use impact and implications of a disposition of property for residential use proposed to be made pursuant to this section, incorporate into its approval any or all of the following: (i) the number of residential units; (ii) whether such units are home ownership units, rental units or condominium or cooperative units; (iii) the estimated initial rents or selling prices for such units; (iv) income restrictions, if any, on renters or purchasers of such units; and (v) the basis on which the consideration for the sale or lease of the property is to be determined; provided, however, that this subdivision shall not apply to the extent an approved urban renewal plan incorporates such items.

§ 508. State loans. 1. The commissioner may, in the name of the state, make or contract to make loans to a municipality to assist such municipality to establish and carry out one or more programs of urban renewal. No such loan shall be made where the municipality has contracted with the federal government for a capital grant prior to the thirtieth of April, nineteen hundred fifty-nine; provided,

however, that such a loan may be made with respect to that part of any program which has been added, or with respect to which the federal capital grant has been increased, pursuant to a contract or contract amendment entered into with the federal government after such date. All such loan contracts shall be subject to approval by the state comptroller, and by the attorney general as to form. Any such loan shall be in such amount, not exceeding one-half of the local grants-in-aid which the municipality has agreed to make under the provisions of the contract for federal aid, as the commissioner, in his discretion, may deem necessary to assist the municipality in discharging its obligations in connection with the urban renewal program for which the loan shall be made. No municipality shall receive any such loan until (a) the urban renewal plan has been approved by the governing body, (b) the program set forth in such plan has been certified as eligible for federal assistance by the housing and home finance agency of the federal government, and (c) the governing body and the comptroller of the municipality, or in a municipality having no comptroller, the chief financial officer of such municipality, have attached their separate approvals to the loan contract. The commissioner may make temporary advances to such municipality in anticipation of any such loan, and no such temporary advance shall be deemed to constitute part of such loan unless such temporary advance has been made out of the proceeds of definitive urban renewal bonds sold by the state pursuant to section sixty of the state finance law.

2. Loans shall be made at the rate of interest paid or to be paid by the state for the funds loaned to the municipality, plus a proportionate share of the actual direct cost of the borrowing as certified by the state comptroller. Each such loan shall be repaid in equal annual installments over or within a period not to exceed twenty-five years. Each installment shall equal the amount payable by the state for moneys borrowed for the loan and shall be paid by the municipality not later than five days before each such payment by the state is required.

3. Should the municipality fail to make payment of interest or principal upon any due date, the state comptroller may deduct and retain from any moneys otherwise payable by the state to such municipality, the amount of such interest and principal and credit such municipality with the amount of such deduction.

4. All or any part of the sum which the commissioner has contracted to lend to the municipality may, with the consent of the commissioner, be borrowed by the municipality from sources other than the state under such terms and conditions as the commissioner shall approve, but such borrowing shall not constitute a waiver or surrender of the rights of the municipality under its loan contract made with the commissioner.

§ 509. Periodic subsidies. 1. The commissioner may, in the name of the state,

make or contract to make periodic subsidies to a municipality to assist such municipality in carrying out one or more programs of urban renewal, subject to the limitations contained in the first paragraph of section seventy-three of the public housing law, in this section and in any other law applicable thereto. Such subsidies shall be applied by the municipality only for the purpose of paying the principal and interest on the state loan for the urban renewal program or on loans from other sources pursuant to subdivision three of this section.

2. The periodic subsidy for each program of urban renewal shall be payable to the municipality on an annual basis over the period of the state loan for the urban renewal program, commencing on the date provided for in the loan contract made with the commissioner, in a total amount determined by the commissioner but no greater than the sum due to the state for principal and interest on the state loan for such program. The amount of such payments need not be uniform and portions of the periodic subsidy payable for any one year may be paid from time to time as required.

3. Where all or any part of the sum which the commissioner has contracted to lend to the municipality is borrowed by the municipality from sources other than the state, the periodic subsidy contracted for pursuant to subdivision one of this section may be used by the municipality for the payment of such loans obtained from such sources for the program to which such periodic subsidies relate, provided the terms and conditions of such loans have been approved by the commissioner. Such periodic subsidies shall also be payable to the municipality on an annual basis over a fixed period of years not exceeding the probable life of such program, in a total amount determined by the commissioner but no greater than the sum due to such lenders for principal and interest on such loan, commencing on the date provided for in the loan contract made with the commissioner. Notwithstanding any other provision of any general or special law, the contract for such loan from sources other than the state shall provide that upon any date when an installment of principal shall become due and payable the municipality may anticipate any installment which would otherwise become due and payable thereafter.

4. The faith of the state is pledged to the payment of all periodic subsidies contracted for by the commissioner. Such periodic subsidies shall be paid upon the audit and warrant of the state comptroller upon vouchers approved by the commissioner.

§ 510. State capital grants. 1. In lieu of making or contracting to make a loan or periodic subsidy, or both, pursuant to sections five hundred eight and five hundred nine of this article, the commissioner may in the name of the state,

(a) in the case of municipalities which have contracted with the federal

government for a capital grant (or for a loan and grant) subsequent to the thirty-first day of December, nineteen hundred sixty, make or contract to make, within appropriations therefor, a state capital grant to such municipality to assist in carrying out one or more programs of urban renewal; provided, however, that such state capital grant may be made with respect to that part of any program which has been added, or with respect to which the federal capital grant, or loan and grant, has been increased, pursuant to a contract or contract amendment entered into with the federal government, after such date;

(b) in the case of municipalities which have not made application to or entered into a contract with the federal government for advances, loans or grant, with respect to a specific urban renewal project, make or contract to make a state capital grant, within appropriations therefor, to such municipality to assist in meeting the cost of surveys and plans for such project and the administrative and other related expenditures to be incurred in undertaking and completing such project.

All contracts for such state capital grants shall be subject to approval by the state comptroller, and by the attorney general as to form. The commissioner may make advances or progress payments on account of any state capital grant contracted to be made pursuant to this section and such advances or payments shall not constitute periodic subsidies.

2. Any such state capital grant shall be in such amount, within appropriations therefor, as the commissioner, in his discretion, may deem necessary to assist the municipality in discharging its obligations in connection with the program for which the grant shall be made; provided, however, that no such grant shall exceed one-half of the net cost of such program to the municipality, exclusive of any federal aid or assistance, as such net costs shall be certified by the municipality and approved by the commissioner. If the municipality has not applied to or entered into a contract with the federal government for advances, loans or grants for a specific project, such grant shall not in any event exceed five hundred thousand dollars ($500,000).

3. No municipality shall receive any such state capital grant until (a) the urban renewal plan has been approved by the governing body, (b) the program set forth in such plan has been certified as eligible for federal assistance by the appropriate federal agency, or the governing body has found that such federal financial assistance is not necessary for the undertaking and successful completion of the program set forth in such plan, and (c) the governing body and the comptroller, or in a municipality having no comptroller, the chief financial officer, have attached their separate approvals to the grant contract. The commissioner may make temporary advances to such municipality in anticipation of any such grant.

4. Notwithstanding anything contained in this section or in section five hundred thirteen of this article to the contrary, the commissioner may in the name of the state, within appropriations heretofore or hereafter made for state capital grants to assist in carrying out one or more local urban renewal programs, make or contract to make advances of funds to municipalities, in anticipation of any such state capital grant, to assist such municipalities in preparing preliminary economic and physical plans for relocation housing, regulated by law or contract as to rents, for persons and families to be displaced by the urban renewal program whose housing needs cannot be met by the unaided operations of private enterprise. Upon completion such plans shall be filed with the commissioner.

No such contract or advance shall be made (a) before an urban renewal area, to whose residents such relocation housing relates, has been designated pursuant to section five hundred four of this article; (b) unless the governing body has certified that the preparation of preliminary plans for such relocation housing is necessary to the making of a finding, pursuant to section five hundred five of this article, as to the existence of a feasible method of relocation; and (c) in excess of the lowest of the following amounts:

(i) the actual cost of preparation of such preliminary plans;

(ii) one-half of one per cent of the estimated construction cost of the proposed relocation housing;

(iii) twenty-five thousand dollars; and every such advance shall be repaid out of any state capital grant which may become payable to the municipality for the undertaking of the urban renewal project involved.

5. (a) Notwithstanding anything contained in this article to the contrary, the commissioner may in the name of the state, within appropriations heretofore or hereafter made for state capital grants to assist in carrying out one or more local urban renewal programs, make or contract to make state capital grants to municipalities to assist in financing the cost of the preparation and completion of one or more community renewal programs.

A community renewal program may include, without being limited to (1) the identification of slum areas or blighted, deteriorated, or deteriorating areas in the community, (2) the measurement of the nature and degree of blight and blighting factors within such areas, (3) determination of the financial, relocation, and other resources needed and available to renew such areas, (4) the identification of potential project areas and, where feasible, types of urban

renewal action contemplated within such areas, and (5) scheduling or programming of urban renewal activities.

(b) Any such state capital grant shall be in such amount, within appropriations therefor, as the commissioner, in his discretion, may deem necessary to assist the municipality in discharging its obligations in connection with the community renewal program for which the state capital grant shall be made; provided, however, that no such state capital grant shall exceed one-half of the cost to the municipality of undertaking and completing such program, exclusive of any federal or state aid or assistance therefor, as such cost shall be certified by the municipality and approved by the commissioner.

(c) No municipality shall receive any such state capital grant until (1) the community renewal program has been approved by the governing body, (2) such program has been certified as eligible for federal assistance by the appropriate federal agency, and (3) the governing body and the comptroller, or in a municipality having no comptroller, the chief financial officer, have attached their separate approvals to the state grant contract.

(d) All contracts for such state capital grants shall be subject to approval by the state comptroller, and by the attorney general as to form. The commissioner may make advances or progress payments on account of any such state capital grant contract to be made pursuant to this section.

6. (a) Notwithstanding anything to the contrary contained in this section or elsewhere in this chapter, or in any general, special or local law, except as hereinafter provided, the commissioner may, in the name of the state, include in determining the net cost of an urban renewal project for the purpose of computing the amount of state financial assistance to a municipality, those expenditures made by a private voluntary hospital and/or by a private college or private university, within, adjacent to, or in the immediate vicinity of such project which are recognized as non-cash grant-in-aid credits under the provisions of section one hundred twelve of title one of the federal housing act of nineteen hundred forty-nine, as amended and supplemented; provided, however, that such computation shall not apply to any urban renewal project for which a contract has been executed with the federal government for a capital grant (or for a loan and grant) prior to the first day of July, nineteen hundred sixty-six.

