

STATE OF NEW YORK

5747

2017-2018 Regular Sessions

IN ASSEMBLY

February 15, 2017

Introduced by M. of A. DINOWITZ -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the public authorities law, in relation to establishing the New York city eastside finance corporation

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Article 10-D of the public authorities law is amended by adding a new title 1-A to read as follows:

TITLE 1-A

NEW YORK CITY EASTSIDE FINANCE CORPORATION ACT

Section 3700. Short title.

3701. Definitions.

3702. New York city eastside finance corporation.

3703. Administration of the corporation.

3704. General powers of the corporation.

3705. Revenues of the corporation.

3706. Moneys of the corporation.

3707. Bonds of the corporation.

3708. City liable on bonds.

3709. Auditing and reporting requirements.

3710. Assistance to the corporation.

§ 3700. Short title. This title shall be known and may be cited as the "New York City eastside finance corporation act".

§ 3701. Definitions. For the purposes of this title, unless the context otherwise requires:

1. "Base year" means the two thousand seventeen calendar year.

2. "Bonds" means bonds, notes and other evidences of indebtedness, issued by the corporation.

3. "City" means the city of New York.

4. "Corporation" means the public benefit corporation created by this title.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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1 5. "Costs" means costs providing for the construction, reconstruction,
2 acquisition or installation of physical public betterments or improve-
3 ments, or the costs of any preliminary studies, surveys, maps, plans,
4 estimates and hearings, or incidental costs, including, but not limited
5 to, legal fees, printing or engraving, publication of notices, taking of
6 title, apportionment of costs, and interest during construction.

7 6. "Eastside district" means the territory in the borough of Manhattan
8 bounded and described as follows: the district shall be bounded in the
9 west by Fifth Avenue, in the north by East 125th Street, in the east by
10 the FDR Drive, and in the south by East 42nd Street.

11 7. "MTA" means the metropolitan transportation authority created
12 pursuant to title eleven of article five of this chapter.

13 8. "Revenues" means the tax revenues and all aid, rents, fees, charg-
14 es, payments and the income and receipts paid or payable to the corpo-
15 ration or a director for the account of the corporation.

16 9. "State" means the state of New York.

17 § 3702. New York city eastside finance corporation. 1. The city shall
18 establish a local development corporation pursuant to section fourteen
19 hundred eleven of the not-for-profit corporation law, to be called the
20 "New York city eastside finance corporation". The corporation shall be a
21 corporate governmental agency constituting a public benefit corporation
22 and an instrumentality of the state.

23 2. The purpose of the corporation shall be to lessen the burdens of
24 government for the state and city of New York; to act in the public
25 interest through the financing of capital projects of the city and of
26 the New York city transit authority, and of capital projects or elements
27 related to the Second Avenue subway; and to provide for additional and
28 maximum employment.

29 3. The corporation shall continue until six months after all its
30 liabilities have been met or otherwise discharged. Upon the termination
31 of the existence of the corporation, all of its rights and property
32 shall pass to and be vested in the city.

33 § 3703. Administration of the corporation. 1. The corporation shall be
34 administered by seven directors, consisting of:

35 (a) the director of the division of budget of the state of New York;

36 (b) the director of management and budget of the city of New York;

37 (c) one appointee by the governor of the state of New York;

38 (d) one appointee by the speaker of the New York city council;

39 (e) two appointees by the mayor of the city of New York; and

40 (f) one appointee by the chief executive officer of the MTA.

41 2. The director of management and budget of the city of New York shall
42 serve as chairperson of the corporation. The chairperson or his or her
43 designee shall preside over all meetings of the directors and shall have
44 such other duties as may be fixed by the directors.

45 3. Three directors shall constitute a quorum for the transaction of
46 any business or the exercise of any power of the corporation. No action
47 shall be taken by the corporation except pursuant to a favorable vote of
48 at least three directors present at a meeting at which such action is
49 taken. Any director may, by written instrument, filed with and approved
50 as to form by the corporation, designate an alternate or alternates to
51 perform, in the absence of such director, his or her duties under this
52 title. The term "director" as used in this title shall include such
53 alternates, except that no alternate may designate an alternate pursuant
54 to this paragraph. The designation of such alternates shall be deemed
55 temporary only and shall not affect the civil service or retirement
56 rights of any persons so designated.

1 4. The corporation shall appoint a treasurer and may appoint such
2 other officers as it may require and prescribe their duties.

3 § 3704. General powers of the corporation. In addition to any specific
4 powers conferred to the corporation pursuant to this title, the corpo-
5 ration shall have all the powers set forth in paragraph (c) of section
6 fourteen hundred eleven of the not-for-profit corporation law, subject
7 only to agreements with bondholders.

8 § 3705. Revenues of the corporation. 1. The revenues of the corpo-
9 ration shall be generated as follows: the amount equal to the difference
10 of the amount of the real property tax received or collected by the city
11 pursuant to title three of article nine of the real property tax law in
12 the base year and the real property tax received or collected by the
13 city in each succeeding calendar year on taxable real property located
14 within the eastside district.

