

# STATE OF NEW YORK

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1719

2023-2024 Regular Sessions

## IN SENATE

January 13, 2023

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Introduced by Sen. SKOUFIS -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the general municipal law and the public authorities law, in relation to the purposes and powers of industrial development agencies and to improve the accountability and transparency of such agencies; to amend the public authorities law, in relation to extending the bond issuance charge to the debt issued by not-for-profit corporations acting on behalf of the state or its political subdivisions; to amend the not-for-profit corporation law, in relation to the purposes and powers of local development corporations and certain other not-for-profit corporations thereof; and to repeal subdivision 3 of section 859 of the general municipal law relating to an evaluation of the activities of industrial development agencies and authorities in the state prepared by an entity independent of the department

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

1 Section 1. Subdivisions 4 and 14 of section 854 of the general municipal law, subdivision 4 as amended by section 5 of part X of chapter 59  
2 of the laws of 2021 and subdivision 14 as added by chapter 356 of the  
3 laws of 1993, are amended and a new subdivision 22 is added to read as  
4 follows:  
5

6 (4) "Project" - shall mean any land, any building or other improvement,  
7 ment, and all real and personal properties located within the state of  
8 New York and within or outside or partially within and partially outside  
9 the municipality for whose benefit the agency was created, including,  
10 but not limited to, machinery, equipment and other facilities deemed  
11 necessary or desirable in connection therewith, or incidental thereto,  
12 whether or not now in existence or under construction, which shall be  
13 suitable for manufacturing, warehousing, research, civic, commercial,  
14 renewable energy or industrial purposes or other economically sound  
15 purposes identified and called for to implement a state designated urban

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

LBD03695-01-3

1 cultural park management plan as provided in title G of the parks,  
2 recreation and historic preservation law and which may include or mean  
3 an industrial pollution control facility, a recreation facility, educa-  
4 tional or cultural facility, a horse racing facility, a railroad facili-  
5 ty, a renewable energy project, a continuing care retirement community,  
6 or a civic facility, provided, however, that, of agencies governed by  
7 this article, only agencies created for the benefit of a county and the  
8 agency created for the benefit for the city of New York shall provide  
9 financial assistance in any respect to a continuing care retirement  
10 community, or an automobile racing facility, provided, however, no agen-  
11 cy shall use its funds or provide financial assistance in respect of any  
12 project wholly or partially outside the municipality for whose benefit  
13 the agency was created without the prior consent thereto by the govern-  
14 ing body or bodies of all the other municipalities in which a part or  
15 parts of the project is, or is to be, located, and such portion of the  
16 project located outside such municipality for whose benefit the agency  
17 was created shall be contiguous with the portion of the project inside  
18 such municipality. Provided further, however, that no agency shall  
19 provide financial assistance for any project where the project applicant  
20 has any agreement to subsequently contract with a municipality for the  
21 lease or purchase of such project or project facility.

22 (14) "Financial assistance" - shall mean the proceeds of bonds issued  
23 by an agency, straight-leases, grants, loans, or exemptions from taxa-  
24 tion claimed by a project occupant as a result of an agency taking  
25 title, possession or control (by lease, license or otherwise) to the  
26 property or equipment of such project occupant or of such project occu-  
27 pant acting as an agent of an agency.

28 (22) "Civic facility" shall mean a facility to be owned or occupied by  
29 a municipal corporation, a district corporation, or a not-for-profit  
30 corporation organized and existing under the laws of this state or  
31 authorized to conduct activities in this state; provided that such  
32 facilities shall be limited to medical facilities including those  
33 defined in article twenty-eight of the public health law, educational  
34 facilities, recreational facilities for public use, facilities used for  
35 municipal government or public safety purposes, or housing facilities  
36 primarily designed to be occupied by individuals sixty years of age or  
37 older. Nothing in this article shall be deemed to waive any applicable  
38 requirement for an operating facility certificate, consent or other  
39 approval as provided by law.