(b) Not more than fifteen per centum of the amount appropriated by the state or otherwise available to the commissioner in any year for urban renewal assistance to municipalities and agencies pursuant to this section and section five hundred fifty-seven of this chapter shall be available for the purposes of paragraph (a) of this subdivision.

(c) In no instance shall the amount of state assistance to a municipality under this subdivision exceed the net project cost, excluding the amount of the non-cash grant-in-aid credits for expenditures made by a private voluntary hospital and/or by a private college or private university allowed in accordance with the provisions of section one hundred twelve of title I of the federal housing act of nineteen hundred forty-nine as amended and supplemented, less any federal capital grant, or loan and grant, for such project; nor shall the aggregate amount of state assistance for any such urban renewal project, including section one hundred twelve grant-in-aid credits as provided by this subdivision, exceed one-half of the total local grant-in-aid requirements necessary to complete such project.

(d) No such section one hundred twelve non-cash grant-in-aid credits shall be included in determining the net cost of an urban renewal project for the purpose of computing the amount of state financial assistance to a municipality unless such expenditures were made in conformity with a plan or undertaking for the clearance, replanning and reconstruction or rehabilitation of a substandard or insanitary area or areas.

(e) Such plan or undertaking, for the clearance, replanning and reconstruction or rehabilitation of a substandard insanitary area adjacent to or in the immediate vicinity of an urban renewal project shall conform to the comprehensive community plan for the development of the community as a whole. Every such plan or undertaking shall be submitted to the commission, if any, for approval. The commission after considering the plan or undertaking may: issue a report of unqualified approval; or issue a report of conditional or qualified approval; or issue a report disapproving same. The plan or undertaking shall be submitted, together with the report of the commission, to the local legislative body for its approval. If the commission shall have issued a report of unqualified approval, the plan or undertaking may be approved in accordance with the report of the commission by a majority vote of the local legislative body. If the commission shall have issued a report disapproving same, or shall have issued a report of conditional or unqualified approval, or shall have failed to make its report within four weeks of the submission of the plan or undertaking to the commission, the local legislative body may, nevertheless, approve the plan or undertaking but only by a three-fourths vote.

§ 511. Authority of municipality; other terms of contract. 1. Any municipality is authorized to enter into agreement with the state to receive such loans, periodic subsidies and state capital grants to assist such municipality to establish and carry out one or more programs of urban renewal.

2. In the case of a loan, the loan contract shall provide that upon any date when an installment of principal shall become due and payable the municipality

may anticipate any installment which would otherwise become due and payable thereafter.

3. In every contract for a loan and periodic subsidy or for a capital grant by the state, the acts constituting a substantial breach of the provisions set forth therein shall be defined in such terms as the commissioner shall deem to be in the public interest and as are consistent with the provisions of this article and the purposes of the program for which such aid is sought. In any loan contract, the commissioner shall retain the right, among other rights and remedies, in the event of such substantial breach, to declare any unpaid balance to be due forthwith and to reduce or terminate any periodic subsidies payable under the contract.

4. Every such contract may contain such other terms, covenants and conditions as shall be agreed upon and as are consistent with the provisions of this article and the purposes of the urban renewal program.

§ 512. Approval of program by commissioner. No contract for a state loan and periodic subsidy or for a state capital grant shall be executed until the program for which such aid is sought has been approved by the commissioner.

§ 513. Findings by the commissioner. 1. No loan, subsidy or grant shall be made by the state for an urban renewal program unless the commissioner shall find that:

(a) the municipality or agency, as the case may be, has entered into a contract to receive capital grants, or loans and grants, from the federal government under which the municipality is obligated to make local grants-in-aid, or the governing body has found that such federal financial assistance is not necessary for the undertaking and successful completion of the program;

(b) in the case of a state loan, the state loan for which application is made will not exceed one-half of such local grants-in-aid;

(c) in the case of a state capital grant, the state capital grant for which application is made will not exceed one-half of the municipality's share of the net project cost, or, if the municipality has not applied to or entered into a contract with the federal government for advances, loans or grants for a specific project, such grant shall not in any event exceed five hundred thousand dollars ($500,000);

(d) adequate provision has been made in a relocation program to provide

housing for the persons and families to be displaced by the urban renewal program;

(e) such program is in conformity with a plan or undertaking for the clearance, replanning, reconstruction and rehabilitation of substandard and insanitary areas and for recreational and other facilities incidental or appurtenant thereto, and

(f) the estimated funds available to the municipality or agency, as the case may be, including any federal loans and grants for the urban renewal program, the local grants-in-aid and the state loan or capital grant will be sufficient to cover all probable costs of the program.

2. Such findings shall be conclusive evidence of the facts therein contained except upon proof of fraud or willful misfeasance by the commissioner.

§ 514. Filing of proposed plans. The municipality or agency, as the case may be, shall file with the commissioner a copy of any proposed urban renewal program assisted by state loans, periodic subsidies or capital grants, embodying the plans, layout, estimated cost and proposed method of financing. Any change made in an urban renewal program assisted by state loans, periodic subsidies or capital grants shall be filed with the commissioner. From time to time prior to completion, and with reasonable promptness after any urban renewal program assisted by state loans, periodic subsidies or capital grants shall have been completed, upon request of the commissioner, the municipality or agency shall file with the commissioner a detailed statement of the cost thereof.

Upon receipt of a copy of a proposed urban renewal program, or any proposed change therein, the commissioner may transmit his criticism and suggestions to the municipality or agency, as the case may be. No change in an urban renewal program assisted by state loans, periodic subsidies or capital grants may be made by a municipality or agency without the approval of the commissioner.

§ 515. Periodic reports. The municipality or agency, as the case may be, shall file with the commissioner periodic reports covering its operations and activities in connection with one or more programs of urban renewal, in such form and from time to time as the commissioner shall prescribe.

§ 516. Intervention by commissioner. In any action or proceeding affecting any urban renewal program, the commissioner shall be given prompt notice thereof, and he shall take such steps in such action or proceeding as may be necessary or desirable to protect the public interest. If, in the opinion of the commissioner, it is necessary or desirable in the public interest that he intervene in any such action or proceeding he shall be permitted to do so as a matter of right. Whenever

in connection with an urban renewal program, under any instrument or law, a notice in writing is required to be served upon the municipality before the institution of any action or proceeding, a copy of such notice shall be served upon the commissioner at least five days before commencement of the action or proceeding.

§ 517. Disqualification of commissioner, officers and employees. Neither the commissioner, nor any officer or employee in the division of housing shall acquire or hold any interest, direct or indirect, in such state-aided urban renewal program or in any property then or thereafter included or planned to be included in such state-aided urban renewal program, nor shall he retain any interest, direct or indirect, in any property acquired prior to his appointment or employment which is later included, or to his knowledge planned to be included, in such state-aided urban renewal program, nor shall he have any interest, direct or indirect, in any contract or proposed contract for materials or services to be furnished or used in connection with such state-aided urban renewal program. If the commissioner, or any officer or employee in the division of housing, owns or controls an interest, direct or indirect, in any property included in any such state-aided urban renewal program, or in any contract or proposed contract for materials or services to be furnished or used in connection with such state-aided urban renewal program, he shall disclose such interest and the date of acquisition thereof in writing to the governor and the commissioner, and such disclosure shall be entered in a special record of the division of housing kept for such purpose.

§ 518. Rules and regulations of commissioner. The commissioner shall have the power to make, promulgate, modify, amend and repeal rules and regulations to effectuate his powers and duties under this article. No such rule or regulation shall be effective until it is filed in the office of the department of state.

§ 519. Division of housing as agent of smaller municipalities. For all of the purposes of section one hundred one-b of the housing act of nineteen hundred forty-nine and all federal laws amendatory and supplementary thereto, the division of housing of the state of New York is hereby designated as the local agency established by the state and operating on a state-wide basis in behalf of smaller municipalities undertaking or proposing to undertake a federal program of urban renewal. Designation of the division of housing as such agency shall be subject to approval by resolution or ordinance of the governing body of the municipality in whose behalf the designation is made. The term "smaller municipalities" as used in this section shall be deemed to apply to cities and villages with a population of less than twenty-five thousand and to towns with a population, excluding the incorporated areas thereof, of less than thirty thousand.

§ 520. Construction. This article shall be construed liberally to effect the purposes hereof and the enumeration of specific powers in this act shall not operate to restrict the meaning of any general grant of power contained in this chapter or to exclude other powers comprehended in such general grant. In construing this chapter consideration shall be given to its purposes and intent, among others, of consolidating, clarifying and simplifying the respective provisions of the chapters repealed as hereinafter specified in section five hundred twenty-five hereof and of authorizing municipalities to undertake one or more programs of urban renewal with respect to the clearance, replanning, reconstruction, rehabilitation, redevelopment, conservation, restoration or improvement of substandard, insanitary, slum, blighted, deteriorated or deteriorating residential, non-residential, improved or vacant areas, or the remedying of unsuitable topographical, subsoil or other physical conditions which tend to impede the development of such areas, for residential, commercial, industrial, community, public and other uses and to apply for and accept federal or state loans, subsidies or grants in connection therewith. Insofar as the provisions of this article are inconsistent with the provisions of any other general, special or local law, the provisions of this article shall be controlling.

§ 521. Severability. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 522. Pending actions or proceedings. This act or anything contained therein shall not affect or abate any acts, actions, proceedings, civil or criminal, pending at the time this act shall take effect brought by, for or against, the state, the division of housing or any municipality or in pursuance of the provisions of the laws repealed by this act, but all such acts, actions or proceedings may be continued, prosecuted, conducted and completed as if such laws were not repealed but continued to be fully effective.

§ 523. Saving clause. 1. Any urban renewal program commenced or undertaken prior to the effective date of this article, in accordance with and pursuant to, any provision of the general municipal law, or other law in force immediately prior to the effective date of this article, shall in no manner be impaired or affected by the enactment of this article or the repeal of the applicable sections of the general municipal law. As to such urban renewal programs so commenced or undertaken, the provisions of any such law may be deemed continued thereunder until the completion of such program or programs. Nothing herein contained, however, shall prevent a municipality, having so commenced or undertaken an urban renewal program prior to the effective date of this article, from exercising any

of the rights or powers granted in this article in conjunction with or substitution of the rights and powers of such municipality under any law in force immediately prior to the effective date of this article, until the completion of such program.