15 2. The city shall make an annual appropriation to the corporation of
16 the amount described in subdivision one of this section.

17 3. (a) The revenues of the corporation may only be used for the
18 payment of debt service, payments to reserve funds, if applicable, and
19 for operating or administrative expenses of the corporation.

20 (b) If there are insufficient funds paid to the corporation in the
21 first five years of the formation of the corporation to pay the debt
22 service on its bonds, the city shall be responsible for and liable to
23 pay the debt service of the corporation. The corporation shall enter
24 into an agreement with the city to reimburse the city for any payments
25 made on behalf of the corporation pursuant to this paragraph.

26 § 3706. Moneys of the corporation. 1. Subject to the provisions of
27 this title, the directors of the corporation shall receive, accept,
28 invest, administer, expend and disburse for its corporate purposes all
29 money of the corporation from whatever sources derived including: (a)
30 the revenues described in section thirty-seven hundred five of this
31 title; (b) the proceeds of bonds; and (c) any other appropriations,
32 grants, payments or gifts to the corporation from any other source.

33 2. All moneys of the corporation from whatever source derived shall be
34 paid to the treasurer of the corporation and shall be deposited forth-
35 with in a bank or trust company in the state designated by the board of
36 directors. The moneys in such accounts shall be paid out by check signed
37 by the treasurer upon requisition by the board of directors or of such
38 other person or persons as the board may authorize to make such requi-
39 sitions. All deposits of corporation money shall be secured by obli-
40 gations of the United States or of the state or of the city at a market
41 value equal at all times to the amount of the deposit, and all banks and
42 trust companies are authorized to give such security for such deposits.

43 3. The corporation shall have the power, notwithstanding the
44 provisions of this section, to contract with the holders of any of its
45 bonds as to the custody, collection, securing, investment and payment of
46 any money of the corporation or any money held in trust or otherwise for
47 the payment of bonds or in any way to secure bonds, and to carry out any
48 such contract notwithstanding that such contract may be inconsistent
49 with the other provisions of this title. Money held in trust or other-
50 wise for the payment of bonds or in any way to secure bonds and deposits
51 of such money may be secured in the same manner as money of the corpo-
52 ration, and all banks and trust companies are authorized to give such
53 security for such deposits.

54 4. Subject to the provisions of any contract with bondholders: (a) the
55 money of the corporation shall be paid to the corporation and shall not
56 be commingled with any other money, and (b) all money received by the

1 corporation which, together with other money of the corporation avail-
2 able for the operating expenses of the corporation, the payment of debt
3 service and payments to reserve funds, exceeds the amount required for
4 such purposes shall be transferred to the city.

5 § 3707. Bonds of the corporation. 1. (a) The corporation shall have
6 the power and is hereby authorized to issue bonds, in conformity with
7 applicable provisions of the uniform commercial code, in such principal
8 amounts as can be supported by the revenues of the corporation. The
9 corporation shall have the power from time to time to refund any bonds
10 of the corporation by the issuance of new bonds whether the bonds to be
11 refunded have or have not matured, and may issue bonds partly to refund
12 bonds of the corporation then outstanding. Bonds issued by the corpo-
13 ration shall be payable solely out of particular revenues or other
14 moneys of the corporation as may be designated in the proceedings of the
15 corporation under which the bonds shall be authorized to be issued,
16 subject to any agreements entered into between the corporation and the
17 city, and subject to any agreements with the holders of outstanding
18 bonds pledging any particular revenues or moneys.

19 (b) The proceeds from any bonds issued by the corporation shall be
20 distributed as follows: fifty percent of the proceeds to the city gener-
21 al fund to pay for capital projects contained in the city's most recent
22 capital plan; twenty-five percent to the New York city transit authority
23 to pay for costs of its facilities, supplies, material or equipment; and
24 twenty-five percent to MTA to pay for costs associated with the
25 completion of the Second Avenue subway line.

26 2. The corporation is authorized to obtain insurance, letters of cred-
27 it and other credit or liquidity facilities related to bonds in accord-
28 ance with paragraph a and paragraphs c through g of section 168.00 of
29 the local finance law, as amended from time to time; provided, however,
30 that the board of directors of the corporation shall make the determi-
31 nation as to "financially responsible parties" required under the local
32 finance law.

33 3. The corporation: (a) shall amortize its serial and term bonds in
34 accordance with sections 11.00, 21.00 and 57.00 of the local finance law
35 and its bond anticipation notes in accordance with section 23.00 of the
36 local finance law, as amended from time to time, (b) shall establish
37 provisions relating to redemption of its bonds that conform with section
38 53.00 of the local finance law, as amended from time to time, (c) may
39 issue bonds with variable rates of interest, and enter into agreements
40 related thereto, subject to the limitations prescribed in paragraphs a
41 and c of section 54.90 of the local finance law, other than the limita-
42 tion therein on the total principal amount of such variable rate bonds,
43 and (d) shall not issue refunding bonds without meeting the standards of
44 subparagraph (a) or (b) of subdivision two of paragraph b of section
45 90.10 of the local finance law. In addition, except as provided in this
46 title, bonds of the corporation shall be subject to all other provisions
47 of the local finance law, as amended from time to time, applicable to
48 bonds of the city of New York, except where application of such law to
49 bonds of the corporation would be inappropriate.