40 § 2. Subdivision 2 of section 856 of the general municipal law, as  
41 amended by chapter 356 of the laws of 1993, is amended to read as  
42 follows:

43 2. An agency shall be a corporate governmental agency, constituting a  
44 public benefit corporation. Except as otherwise provided by special act  
45 of the legislature, an agency shall consist of not less than [~~three~~]  
46 five nor more than seven members who shall be appointed by the governing  
47 body of each municipality and who shall serve at the pleasure of the  
48 appointing authority. Such members may include representatives of local  
49 government, school boards, organized labor and business. A member shall  
50 continue to hold office until his successor is appointed and has quali-  
51 fied. The governing body of each municipality shall designate the first  
52 chairman and file with the secretary of state a certificate of appoint-  
53 ment or reappointment of any member. Such members shall receive no  
54 compensation for their services but shall be entitled to the necessary  
55 expenses, including traveling expenses, incurred in the discharge of  
56 their duties.

§ 3. Section 858 of the general municipal law, as added by chapter 1030 of the laws of 1969, the opening paragraph as amended by section 6 of part X of chapter 59 of the laws of 2021, subdivision 4 as amended by chapter 747 of the laws of 2005, subdivision 7 as amended by chapter 559 of the laws of 2021, subdivision 8 as amended and subdivision 15 as added by chapter 356 of the laws of 1993, subdivision 9 as amended by chapter 444 of the laws of 1997, and subdivisions 16 and 17 as renumbered by chapter 356 of the laws of 1993, is amended to read as follows:

§ 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, civic 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 acquire real property from a municipality as necessary for its corporate purposes pursuant to section eight hundred fifty-eight-c of this title;

(6) 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+] (7) 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+] (8) 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;

1     ~~[(8)]~~ (9) (a) To appoint an attorney, who may be the counsel of the  
2 municipality, and to fix the attorney's compensation for services which  
3 shall be payable to the attorney, and to retain and employ private  
4 consultants for professional and technical assistance and advice;

5     (b) An attorney acting as bond counsel for a project must file with  
6 the agency a written statement in which the attorney identifies each  
7 party to the transaction which such attorney represents. If bond counsel  
8 provides any legal services to parties other than the agency the written  
9 statement must describe the nature of legal services provided by such  
10 bond counsel to all parties to the transaction, including the nature of  
11 the services provided to the agency~~[-];~~

12     ~~[(9)]~~ (10) To make contracts and leases, and to execute all instru-  
13 ments necessary or convenient to or with any person, firm, partnership  
14 or corporation, either public or private; provided, however, that any  
15 extension of an existing contract, lease or other agreement entered into  
16 by an agency with respect to a project shall be guided by the provisions  
17 of this article;

18     ~~[(10)]~~ (11) To acquire, construct, reconstruct, lease, improve, main-  
19 tain, equip or furnish one or more projects;

20     ~~[(11)]~~ (12) To accept gifts, grants, loans, or contributions from, and  
21 enter into contracts or other transactions with, the United States and  
22 the state or any agency of either of them, any municipality, any public  
23 or private corporation or any other legal entity, and to use any such  
24 gifts, grants, loans or contributions for any of its corporate purposes;

25     ~~[(12)]~~ (13) To provide financial assistance in the form of loans to  
26 improve, maintain or equip one or more projects consistent with its  
27 corporate purposes;

28     (14) To provide financial assistance in the form of grants for one or  
29 more projects consistent with its corporate purposes;

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

32     ~~[(13)]~~ (16) To grant options to renew any lease with respect to any  
33 project or projects and to grant options to buy any project at such  
34 price as the agency may deem desirable;

35     ~~[(14)]~~ (17) To designate the depositories of its money either within  
36 or without the state;

37     ~~[(15)]~~ (18) To enter into agreements requiring payments in lieu of  
38 taxes. Such agreements shall be in writing and in addition to other  
39 terms shall contain: the amount due annually to each affected tax juris-  
40 diction (or a formula by which the amount due can be calculated), the  
41 name and address of the person, office or agency to which payment shall  
42 be delivered, the date on which payment shall be made, and the date on  
43 which payment shall be considered delinquent if not paid. Unless other-  
44 wise agreed by the affected tax jurisdictions, any such agreement shall  
45 provide that payments in lieu of taxes shall be allocated among affected  
46 tax jurisdictions in proportion to the amount of real property tax and  
47 other taxes which would have been received by each affected tax juris-  
48 diction had the project not been tax exempt due to the status of the  
49 agency involved in the project. A copy of any such agreement shall be  
50 delivered to each affected tax jurisdiction within fifteen days of sign-  
51 ing the agreement~~[-. In the absence of any such written agreement,~~  
52 ~~payments in lieu of taxes made by an agency shall be allocated in the~~  
53 ~~same proportions as they had been prior to January first, nineteen~~  
54 ~~hundred ninety-three for so long as the agency's activities render a~~  
55 ~~project non-taxable by affected tax jurisdictions]~~ and published by the  
56 agency on its website;