2. Any provision in any law, rule, regulation, resolution, contract or other document relating to any right, power or duty of the state or of a municipality and which applied at the time the state or municipality exercised such power or right or performed such duty shall continue to apply notwithstanding any provision to the contrary of this article.

3. An act of the legislature of the year nineteen hundred sixty-one which in form amends or repeals or purports to amend or repeal any provision or provisions of section seventy-two-k, seventy-two-l, seventy-two-m, seventy-two-n, or seventy-two-o of the general municipal law as in force at the time this act shall take effect shall be deemed and construed as an amendment or repeal, as the case may be, of the corresponding provision or provisions of such sections or law, as contained in this article.

4. An act of the legislature of the year nineteen hundred sixty-one, which adds or purports to add a new section, subdivision or other provision of law to sections seventy-two-k, seventy-two-l, seventy-two-m, seventy-two-n or seventy-two-o of the general municipal law as in force at the time this act shall take effect shall be deemed and construed as having been added to this act and shall be given full effect according to its context as if the same had been added expressly and in terms to this act and shall be deemed and construed to have been inserted in this act in the appropriate position in regard to and as modifying the effect of the corresponding provision or provisions of this article.

5. Reference in any general, special or local law, county, city or village charter or other special form of government, ordinance, resolution, rule, regulation or document or in any act of the legislature of the year nineteen hundred sixty-one to sections seventy-two-k, seventy-two-l, seventy-two-m, seventy-two-n or seventy-two-o of the general municipal law as in force at the time this act shall take effect shall be deemed and construed to refer to the corresponding provision of this article and shall be given full effect according to its terms as thereof specifically referring to such corresponding section or other provision of this article.

§ 524. Validation. All proceedings, acts and things undertaken, performed or done by any municipality or the state division of housing pursuant to sections seventy-two-k, seventy-two-l, seventy-two-m, seventy-two-n and seventy-two-o of the general municipal law or done with reference thereto are hereby validated, ratified, confirmed, approved and declared legal in all respects, notwithstanding

any want of statutory authority or any defect or irregularity in such acts or proceedings.

§ 525. Laws repealed. Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is hereby repealed, except as provided in section five hundred twenty-two.

Article 18-A – INDUSTRIAL DEVELOPMENT
TITLE 1 - AGENCIES, ORGANIZATION AND POWERS

§ 850. Short title. This chapter may be cited as the "New York State Industrial Development Agency Act."

§ 852. Policy and purposes of article. It is hereby declared to be the policy of this state to promote the economic welfare, recreation opportunities and prosperity of its inhabitants and to actively promote, attract, encourage and develop recreation, economically sound commerce and industry and economically sound projects identified and called for to implement a state heritage area management plan as provided in title G of the parks, recreation and historic preservation law through governmental action for the purpose of preventing unemployment and economic deterioration by the creation of industrial development agencies which are hereby declared to be governmental agencies and instrumentalities and to grant to such industrial development agencies the rights and powers provided in this article.

It is hereby further declared to be the policy of this state to protect and promote the health of the inhabitants of this state by the conservation, protection and improvement of the natural and cultural or historic resources and environment and to control land, sewer, water, air, noise or general environmental pollution derived from the operation of industrial, manufacturing, warehousing, commercial, recreation, horse racing facilities, railroad facilities, automobile racing facilities and research facilities and to grant such industrial development agencies the rights and powers provided by this article with respect to industrial pollution control facilities.

It is hereby further declared to be the policy of this state to protect and promote the health of the inhabitants of this state and to increase trade through promoting the development of facilities to provide recreation for the citizens of the state and to attract tourists from other states and to promote the development of renewable energy projects to support the state’s renewable energy goals as may be established or amended from time to time.

The use of all such rights and powers is a public purpose essential to the public interest, and for which public funds may be expended.

§ 854. Definitions. As used in this act, unless the context otherwise requires:

(1) "Agency"--shall mean an Industrial Development Agency created pursuant to this act.

(2) "Bonds"--shall mean the bonds, notes, interim certificates and other

obligations issued by the agency pursuant to this act.

(3) "Municipality"--shall mean any county, city, village, town or Indian reservation in the state.

(4) "Project" - shall mean any land, any building or other improvement, and all real and personal properties located within the state of New York and within or outside or partially within and partially outside the municipality for whose benefit the agency was created, including, but not limited to, machinery, equipment and other facilities deemed necessary or desirable in connection therewith, or incidental thereto, whether or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial, renewable energy or industrial purposes or other economically sound purposes identified and called for to implement a state designated urban cultural park management plan as provided in title G of the parks, recreation and historic preservation law and which may include or mean an industrial pollution control facility, a recreation facility, educational or cultural facility, a horse racing facility, a railroad facility, a renewable energy project or an automobile racing facility, provided, however, no agency shall use its funds or provide financial assistance in respect of any project wholly or partially outside the municipality for whose benefit the agency was created without the prior consent thereto by the governing body or bodies of all the other municipalities in which a part or parts of the project is, or is to be, located, and such portion of the project located outside such municipality for whose benefit the agency was created shall be contiguous with the portion of the project inside such municipality.

(5) "Governing body"--shall mean the board or body in which the general legislative powers of the municipality are vested.

(6) "Mortgage"--shall mean a mortgage or other security device.

(7) "Revenues"--shall mean all rents, revenues, fees, charges and other sources of income derived by the agency from the leasing, sale or other disposition of a project or projects.

(8) "Industrial pollution control facility"--shall mean any equipment, improvement, structure or facility or any land and any building, structure, facility or other improvement thereon, or any combination thereof, and all real and personal property deemed necessary therewith, which if within any city are not of a character or nature then or formerly furnished or supplied by the city, having to do with or the end purpose of which is the control, abatement or prevention of land, sewer, water, air, noise or general environmental pollution deriving from the operation of industrial, manufacturing, warehousing,

commercial, recreation and research facilities, including, but not limited to any air pollution control facility, noise abatement facility, water management facility, waste water collecting system, waste water treatment works, sewage treatment works system, sewage treatment system or solid waste disposal facility or site.

(9) "Recreation facility"--shall mean any facility for the use of the general public as spectators or participants in recreation activities, including but not limited to skiing, golfing, swimming, tennis, ice skating or ice hockey facilities, together with all buildings, structures, machinery, equipment, facilities and appurtenances thereto which the agency may deem necessary, useful or desirable in connection with the construction, improvement or operation of any such facility, including overnight accommodations and other facilities incidental thereto and facilities that may permit the use of recreation facilities by the general public as participants in recreation activities, but shall not include facilities for automobile or horse racing or other similar activities.

(10) "Horse racing facility"--shall mean any facility for the use of the general public for purpose of conducting pari-mutuel wagering, licensed by the state gaming commission, as of January first, nineteen hundred seventy-seven, except non-profit racing associations, including buildings, structures, machinery, equipments, facilities and appurtenances thereto, the construction, reconstruction, acquisition and/or improvement of which shall have been approved by the state gaming commission, and which the agency may deem necessary, useful or desirable in connection with the construction, improvement or operation of such racing facility.

(11) "Railroad facility"--shall mean, but shall not be limited to, railroad rights-of-way, beds, bridges, viaducts, tracks, switches and rolling stock and any other attendant structure, equipment, facility or property necessary or appropriate to railroading conducted in conjunction with industrial, commerical, manufacturing, recreational or warehousing operations; provided, however, that (i) no agency shall itself operate a railroad facility for freight or passenger service, but may lease or otherwise make such facility available to an operator, subject to an agreement for the maintenance and operation of such facility for freight or passenger service, provided that passenger service does not constitute the primary purpose of the railroad facility; (ii) prior to undertaking any project involving acquisition, construction, reconstruction, improvement, maintenance, equipping or furnishing of a railroad facility, an agency shall submit its plans for the proposed project to the commissioner of transportation; the commissioner shall, within sixty days of his receipt of the proposal, submit an analysis of the financial and operational feasibility of the proposed project, along with any recommendations for modification for improving the project's viability, to the agency, the governor, the commissioner of commerce, the temporary president of the senate, the speaker of the assembly and the governing

body of the municipality in which the agency is located; and (iii) no agency shall enter into any contract for the acquisition, construction, reconstruction, improvement, maintenance, equipping or furnishing of a railroad facility until fifteen days after the submission of the analysis and recommendations of the commissioner of transportation, or seventy-five days after submission of the agency's plan to the commissioner, whichever is earlier.

(12) "Educational or cultural facility"--shall mean any facility identified and called for to implement a state designated heritage area management plan as provided in title G of the parks, recreation and historic preservation law that is open to the public at large as participants in educational and cultural activities including but not limited to theaters, museums, exhibitions and festival and interpretive facilities, together with buildings, structures, machinery, equipment, facilities and appurtenances thereto which the agency may deem necessary, useful or desirable in connection with the construction, improvement or operation of any such facility, including overnight accommodations and other facilities incidental thereto and facilities that may permit the use of educational or cultural facilities by the general public.

(14) "Financial assistance" - shall mean the proceeds of bonds issued by an agency, straight-leases, or exemptions from taxation claimed by a project occupant as a result of an agency taking title, possession or control (by lease, license or otherwise) to the property or equipment of such project occupant or of such project occupant acting as an agent of an agency.

(15) "Straight-lease transaction" - shall mean a transaction in which an agency takes title, possession or control (by lease, license or otherwise) to the property or equipment of a project occupant, entitling such property or equipment to be exempt from taxation according to the provisions of section eight hundred seventy-four of this article, and no financial assistance in the form of the proceeds of bonds issued by the agency is provided to the project occupant.

(16) "Affected tax jurisdiction" - shall mean any municipality or school district, in which a project is located, which will fail to receive real property tax payments, or other tax payments which would otherwise be due, except for the tax exempt status of an agency involved in a project.

(17) "Payments in lieu of taxes" - shall mean any payment made to an agency, or affected tax jurisdiction equal to the amount, or a portion of, real property taxes, or other taxes, which would have been levied by or on behalf of an affected tax jurisdiction if the project was not tax exempt by reason of agency involvement.