50 4. The directors may delegate to the chairperson of the corporation
51 the power to set the final terms of bonds.

52 5. Any resolution or resolutions authorizing bonds or any issue of
53 bonds may contain provisions which may be a part of the contract with
54 the holders of the bonds thereby authorized as to:

1 (a) pledging all or part of its revenues, together with any other
2 moneys, securities or contracts, to secure the payment of the bonds,
3 subject to such agreements with bondholders as may then exist;

4 (b) the setting aside of reserves and the creation of sinking funds
5 and the regulation and disposition thereof;

6 (c) limitations on the purpose to which the proceeds from the sale of
7 bonds may be applied;

8 (d) limitations on the issuance of additional bonds, the terms upon
9 which additional bonds may be issued and secured and the refunding of
10 bonds;

11 (e) the procedure, if any, by which the terms of any contract with
12 bondholders may be amended or abrogated, including the proportion of
13 bondholders which must consent thereto and the manner in which such
14 consent may be given;

15 (f) defining the acts or omissions to act which may constitute a
16 default in the obligations and duties of the corporation to the bond-
17 holders and providing for the rights and remedies of the bondholders in
18 the event of such default, including as a matter of right the appoint-
19 ment of a receiver; provided, however, that such rights and remedies
20 shall not be inconsistent with the general laws of the state and other
21 provisions of this title.

22 6. In addition to the powers herein conferred upon the corporation to
23 secure its bonds, the corporation shall have power in connection with
24 the issuance of bonds to enter into such agreements for the benefit of
25 the bondholders as the corporation may deem necessary, convenient or
26 desirable concerning the use or disposition of its revenues or other
27 moneys, including the entrusting, pledging or creation of any other
28 security interest in any such revenues, moneys and the doing of any act,
29 including refraining from doing any act, which the corporation would
30 have the right to do in the absence of such agreements. The corporation
31 shall have power to enter into amendments of any such agreements within
32 the powers granted to the corporation by this title and to perform such
33 agreements. The provisions of any such agreements may be made a part of
34 the contract with the holders of bonds of the corporation.

35 7. Notwithstanding any provision of the uniform commercial code to the
36 contrary, any pledge of or other security interest in revenues, moneys,
37 accounts, contract rights, general intangibles or other personal proper-
38 ty made or created by the corporation shall be valid, binding and
39 perfected from the time when such pledge is made or other security
40 interest attaches without any physical delivery of the collateral or
41 further act, and the lien of any such pledge or other security interest
42 shall be valid, binding and perfected against all parties having claims
43 of any kind in tort, contract or otherwise against the corporation irre-
44 spective of whether or not such parties have notice thereof. No instru-
45 ment by which such a pledge or security interest is created or any
46 financing statement need be recorded or filed.

47 8. Whether or not the bonds of the corporation are of such form and
48 character as to be negotiable instruments under the terms of the uniform
49 commercial code, the bonds are hereby made negotiable instruments within
50 the meaning of and for all the purposes of the uniform commercial code,
51 subject only to the provisions of the bonds for registration.

52 9. Neither the directors of the corporation nor any person executing
53 bonds shall be liable personally thereon or be subject to any personal
54 liability or accountability solely by reason of the issuance thereof.

55 § 3708. City liable on bonds. The bonds or other obligations of the
56 corporation issued pursuant to this title shall be a debt of the city.

1 The city shall be liable on such bonds, which shall be payable out of
2 any funds of the city in addition to those of the corporation; and such
3 bonds shall contain on the face thereof a statement to such effect.

4 § 3709. Auditing and reporting requirements. The accounts of the
5 corporation shall be subject to the supervision of the comptroller of
6 the city and an annual audit shall be performed by an independent certi-
7 fied accountant. The corporation shall annually submit annual and budget
8 reports pursuant to the provisions of title one of article nine of this
9 chapter, and a copy of such reports shall also be submitted to the city
10 council of the city of New York. The city comptroller or his or her
11 legally authorized representative are authorized and empowered from time
12 to time to examine the accounts and books of the corporation, including
13 its receipts, disbursements, contracts, leases, investments and any
14 other records and papers relating to its financial standing.

15 § 3710. Assistance to the corporation. With the consent of the gover-
16 nor or the mayor of the city of New York, as the case may be, the corpo-
17 ration may use employees and facilities of the state or city of New York
18 paying to the affected agency its agreed proportion of the compensation
19 or costs.

20 § 2. This act shall take effect immediately.