(18) "Highly distressed area" - shall mean (a) a census tract or tracts or block numbering areas or areas or such census tract or block numbering area contiguous thereto which, according to the most recent census data available, has:

(i) a poverty rate of at least twenty percent for the year to which the data relates or at least twenty percent of households receiving public assistance; and

(ii) an unemployment rate of at least 1.25 times the statewide unemployment rate for the year to which the data relates; or

(b) a city, town, village or county within a city with a population of one million or more for which: (i) the ratio of the full value property wealth, as determined by the comptroller for the year nineteen hundred ninety, per resident to the statewide average full value property wealth per resident; and (ii) the ratio of the income per resident; as shown in the nineteen hundred ninety census to the statewide average income per resident; are each fifty-five percent or less of the statewide average; or

(c) an area which was designated an empire zone pursuant to article eighteen-B of this chapter.

(19) "Continuing care retirement community" - shall mean any facility that has been granted a certificate of authority pursuant to article forty-six or forty-six-A of the public health law and is established to provide, pursuant to continuing care retirement contracts approved pursuant to article forty-six of the public health law, or fee-for-service continuing care contracts approved pursuant to article forty-six-A of the public health law, a comprehensive, cohesive living arrangement for the elderly, and certified by the commissioner of health, that (i) has been approved for the issuance of industrial development agency bonds by the continuing care retirement community council pursuant to section forty-six hundred four-a of the public health law except that paragraphs b and g of subdivision two of section forty-six hundred four-a of the public health law shall not apply to a continuing care retirement community granted a certificate of authority pursuant to article forty-six-A of the public health law and (ii) is a not-for-profit corporation as defined in section one hundred two of the not-for-profit corporation law that is (a) eligible for tax-exempt financing under section forty-six hundred four-a of the public health law and this chapter and (b) is exempt from taxation pursuant to section 501(c)(3) of the federal internal revenue code; except that "continuing care retirement community" shall not include a facility granted a certificate of authority upon application of a state or local government applicant.

(20) "Automobile racing facility" shall mean any closed-course motorsports complex and its ancillary grounds that has at least fifty thousand fixed seats for race patrons and hosts at least one NASCAR Sprint Cup series race and at least two other nationally recognized racing events each calendar year.

(21) "Renewable energy project" shall mean any project and associated real property on which the project is situated, that utilizes any system or equipment as set forth in section four hundred eighty-seven of the real property tax law or as defined pursuant to paragraph b of subdivision one of section sixty-six-p of the public service law as added by chapter one hundred six of the laws of two thousand nineteen.

§ 856. Organization of industrial development agencies. 1. (a) Upon the establishment of an industrial development agency by special act of the legislature, the governing body of the municipality for whose benefit such agency is established shall file within six months after the effective date of the special act of the legislature establishing such agency or before the first day of July, nineteen hundred sixty-nine, whichever date shall be later, in the office of the secretary of state, a certificate setting forth: (1) the date of passage of the special act establishing the agency; (2) the name of the agency; (3) the names of the members and their terms of office, specifying which member is the chairman; and (4) facts establishing the need for the establishment of an agency in such municipality.

(b) Every such agency shall be perpetual in duration, except that if (1) such certificate is not filed with the secretary of state within six months after the effective date of the special act of the legislature establishing such agency or before the first day of July, nineteen hundred sixty-nine, whichever date shall be later, or if (2) at the expiration of ten years subsequent to the effective date of the special act, there shall be outstanding no bonds or other obligations theretofore issued by such agency or by the municipality for or in behalf of the agency, then the corporate existence of such agency shall thereupon terminate and it shall thereupon be deemed to be and shall be dissolved.

(c) On or before March first of each year, the secretary of state shall prepare a list of agencies which failed to file a certificate in accordance with provisions of paragraph (a) of this subdivision within the preceding calendar year and transmit a copy of such list to the state comptroller and the commissioner of the department of economic development. On or before March first of each year the commissioner of the department of economic development shall prepare a list of agencies which have dissolved pursuant to paragraph (b) of this subdivision or have ceased to exist pursuant to section eight hundred eighty-two of this chapter and shall transmit a copy of such list to the state comptroller.

2. An agency shall be a corporate governmental agency, constituting a public benefit corporation. Except as otherwise provided by special act of the legislature, an agency shall consist of not less than three nor more than seven members who shall be appointed by the governing body of each municipality and who shall serve at the pleasure of the appointing authority. Such members may include representatives of local government, school boards, organized labor and business. A member shall continue to hold office until his successor is appointed and has qualified. The governing body of each municipality shall designate the first chairman and file with the secretary of state a certificate of appointment or reappointment of any member. Such members shall receive no compensation for their services but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of their duties.

3. A majority of the members of an agency shall constitute a quorum.

4. Any one or more of the members of an agency may be an official or an employee of the municipality. In the event that an official or an employee of the municipality shall be appointed as a member of the agency, acceptance or retention of such appointment shall not be deemed a forfeiture of his municipal office or employment, or incompatible therewith or affect his tenure or compensation in any way. The term of office of a member of an agency who is an official or an employee of the municipality when appointed as a member thereof by special act of the legislature creating the industrial development agency shall terminate at the expiration of the term of his municipal office.

§ 857. Video recordings of open meetings and public hearings. The agency shall, to the extent practicable, stream all open meetings and public hearings on its website in real-time. The agency shall post video recordings of all open meetings and public hearings on its website within five business days of the meeting or hearing and shall maintain such recordings for a period of not less than five years.

§ 858. Purposes and powers of the agency. The purposes of the agency shall be to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing industrial, manufacturing, warehousing, commercial, research, renewable energy and recreation facilities including industrial pollution control facilities, educational or cultural facilities, railroad facilities, horse racing facilities, automobile racing facilities, renewable energy projects and continuing care retirement communities, provided, however, that, of agencies governed by this article, only agencies created for the benefit of a county and the agency created for the benefit of the city of New York shall be authorized to provide financial assistance in any respect to a continuing care retirement community, and thereby advance the job opportunities, health, general prosperity and economic welfare

of the people of the state of New York and to improve their recreation opportunities, prosperity and standard of living; and to carry out the aforesaid purposes, each agency shall have the following powers:

(1) To sue and be sued;

(2) To have a seal and alter the same at pleasure;

(3) To acquire, hold and dispose of personal property for its corporate purposes;

(4) To acquire by purchase, grant, lease, gift, pursuant to the provisions of the eminent domain procedure law, or otherwise and to use, real property or rights or easements therein necessary for its corporate purposes in compliance with the local zoning and planning regulations and shall take into consideration regional and local comprehensive land use plans and state designated heritage area management plans, and to sell, convey, mortgage, lease, pledge, exchange or otherwise dispose of any such property in such manner as the agency shall determine. In the case of railroad facilities, however, the phrase to use real property or rights or easements therein shall not be interpreted to include operation by the agency of rail service upon or in conjunction with such facilities.

(5) To make by-laws for the management and regulation of its affairs and, subject to agreements with its bondholders, for the regulation of the use of a project or projects.

(6) With the consent of the municipality, to use agents, employees and facilities of the municipality, paying the municipality its agreed proportion of the compensation or costs;

(7) To appoint officers, agents and employees, to prescribe their qualifications and to fix their compensation and to pay the same out of funds of the agency, provided, however, that an elected officer of the municipality may not serve as a compensated officer, agent or employee of the agency;

(8) (a) To appoint an attorney, who may be the counsel of the municipality, and to fix the attorney's compensation for services which shall be payable to the attorney, and to retain and employ private consultants for professional and technical assistance and advice;

(b) An attorney acting as bond counsel for a project must file with the

agency a written statement in which the attorney identifies each party to the transaction which such attorney represents. If bond counsel provides any legal services to parties other than the agency the written statement must describe the nature of legal services provided by such bond counsel to all parties to the transaction, including the nature of the services provided to the agency.

(9) To make contracts and leases, and to execute all instruments necessary or convenient to or with any person, firm, partnership or corporation, either public or private; provided, however, that any extension of an existing contract, lease or other agreement entered into by an agency with respect to a project shall be guided by the provisions of this article;

(10) To acquire, construct, reconstruct, lease, improve, maintain, equip or furnish one or more projects;

(11) To accept gifts, grants, loans, or contributions from, and enter into contracts or other transactions with, the United States and the state or any agency of either of them, any municipality, any public or private corporation or any other legal entity, and to use any such gifts, grants, loans or contributions for any of its corporate purposes;

(12) To borrow money and to issue bonds and to provide for the rights of the holders thereof;

(13) To grant options to renew any lease with respect to any project or projects and to grant options to buy any project at such price as the agency may deem desirable;

(14) To designate the depositories of its money either within or without the state;

(15) To enter into agreements requiring payments in lieu of taxes. Such agreements shall be in writing and in addition to other terms shall contain: the amount due annually to each affected tax jurisdiction (or a formula by which the amount due can be calculated), the name and address of the person, office or agency to which payment shall be delivered, the date on which payment shall be made, and the date on which payment shall be considered delinquent if not paid. Unless otherwise agreed by the affected tax jurisdictions, any such agreement shall provide that payments in lieu of taxes shall be allocated among affected tax jurisdictions in proportion to the amount of real property tax and other taxes which would have been received by each affected tax jurisdiction had the project not been tax exempt due to the status of the agency involved in the project. A copy of any such agreement shall be

delivered to each affected tax jurisdiction within fifteen days of signing the agreement. In the absence of any such written agreement, payments in lieu of taxes made by an agency shall be allocated in the same proportions as they had been prior to January first, nineteen hundred ninety-three for so long as the agency's activities render a project non-taxable by affected tax jurisdictions. A notification of the expiration of such agreement shall be delivered to the affected tax jurisdiction two years prior to the expiration of such agreement and immediately upon early termination of an agreement;

(16) To establish and re-establish its fiscal year; and

(17) To do all things necessary or convenient to carry out its purposes and exercise the powers expressly given in this title.

§ 858-a. Compensation, procurement and investment. 1. The compensation of an officer or full-time employee of the agency (but not including part-time employees or consultants, including accountants, attorneys and bond counsel to the agency) shall not be contingent on the granting of financial assistance by an agency.

2. The provisions of section one hundred four-b of this chapter shall be applicable to the procurement of goods and services paid for by an agency for its own use and account.

3. The provisions of sections ten and eleven of this chapter shall be applicable to deposits and investments of funds for an agency's own use and account.

§ 858-b. Equal employment opportunities. 1. Each agency shall ensure that all employees and applicants for employment are afforded equal employment opportunity without discrimination.

2. Except as is otherwise provided by collective bargaining contracts or agreements, new employment opportunities created as a result of projects of the agency shall be listed with the New York state department of labor community services division, and with the administrative entity of the service delivery area created by the federal job training partnership act (P.L. No. 97-300) in which the project is located. Except as is otherwise provided by collective bargaining contracts or agreements, sponsors of projects shall agree, where practicable, to first consider persons eligible to participate in the federal job training partnership (P.L. No. 97-300) programs who shall be referred by administrative entities of service delivery areas created pursuant to such act or by the community services division of the department of labor for such such

new employment opportunities.

§ 859. Financial records. 1. (a) Each agency shall maintain books and records in such form as may be prescribed by the state comptroller.

(b) Within ninety days following the close of its fiscal year, each agency or authority shall prepare a financial statement for that fiscal year in such form as may be prescribed by the state comptroller. Such statement shall be audited within such ninety day period by an independent certified public accountant in accordance with government accounting standards established by the United States general accounting office. The audited financial statement shall include supplemental schedules listing all straight-lease transactions and bonds and notes issued, outstanding or retired during the applicable accounting period whether or not such bonds, notes or transactions are considered obligations of the agency. For each issue of bonds or notes such schedules shall provide the name of each project financed with proceeds of each issue, and whether the project occupant is a not-for-profit corporation, the name and address of each owner of each project, the estimated amount of tax exemptions authorized for each project, the purpose for which each bond or note was issued, date of issue, interest rate at issuance and if variable the range of interest rates applicable, maturity date, federal tax status of each issue, and an estimate of the number of jobs created and retained by each project. For each straight-lease transaction, such schedules shall provide the name of each project, and whether the project occupant is a not-for-profit corporation, the name and address of each owner of each project, the estimated amount of tax exemptions authorized for each project, the purpose for which each transaction was made, the method of financial assistance utilized by the project, other than the tax exemptions claimed by the project and an estimate of the number of jobs created and retained by each project.

(c) Within thirty days after completion, a copy of the audited financial statement shall be transmitted to the commissioner of the department of economic development, the state comptroller and the governing body of the municipality for whose benefit the agency was created.

(d) An agency with no bonds or notes issued or outstanding and no projects during the applicable accounting period may apply to the state comptroller for a waiver of the required audited financial statement. Application shall be made on such form as the comptroller may prescribe.

(e) If an agency or authority shall fail to file or substantially complete, as determined by the state comptroller, the financial statement required by this section, the state comptroller shall provide notice to the agency or authority. The notice shall state the following:

(i) that the failure to file a financial statement as required is a violation of this section, or in the case of an insufficient financial statement, the manner in which the financial statement submitted is deficient;

(ii) that the agency or authority has thirty days to comply with this section or provide an adequate written explanation to the comptroller of the agency's or authority's reasons for the inability to comply; and

(iii) that the agency's or authority's failure to provide either the required financial statement or an adequate explanation will result in the notification of the chief executive officer of the municipality for whose benefit the agency or authority was created of the agency's noncompliance with this section. Where such agency or authority has failed to file the required statement, the comptroller shall additionally notify the agency or authority that continued failure to file the required statement may result in loss of the agency's or authority's authority to provide exemptions from state taxes.

(iv) If an agency or authority after thirty days has failed to file the required statement or the explanation in the manner required by subparagraph (i) of this paragraph, or provides an insufficient explanation, the comptroller shall notify the chief executive officer of the municipality for whose benefit the agency or authority was created and the agency of the agency's or authority's noncompliance with this section. Such notice from the state comptroller shall further delineate in what respect the agency or authority has failed to comply with this section. If the agency or authority has failed to file the required statement, the notice shall additionally state that continued failure to file the required statement may result in loss of the agency's or authority's authority to provide exemptions from state taxes.

(v) If, thirty days after notification of the chief executive officer of the municipality for whose benefit the agency or authority was created of the agency's or authority's noncompliance, the agency or authority fails to file the required statement, the comptroller shall notify the chief executive officer of the municipality for whose benefit that agency or authority was created and the agency or authority that if such report is not provided within sixty days, that the agency or authority will no longer be authorized to provide exemptions from state taxes.

(vi) If, sixty days after the notification required by subparagraph (v) of this paragraph, the comptroller has not received the required statement, the agency or authority shall not offer financial assistance which provides exemptions from state taxes until such financial statement is filed and the comptroller shall so notify the agency or authority and the chief executive officer of the municipality for whose benefit the agency was created. Provided,

however, that nothing contained in this paragraph shall be deemed to modify the terms of any existing agreements.

(f) Within thirty days after completion, a copy of an audited financial statement which contains transactions of or bonds or notes of civic facilities as defined in paragraph (b) of subdivision thirteen of section eight hundred fifty-four of this article, shall be transmitted by the agency to the commissioner of health, the chair of the senate finance committee, the chair of the assembly ways and means committee, the chair of the senate health committee and the chair of the assembly health committee.

2. On or before September first of each year, the commissioner of the department of economic development shall prepare and submit to the governor, speaker of the assembly, majority leader of the senate, and the state comptroller, a report setting forth a summary of the significant trends in operations and financing by agencies and authorities; departures from acceptable practices by agencies and authorities; a compilation by type of the bonds and notes outstanding; a compilation of all outstanding straight-lease transactions; an estimate of the total number of jobs created and retained by agency or authority projects; and any other information which in the opinion of the commissioner bears upon the discharge of the statutory functions of agencies and authorities.

3. On or before April first, nineteen hundred ninety-six, the commissioner shall submit to the director of the division of the budget, the temporary president of the senate, the speaker of the assembly, the chairman of the senate finance committee, the chairman of the assembly ways and means committee, the chairman of the senate local government committee, the chairman of the senate committee on commerce, economic development and small business, the chairman of the assembly committee on commerce, industry and economic development, the chairman of the assembly local governments committee and the chairman of the assembly real property taxation committee an evaluation of the activities of industrial development agencies and authorities in the state prepared by an entity independent of the department. Such evaluation shall identify the effect of agencies and authorities on: (a) job creation and retention in the state, including the types of jobs created and retained; (b) the value of tax exemptions provided by such agencies and authorities; (c) the value of payments received in lieu of taxes received by municipalities and school districts as a result of projects sponsored by such entities; (d) a summary of the types of projects that received financial assistance; (e) a summary of the types of financial assistance provided by the agencies and authorities; (f) a summary of criteria for evaluation of projects used by agencies and authorities; (g) a summary of tax exemption policies of agencies and authorities; and (h) such other factors as may be relevant to an assessment of the performance of such agencies and authorities in creating and retaining job opportunities for residents of the state. Such evaluation shall also assess the process by which agencies and authorities grant

exemptions from state taxes and make recommendations for the most efficient and effective procedures for the use of such exemptions. Such evaluation shall further include any recommendations for changes in laws governing the operations of industrial development agencies and authorities which would enhance the creation and retention of jobs in the state.

§ 859-a. Additional prerequisites to the provisions of financial assistance. Prior to providing any financial assistance of more than one hundred thousand dollars to any project, the agency must comply with the following prerequisites:

1. The agency must adopt a resolution describing the project and the financial assistance that the agency is contemplating with respect to such project. Such assistance shall be consistent with the uniform tax exemption policy adopted by the agency pursuant to subdivision four of section eight hundred seventy-four of this chapter, unless the agency has followed the procedures for deviation from such policy specified in paragraph (b) of such subdivision.

1-a. The agency shall deliver a copy of the resolution adopted pursuant to subdivision one of this section by certified mail, return receipt requested or an electronic correspondence with a read-receipt, to the chief executive officer of each affected local taxing jurisdiction. When the affected local taxing jurisdiction is a school district, the agency shall deliver a copy of such resolution by certified mail, return receipt requested or an electronic correspondence with a read-receipt, to the district clerk and district superintendent of each affected school district.

2. The agency must hold a public hearing with respect to the project and the proposed financial assistance being contemplated by the agency. Said public hearing shall be held in a city, town or village where the project proposes to locate. At said public hearing, interested parties shall be provided reasonable opportunity, both orally and in writing, to present their views with respect to the project.

3. The agency must give at least ten days published notice of said public hearing and shall, at the same time, provide notice of such hearing to the chief executive officer of each affected tax jurisdiction within which the project is located. The notice of hearing must state the time and place of the hearing, contain a general, functional description of the project, describe the prospective location of the project, identify the initial owner, operator or manager of the project and generally describe the financial assistance contemplated by the agency with respect to the project.

4. Each agency shall develop a standard application form, which shall be used

by the agency to accept requests for financial assistance from all individuals, firms, companies, developers or other entities or organizations. The standard application form shall be submitted by or on behalf of the applicant, and subscribed and affirmed under the penalties of perjury by the applicant, or on behalf of the applicant by the chief executive officer or such other individual that is duly authorized to bind the applicant, as true, accurate and complete to the best of his or her knowledge. The standard application form shall include the following, and may include such other supplemental information as determined to be necessary and appropriate by the agency, including supporting documents and information provided by or on behalf of the applicant:

(a) the name and address of the project applicant;

(b) a description of the proposed project for which financial assistance is requested, including the type of project, proposed location and purpose of the project;

(c) the amount and type of financial assistance being requested, including the estimated value of each type of tax exemption sought to be claimed by reason of agency involvement in the project;

(d) a statement that there is a likelihood that the project would not be undertaken but for the financial assistance provided by the agency or, if the project could be undertaken without financial assistance provided by the agency, a statement indicating why the project should be undertaken by the agency;

(e) an estimate of capital costs of the project, including all costs of real property and equipment acquisition and building construction or reconstruction, financed from private sector sources, an estimate of the percentage of project costs financed from public sector sources, and an estimate of both the amount to be invested by the applicant and the amount to be borrowed to finance the project.

(f) the projected number of full time equivalent jobs that would be retained and that would be created if the request for financial assistance is granted, the projected timeframe for the creation of new jobs, the estimated salary and fringe benefit averages or ranges for categories of the jobs that would be retained or created if the request for financial assistance is granted, and an estimate of the number of residents of the economic development region as established pursuant to section two hundred thirty of the economic development law or the labor market area as defined by the agency, in which the project is located that would fill such jobs. The labor market area defined by the agency for this purpose may include no more than six contiguous counties in the state, including the county in which the project is to be located;

(g) a statement to the effect that the provisions of subdivision one of section eight hundred sixty-two of this chapter will not be violated if financial assistance is provided for the proposed project;

(h) a statement that the owner, occupant or operator receiving financial assistance is in substantial compliance with applicable local, state and federal tax, worker protection and environmental laws, rules and regulations; and

(i) a statement acknowledging that the submission of any knowingly false or knowingly misleading information may lead to the immediate termination of any financial assistance and the reimbursement of an amount equal to all or part of any tax exemptions claimed by reason of agency involvement in the project.

5. Each agency shall develop, and adopt by resolution, uniform criteria for the evaluation and selection for each category of projects for which financial assistance will be provided. At a minimum, the criteria shall require that, for each project, the following must occur prior to the approval of the provision of financial assistance:

(a) an assessment by the agency of all material information included in connection with the application for financial assistance, as necessary to afford a reasonable basis for the decision by the agency to provide financial assistance for the project;

(b) a written cost-benefit analysis by the agency that identifies the extent to which a project will create or retain permanent, private sector jobs; the estimated value of any tax exemptions to be provided; the amount of private sector investment generated or likely to be generated by the proposed project; the contribution of the project to the state's renewable energy goals and emission reduction targets as set forth in the state energy plan adopted pursuant to section 6-104 of the energy law; the likelihood of accomplishing the proposed project in a timely fashion; and the extent to which the proposed project will provide additional sources of revenue for municipalities and school districts; and any other public benefits that might occur as a result of the project;

(c) a statement by the applicant that the project, as of the date of the application, is in substantial compliance with all provisions of this article including, but not limited to, the provisions of this section and subdivision one of section eight hundred sixty-two of this chapter; and

(d) if the project involves the removal or abandonment of a facility or plant within the state, notification by the agency to the chief executive officer or

officers of the municipality or municipalities in which the facility or plant was located.

6. Each agency shall develop a uniform agency project agreement that sets forth terms and conditions under which financial assistance shall be provided. The uniform agency project agreement shall be used by the agency and no financial assistance shall be provided in the absence of the execution of such an agreement. The uniform agency project agreement shall, at a minimum:

(a) describe the project and the financial assistance, including the amount and type, to be provided, and the agency purpose to be achieved;

(b) require each project owner, occupant or operator receiving financial benefits to provide annually a certified statement and documentation: (i) enumerating the full time equivalent jobs retained and the full time equivalent jobs created as a result of the financial assistance, by category, including full time equivalent independent contractors or employees of independent contractors that work at the project location, and (ii) indicating that the salary and fringe benefit averages or ranges for categories of jobs retained and jobs created that was provided in the application is still accurate and if it is not still accurate, providing a revised list of salary and fringe benefit averages or ranges for categories of jobs retained and jobs created.

(c) indicate the dates when PILOT payments are to be made and provide an estimate of the amounts for each affected tax jurisdiction of any payments in lieu of taxes that are included as part of the transaction, or formula or formulas by which those amounts may be calculated. In lieu of providing such information, a copy of an executed payment in lieu of tax agreement that contains the same information may be attached to the uniform agency project agreement;

(e) provide for the suspension or discontinuance of financial assistance, or for the modification of any payment in lieu of tax agreement to require increased payments, in accordance with policies developed by the agency pursuant to section eight hundred seventy-four of this title;

(f) provide for the return of all or a part of the financial assistance provided for the project, including all or part of the amount of any tax exemptions, which shall be redistributed to the appropriate affected tax jurisdiction, as provided for in policies developed by the agency pursuant to section eight hundred seventy-four of this title, unless agreed to otherwise by any local taxing jurisdiction or jurisdictions; and

(g) provide that the owner, occupant or operator receiving financial

assistance shall certify, under penalty of perjury, that it is in substantial compliance with all local, state and federal tax, worker protection and environmental laws, rules and regulations.

7. Each agency shall establish a procedure for compliance with the notification requirements, including identification of the notification method, under subdivision one-a of this section and paragraph (b) of subdivision four of section eight hundred seventy-four of this title.

§ 859-b. Special procedure for the provision of financial assistance to continuing care retirement communities. 1. Any applicant for financing of a continuing care retirement community shall present a completed application for a certificate of authority and documentation establishing the continuing care retirement community council's approval of that application, pursuant to article forty-six of the public health law.

2. If requested by the agency, the applicant shall present an analysis dealing with any of the issues identified in paragraph (a) of subdivision four of section eight hundred seventy-four of this article.

3. Applicants shall present the financial feasibility study, including a financial forecast and market study, and the analysis of economic costs and benefits required by article forty-six of the public health law.

4. Any information presented by the applicant pursuant to subdivisions one, two and three of this section shall be made available at the time required for published notice of the public hearing required by section eight hundred fifty-nine-a of this article. The agency shall make such information available during regular office hours in at least two locations, at least one of which shall be in the city, town or village within which the proposed project is located. Such notice shall include a statement indicating the location and times of availability of the information required by this section.

5. The industrial development agency may require the applicant to provide any additional information which it requires in order to meet the purposes of this article.

§ 860. Moneys of the agency. The agency shall have power to contract with the holders of any of its bonds or notes as to the custody, collection, securing, investment and payment of any moneys of the agency or any moneys held in trust or otherwise for the payment of bonds or notes or in any way to secure bonds or notes and to carry out any such contract. Moneys held in trust or otherwise for the payment of bonds or notes or in any way to secure bonds or notes and deposits

of such moneys may be secured in the same manner as moneys of the agency, and all banks and trust companies are authorized to give such security for such deposits.

§ 861. Notification of budget. Each agency shall mail or deliver to the chief executive officer and the governing body of the municipality for whose benefit the agency was established and make available for public inspection and comment its proposed budget for the forthcoming fiscal year, no later than twenty business days before adoption. At such time, the agency shall file its proposed budget with the clerk of the municipality for whose benefit the agency was established. Such proposed budget shall contain detailed estimates in writing of the amount of revenues to be received and expenditures to be made during the forth coming fiscal year. Following its consideration of the comments received, the agency may revise its budget accordingly and shall file the revised budget with the clerk of the municipality.

§ 862. Restrictions on funds of the agency. (1) No funds of the agency shall be used in respect of any project if the completion thereof would result in the removal of an industrial or manufacturing plant of the project occupant from one area of the state to another area of the state or in the abandonment of one or more plants or facilities of the project occupant located within the state, provided, however, that neither restriction shall apply if the agency shall determine on the basis of the application before it that the project is reasonably necessary to discourage the project occupant from removing such other plant or facility to a location outside the state or is reasonably necessary to preserve the competitive position of the project occupant in its respective industry.

(2) (a) Except as provided in paragraph (b) of this subdivision, no financial assistance of the agency shall be provided in respect of any project where facilities or property that are primarily used in making retail sales to customers who personally visit such facilities constitute more than one-third of the total project cost. For the purposes of this article, "retail sales" shall mean: (i) sales by a registered vendor under article twenty-eight of the tax law primarily engaged in the retail sale of tangible personal property, as defined in subparagraph (i) of paragraph four of subdivision (b) of section eleven hundred one of the tax law; or (ii) sales of a service to such customers. Except, however, that tourism destination projects shall not be prohibited by this subdivision. For the purpose of this paragraph, "tourism destination" shall mean a location or facility which is likely to attract a significant number of visitors from outside the economic development region as established by section two hundred thirty of the economic development law, in which the project is located.

(b) Notwithstanding the provisions of paragraph (a) of this subdivision, financial assistance may, however, be provided to a project where facilities or

property that are primarily used in making retail sales of goods or services to customers who personally visit such facilities to obtain such goods or services constitute more than one-third of the total project cost, where: (i) the predominant purpose of the project would be to make available goods or services which would not, but for the project, be reasonably accessible to the residents of the city, town, or village within which the proposed project would be located because of a lack of reasonably accessible retail trade facilities offering such goods or services; or (ii) the project is located in a highly distressed area.

(c) With respect to projects authorized pursuant to paragraph (b) of this subdivision, no project shall be approved unless the agency shall find after the public hearing required by section eight hundred fifty-nine-a of this title that undertaking the project will serve the public purposes of this article by preserving permanent, private sector jobs or increasing the overall number of permanent, private sector jobs in the state. Where the agency makes such a finding, prior to providing financial assistance to the project by the agency, the chief executive officer of the municipality for whose benefit the agency was created shall confirm the proposed action of the agency.

§ 862-a. Additional restrictions on funds of the agency in connection with continuing care retirement communities. No resolution authorizing the issuance of bonds, notes or other obligations of the agency, or for providing financial assistance in any respect, for any continuing care retirement community project shall be adopted unless and until the project has received a certificate of authorization pursuant to section forty-six hundred four-a of the public health law, and unless the project will serve the public purposes of this article by preserving permanent, private sector jobs or increasing the overall number of permanent, private sector jobs in the state.

§ 864. Bonds of the agency. (1) The agency shall have the power and is hereby authorized from time to time to issue negotiable bonds for any of its corporate purposes without limitation as to amount. The agency shall have power from time to time and whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other purpose hereinabove described. The refunding bonds may be exchanged for the bonds to be refunded, with such cash adjustments as may be agreed, or may be sold and the proceeds applied to the purchase or redemption of the bonds to be refunded. Except as may otherwise be expressly provided by the agency, the bonds of every issue shall be special obligations of the agency payable solely from revenues derived from the leasing, sale or other disposition of a project, subject only to any agreements with the holders of particular bonds pledging any particular moneys or revenues. Whether or not the bonds are of such form and character as to be negotiable instruments under article eight of the uniform commercial code, the bonds shall be, and are hereby made, negotiable instruments

within the meaning of and for all the purposes of the uniform commercial code, subject only to the provisions of the bonds for registration.

(2) The bonds shall be authorized by resolution of the agency and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates, payable at such time or times, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, either within or without the state, and be subject to such terms of redemption as such resolution or resolutions may provide. The bonds may be sold at public or private sale at such price or prices as the agency shall determine.

(3) Any resolution or resolutions authorizing any bonds or any issue of bonds may contain provisions, which shall be a part of the contract with the holders of the bonds thereby authorized, as to:

(a) pledging all or any part of the revenues derived from the leasing, sale or other disposition of a project or projects to secure the payment of the bonds, subject to such agreements with bondholders as may then exist;

(b) the rentals, fees, and other charges to be charged, and the amounts to be raised in each year thereby, and the use and disposition of the revenues;

(c) the setting aside of reserves or sinking funds, and the regulation and disposition thereof;

(d) limitations on the right of the agency to restrict and regulate the use of a project;

(e) limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the bonds or any issue of the bonds;

(f) the terms upon which additional bonds may be issued and secured; the refunding of outstanding or other bonds;

(g) the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(h) vesting in a trustee or trustees such property, rights, powers and duties in trust as the agency may determine which may include any or all the rights, powers and duties of the trustees appointed by the bondholders and limiting or abrogating the right of the bondholders to appoint a trustee or limiting the rights, duties and powers of trustee;

(i) any other matters, of like or different character, which in any way affect the security or protection of the bonds.

§ 866. Notes of the agency. The agency shall have power from time to time to issue notes and from time to time to issue renewal notes (herein referred to as notes) maturing not later than five years from their respective original dates for any purpose or purposes for which bonds may be issued, whenever the agency shall determine that payment thereof can be made in full from any moneys or revenues which the agency expects to receive from any source. The agency may secure the notes in the same manner and with the same effect as herein provided for bonds. The notes shall be issued in the same manner as bonds. The agency shall have power to make contracts for the future sale from time to time of the notes, by which the purchasers shall be committed to purchase the notes from time to time on terms and conditions stated in such contracts, and the agency shall have power to pay such consideration as it shall deem proper for such commitments. In case of default on its notes or violation of any of the obligations of the agency to the noteholders, the noteholders shall have all the remedies provided herein for bondholders. Such notes shall be as fully negotiable as the bonds of the agency.

§ 868. Agreements of the municipality and state. The municipality is authorized to, and the state does hereby, pledge to and agree with the holders of the bonds or notes that neither the municipality nor the state, respectively, will limit or alter the rights, hereby vested in the agency to acquire, construct, reconstruct, improve, maintain, equip and furnish the project or projects, to establish and collect rentals, fees and other charges and to fulfill the terms of any agreements made with the holders of the bonds or notes nor in any way impair the rights and remedies of the bondholders or noteholders until the bonds or notes, together with interest thereon, with interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders or noteholders are fully met and discharged.

§ 870. State and municipality not liable on bonds or notes. The bonds or notes and other obligations of the authority shall not be a debt of the state or of the municipality, and neither the state nor the municipality shall be liable thereon, nor shall they be payable out of any funds other than those of the agency.

§ 872. Bonds and notes as legal investment. The bonds and notes are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, and all other persons whatsoever except as hereinafter provided, who are now or may hereafter be authorized to invest in bonds or notes or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. The bonds or notes are also hereby made securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

§ 874. Tax exemptions. (1) It is hereby determined that the creation of the agency and the carrying out of its corporate purposes is in all respects for the benefit of the people of the state of New York and is a public purpose, and the agency shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall be required to pay no taxes or assessments upon any of the property acquired by it or under its jurisdiction or control or supervision or upon its activities. Provided, however, if the agency is located within a transportation district referenced in paragraph (a) of subdivision two of section two hundred fifty-three of the tax law, it shall not be exempt from the additional tax on each mortgage of real property situated within the state imposed by such paragraph.

(2) Any bonds or notes issued pursuant to this title, together with the income therefrom, as well as the property of the agency, shall be exempt from taxation, except for transfer and estate taxes.

(3) Payments in lieu of taxes received by the agency shall be remitted to each affected tax jurisdiction within thirty days of receipt.

(4) (a) The agency shall establish a uniform tax exemption policy, with input from affected tax jurisdictions, which shall be applicable to the provision of financial assistance pursuant to section eight hundred fifty-nine-a of this title and shall provide guidelines for the claiming of real property, mortgage recording, and sales tax exemptions. Such guidelines shall include, but not be limited to: period of exemption; percentage of exemption; types of projects for which exemptions can be claimed; procedures for payments in lieu of taxes and instances in which real property appraisals are to be performed as a part of an application for tax exemption; in addition, agencies shall in adopting such

policy consider such issues as: the extent to which a project will create or retain permanent, private sector jobs; the estimated value of any tax exemptions to be provided; whether affected tax jurisdictions shall be reimbursed by the project occupant if a project does not fulfill the purposes for which an exemption was provided; the impact of a proposed project on existing and proposed businesses and economic development projects in the vicinity; the amount of private sector investment generated or likely to be generated by the proposed project; the demonstrated public support for the proposed project; the likelihood of accomplishing the proposed project in a timely fashion; the effect of the proposed project upon the environment; the extent to which the project will utilize, to the fullest extent practicable and economically feasible, resource conservation, energy efficiency, green technologies, and alternative and renewable energy measures; the extent to which the project will provide onsite child care services or otherwise facilitate new child care services; the extent to which the proposed project will require the provision of additional services, including, but not limited to additional educational, transportation, police, emergency medical or fire services; and the extent to which the proposed project will provide additional sources of revenue for municipalities and school districts.

(b) The agency shall establish a procedure for deviation from the uniform tax exemption policy required pursuant to this subdivision. The agency shall set forth in writing the reasons for deviation from such policy, and shall further notify by certified mail, return receipt requested or an electronic correspondence with a read-receipt, the affected local taxing jurisdictions of the proposed deviation from such policy and the reasons therefor. When the affected local taxing jurisdiction is a school district, the agency shall notify by certified mail, return receipt requested or an electronic correspondence with a read-receipt, the district clerk and district superintendent of each affected school district.

(5) Payments in lieu of taxes which are delinquent under the agreement or which an agency fails to remit pursuant to subdivision three of this section, shall be subject to a late payment penalty of five percent of the amount due which shall be paid by the project occupant (where taxes are delinquent because of the occupant's failure to make the required payment) or the agency (because of the agency's failure to remit pursuant to subdivision three of this section) to the affected tax jurisdiction at the time the payment in lieu of taxes is paid. For each month, or part thereof, that the payment in lieu of taxes is delinquent beyond the first month, interest shall accrue to and be paid to the affected tax jurisdiction on the total amount due plus a late payment penalty in the amount of one percent per month until the payment is made.

(6) An affected tax jurisdiction which has not received a payment in lieu of taxes due to it under an agreement may commence legal action in any court of

competent jurisdiction directly against any person, firm, corporation, organization or agency which is obligated to make payments in lieu of taxes under an agreement and has failed to do so. In such an action, the affected tax jurisdiction shall be entitled to recover the amount due, the late payment penalty, interest, expenses, costs and disbursements together with the reasonable attorneys' fees necessary to prosecute such action. Nothing herein shall be construed as providing an affected tax jurisdiction with the right to sue and recover from an agency which has not received payments in lieu of taxes from a project occupant.

(7) Any refinancing of a project shall be subject to the provisions of section eight hundred fifty-nine-a of this chapter, except where such refinancing was previously approved pursuant to such section.

(8) Agents of an agency and project operators shall annually file a statement with the state department of taxation and finance, on a form and in such a manner as is prescribed by the commissioner of taxation and finance, of the value of all sales and use tax exemptions claimed by such agents or agents of such agents or project operators, including, but not limited to, consultants or subcontractors of such agents or project operators, under the authority granted pursuant to this section. The penalty for failure to file such statement shall be the removal of authority to act as an agent of an agency or a project operator.

(9) (a) Within thirty days of the date that the agency designates a project operator or other person to act as agent of the agency for purposes of providing financial assistance consisting of any sales and compensating use tax exemption to such person, the agency shall file a statement with the department of taxation and finance relating thereto, on a form and in such manner as is prescribed by the commissioner of taxation and finance, identifying each such agent so named by the agency, setting forth the taxpayer identification number of each such agent, giving a brief description of the property and/or services intended to be exempted from such taxes as a result of such appointment as agent, indicating the agency's rough estimate of the value of the property and/or services to which such appointment as agent relates, indicating the date when such designation as agent became effective and indicating the date upon which such designation as agent shall cease.

(b) Within thirty days of the date that the agency's designation described in paragraph (a) of this subdivision has been amended, terminated, been revoked, or become invalid or ineffective for any reason, the agency shall file a statement with the department of taxation and finance relating thereto, on a form and in such manner as is prescribed by the commissioner of taxation and finance, identifying each such agent so named by the agency in the original designation and setting forth the taxpayer identification number and other identifying

information of each such agent, the date as of which the original designation was amended, terminated, revoked, or became invalid or ineffective and the reason therefor, together with a copy of the original designation.

(10) Each agency shall develop policies for the suspension or discontinuance of financial assistance, or for the modification of any payment in lieu of tax agreement to require increased payments under circumstances as specified in the policy, which may include but shall not be limited to events of material violation of the terms and conditions of a project agreement.

(11) Each agency shall develop policies for the return of all or a part of the financial assistance provided for the project, including all or part of the amount of any tax exemptions, as specified in the policy, which may include but shall not be limited to material shortfalls in job creation and retention projections or material violations of the terms and conditions of project agreements. All such returned amounts of tax exemptions shall be redistributed to the appropriate affected tax jurisdiction, unless agreed to otherwise by any local taxing jurisdiction.

(12) Each agency shall at least annually assess the progress of each project for which bonds or notes remain outstanding or straight-lease transactions have not terminated, or which continue to receive financial assistance or are otherwise active, toward achieving the investment, job retention or creation, or other objectives of the project indicated in the project application. Such assessments shall be provided to board members.

§ 875. Special provisions applicable to state sales and compensating use taxes and certain types of facilities. 1. For purposes of this section: "state sales and use taxes" means sales and compensating use taxes and fees imposed by article twenty-eight or twenty-eight-A of the tax law but excluding such taxes imposed in a city by section eleven hundred seven or eleven hundred eight of such article twenty-eight. "IDA" means an industrial development agency established by this article or an industrial development authority created by the public authorities law. "Commissioner" means the commissioner of taxation and finance.

2. An IDA shall keep records of the amount of state and local sales and use tax exemption benefits provided to each project and each agent or project operator and shall make such records available to the commissioner upon request. Such IDA shall also, within thirty days of providing financial assistance to a project that includes any amount of state sales and use tax exemption benefits, report to the commissioner the amount of such benefits for such project, the project to which they are being provided, together with such other information and such specificity and detail as the commissioner may prescribe. This report may be made in conjunction with the statement required by subdivision nine of section eight

hundred seventy-four of this title or it may be made as a separate report, at the discretion of the commissioner. An IDA that fails to make such records available to the commissioner or to file such reports shall be prohibited from providing state sales and use tax exemption benefits for any project unless and until such IDA comes into compliance with all such requirements.

3. (a) An IDA shall include within its resolutions and project documents establishing any project or appointing an agent or project operator for any project the terms and conditions in this subdivision, and every agent, project operator or other person or entity that shall enjoy state sales and use tax exemption benefits provided by an IDA shall agree to such terms as a condition precedent to receiving or benefiting from such state sales and use exemptions benefits.

(b) The IDA shall recover, recapture, receive, or otherwise obtain from an agent, project operator or other person or entity state sales and use exemptions benefits taken or purported to be taken by any such person to which the person is not entitled or which are in excess of the amounts authorized or which are for property or services not authorized or taken in cases where such agent or project operator, or other person or entity failed to comply with a material term or condition to use property or services in the manner required by the person's agreement with the IDA. Such agent or project operator, or other person or entity shall cooperate with the IDA in its efforts to recover, recapture, receive, or otherwise obtain such state sales and use exemptions benefits and shall promptly pay over any such amounts to the IDA that it requests. The failure to pay over such amounts to the IDA shall be grounds for the commissioner to assess and determine state sales and use taxes due from the person under article twenty-eight of the tax law, together with any relevant penalties and interest due on such amounts.

(c) If an IDA recovers, recaptures, receives, or otherwise obtains, any amount of state sales and use tax exemption benefits from an agent, project operator or other person or entity, the IDA shall, within thirty days of coming into possession of such amount, remit it to the commissioner, together with such information and report that the commissioner deems necessary to administer payment over of such amount. An IDA shall join the commissioner as a party in any action or proceeding that the IDA commences to recover, recapture, obtain, or otherwise seek the return of, state sales and use tax exemption benefits from an agent, project operator or other person or entity.

(d) An IDA shall prepare an annual compliance report detailing its terms and conditions described in paragraph (a) of this subdivision and its activities and efforts to recover, recapture, receive, or otherwise obtain state sales and use exemptions benefits described in paragraph (b) of this subdivision, together with

such other information as the commissioner and the commissioner of economic development may require. The report required by this subdivision shall be filed with the commissioner, the director of the division of the budget, the commissioner of economic development, the state comptroller, the governing body of the municipality for whose benefit the agency was created, and may be included with the annual financial statement required by paragraph (b) of subdivision one of section eight hundred fifty-nine of this title. Such report required by this subdivision shall be filed regardless of whether the IDA is required to file such financial statement described by such paragraph (b) of subdivision one of section eight hundred fifty-nine. The failure to file or substantially complete the report required by this subdivision shall be deemed to be the failure to file or substantially complete the statement required by such paragraph (b) of subdivision one of such section eight hundred fifty-nine, and the consequences shall be the same as provided in paragraph (e) of subdivision one of such section eight hundred fifty-nine.

(e) This subdivision shall apply to any amounts of state sales and use tax exemption benefits that an IDA recovers, recaptures, receives, or otherwise obtains, regardless of whether the IDA or the agent, project operator or other person or entity characterizes such benefits recovered, recaptured, received, or otherwise obtained, as a penalty or liquidated or contract damages or otherwise. The provisions of this subdivision shall also apply to any interest or penalty that the IDA imposes on any such amounts or that are imposed on such amounts by operation of law or by judicial order or otherwise. Any such amounts or payments that an IDA recovers, recaptures, receives, or otherwise obtains, together with any interest or penalties thereon, shall be deemed to be state sales and use taxes and the IDA shall receive any such amounts or payments, whether as a result of court action or otherwise, as trustee for and on account of the state.

4. The commissioner shall deposit and dispose of any amount of any payments or moneys received from or paid over by an IDA or from or by any person or entity, or received pursuant to an action or proceeding commenced by an IDA, together with any interest or penalties thereon, pursuant to subdivision three of this section, as state sales and use taxes in accord with the provisions of article twenty-eight of the tax law. The amount of any such payments or moneys, together with any interest or penalties thereon, shall be attributed to the taxes imposed by sections eleven hundred five and eleven hundred ten, on the one hand, and section eleven hundred nine of the tax law, on the other hand, or to any like taxes or fees imposed by such article, based on the proportion that the rates of such taxes or fees bear to each other, unless there is evidence to show that only one or the other of such taxes or fees was imposed or received or paid over.

5. The statement that an IDA is required by subdivision nine of section eight hundred seventy-four of this article to file with the commissioner shall not be considered an exemption or other certificate or document under article twenty-

eight or twenty-nine of the tax law. The IDA shall not represent to any agent, project operator, or other person or entity that a copy of such statement may serve as a sales or use tax exemption certificate or document. No agent or project operator may tender a copy of such statement to any person required to collect sales or use taxes as the basis to make any purchase exempt from tax. No such person required to collect sales or use taxes may accept such a statement in lieu of collecting any tax required to be collected. The civil and criminal penalties for misuse of a copy of such statement as an exemption certificate or document or for failure to pay or collect tax shall be as provided in the tax law. In addition, the use by an IDA or agent, project operator, or other person or entity of such statement, or the IDA's recommendation of the use or tendering of such statement, as such an exemption certificate or document shall be deemed to be, under articles twenty-eight and thirty-seven of the tax law, the issuance of a false or fraudulent exemption certificate or document with intent to evade tax.

6. The commissioner is hereby authorized to audit the records, actions, and proceedings of an IDA and of its agents and project operators to ensure that the IDA and its agents and project operators comply with all the requirements of this section. Any information the commissioner finds in the course of such audit may be used by the commissioner to assess and determine state and local taxes of the IDA's agent or project operator.

7. In addition to any other reporting or filing requirements an IDA has under this article or other law, an IDA shall also report and make available on the internet, without charge, copies of its resolutions and agreements appointing an agent or project operator or otherwise related to any project it establishes. It shall also provide, without charge, copies of all such reports and information to a person who asks for it in writing or in person. The IDA may, at the request of its agent or project operator delete from any such copies posted on the internet or provided to a person described in the prior sentence portions of its records that are specifically exempted from disclosure under article six of the public officers law.

8. In consultation with the commissioner of economic development, the commissioner of taxation and finance is hereby authorized to adopt rules and regulations and to issue publications and other guidance implementing the provisions of this section and of the other sections of this article relating to any state or local tax or fee, or exemption or exclusion therefrom, that the commissioner administers and that may be affected by any provision of this article, and any such rules and regulations of the commissioner shall have the same force and effect with respect to such taxes and fees, or amounts measured in respect of them, as if they had been adopted by the commissioner pursuant to the authority of the tax law.

9. To the extent that a provision of this section conflicts with a provision of any other section of this article, the provisions of this section shall control.

§ 876. Tax contract by the state. The state covenants with the purchasers and with all subsequent holders and transferees of bonds or notes issued by the agency pursuant to this title, in consideration of the acceptance of and payment for the bonds or notes, that the bonds and notes of the agency issued pursuant to this title and the income therefrom, and all moneys, funds and revenues pledged to pay or secure the payment of such bonds or notes shall at all times be free from taxation except for estate taxes and taxes on transfers by or in contemplation of death.

§ 878. Remedies of bondholders and noteholders. (1) In the event that the agency shall default in the payment of principal or of interest on any issue of the bonds or notes after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the agency shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of any issue of the bonds or notes, the holders of twenty-five per centum in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purposes herein provided.

(2) Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such bonds or notes, then outstanding shall, in his or its own name:

(a) by suit, action or special proceeding enforce all rights of the bondholders or noteholders, including the right to require the agency to collect revenues adequate to carry out any agreement as to, or pledge of, such revenues, and to require the agency to carry out any other agreements with the holders of such bonds or notes and to perform its duties under this title;

(b) bring suit upon such bonds or notes;

(c) by action or special proceeding, require the authority to account as if it were the trustee of an express trust for the holders of such bonds or notes;

(d) by action or special proceeding, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds or notes;

(e) declare all such bonds or notes due and payable, and if all defaults shall be made good then with the consent of the holders of twenty-five per centum of the principal amount of such bonds or notes then outstanding, to annul such declaration and its consequences.

(3) The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of bondholders or noteholders. The venue of any such suit, action or proceeding shall be laid in the county in which the project or projects are located.

(4) Before declaring the principal of all such bonds due and payable, the trustee shall first give thirty days' notice in writing to the agency.

(5) Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of a project, the revenues of which are pledged for the security of the bonds of such issue, and such receiver may enter and take possession of such part or parts of the project and, subject to any pledge or agreement with bondholders or noteholders, shall take possession of all moneys and other property derived from or applicable to the acquisition, construction, operation, maintenance and reconstruction of such part or parts of the project and proceed with the acquisition of any necessary real property in connection with the project that the agency has covenanted to construct, and with any construction which the agency is under obligation to do and to operate, maintain and reconstruct such part or parts of the project and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders or noteholders relating thereto and perform the public duties and carry out the agreements and obligations of the agency under the direction of the court. In any suit, action or proceeding by the trustee, the fee, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from such project.

(6) Such trustee shall, in addition to the foregoing, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders or noteholders in the enforcement and protection of their rights.

§ 880. Actions against the agency. (1) In an action against the agency founded upon tort, the complaint shall contain an allegation that at least thirty days have elapsed since the demand, claim or claims upon which the action is founded were presented to a member of the agency and to its secretary or to its chief executive officer, and that the agency has neglected or refused to make an adjustment or payment thereof for thirty days after the presentment.

(2) In a case founded upon tort, a notice of claim shall be required as a condition precedent to the commencement of an action or special proceeding against the agency or an officer, appointee or employee thereof, and the provisions of section fifty-e of this chapter shall govern the giving of such notice. No action shall be commenced more than one year and ninety days after the cause of action therefor shall have accrued.

§ 882. Termination of the agency. Whenever all of the bonds or notes issued by the agency shall have been redeemed or cancelled, and all straight-lease transactions have been terminated, the agency shall cease to exist and all rights, titles, and interest and all obligations and liabilities thereof vested in or possessed by the agency shall thereupon vest in and be possessed by the municipality.

§ 883. Conflicts of interest. All members, officers, and employees of an agency or industrial development authority established by this chapter or created by the public authorities law shall be subject to the provisions of article eighteen of this chapter.

§ 884. Public bidding. The provisions of any law relating to the requirement of public bidding with respect to the construction of public facilities or projects shall not be applicable to the acquisition, construction, reconstruction, improvement, maintenance, equipping and furnishing of projects authorized by this act.

§ 886. Title not affected if in part unconstitutional or ineffective. If any section, clause or provision of this title shall be unconstitutional or be ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 888. Inconsistent provisions in other acts superseded. Insofar as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any local laws of the municipality, the provisions of this title shall be controlling except in cases of inconsistency with the Indian law.