1    ~~[(16)]~~ (19) To establish and re-establish its fiscal year; and  
2    ~~[(17)]~~ (20) To do all things necessary or convenient to carry out its  
3 purposes and exercise the powers expressly given in this title.

4    § 3-a. Subdivision 15 of section 858 of the general municipal law, as  
5 amended by chapter 708 of the laws of 2022, is amended to read as  
6 follows:

7    ~~[(15)]~~ (18) To enter into agreements requiring payments in lieu of  
8 taxes. Such agreements shall be in writing and in addition to other  
9 terms shall contain: the amount due annually to each affected tax juris-  
10 diction (or a formula by which the amount due can be calculated), the  
11 name and address of the person, office or agency to which payment shall  
12 be delivered, the date on which payment shall be made, and the date on  
13 which payment shall be considered delinquent if not paid. Unless other-  
14 wise agreed by the affected tax jurisdictions, any such agreement shall  
15 provide that payments in lieu of taxes shall be allocated among affected  
16 tax jurisdictions in proportion to the amount of real property tax and  
17 other taxes which would have been received by each affected tax juris-  
18 diction had the project not been tax exempt due to the status of the  
19 agency involved in the project. A copy of any such agreement shall be  
20 delivered to each affected tax jurisdiction within fifteen days of sign-  
21 ing the agreement~~[. In the absence of any such written agreement,~~  
22 ~~payments in lieu of taxes made by an agency shall be allocated in the~~  
23 ~~same proportions as they had been prior to January first, nineteen~~  
24 ~~hundred ninety-three for so long as the agency's activities render a~~  
25 ~~project non-taxable by affected tax jurisdictions]~~ and published by the  
26 agency on its website. A notification of the expiration of such agree-  
27 ment shall be delivered to the affected tax jurisdiction two years prior  
28 to the expiration of such agreement and immediately upon early termi-  
29 nation of an agreement~~[.]~~.

30    § 4. The general municipal law is amended by adding a new section  
31 858-c to read as follows:

32    § 858-c. Purchase or lease of real property owned by a county, city,  
33 town or village. 1. The local legislative body of a county, city, town  
34 or village may by resolution determine that specifically described real  
35 property owned by the county, city, town or village is not required for  
36 use by such county, city, town or village and authorize the county,  
37 city, town or village to sell or lease such real property to an agency;  
38 provided, however, that title to such land be not declared inalienable  
39 as a forest preserve or a parkland.

40    2. Notwithstanding the provisions of any general, special or local  
41 law, charter or ordinance to the contrary, such sale or lease may be  
42 made without appraisal, public notice (except as provided in subdivision  
43 four of this section), or public bidding for such price or rental and  
44 upon such terms as may be agreed upon between the county, city, town or  
45 village and said agency; provided, however, that in the case of a lease  
46 the term may not exceed ninety-nine years and provided, further, that in  
47 cities having a population of one million or more, no such sale or lease  
48 shall be made without the approval of a majority of the members of the  
49 borough board of the borough in which such real property is located.

50    3. Before any sale or lease to an agency shall be authorized, a public  
51 hearing shall be held by the local legislative body or borough board to  
52 consider the proposed sale or lease.

53    4. Notice of such hearing shall be published at least ten days before  
54 the date set for the hearing in such publication and in such manner as  
55 may be designated by the local legislative body or borough board. Such  
56 notice shall include a description of the real property proposed to be

sold or leased; a statement of the estimated fair market value of the real property proposed to be sold or leased; the value of the financial consideration to be received by the county, city, town or village from such sale or lease of the real property; and a statement of the intended use or disposition of such real property by the agency.

§ 5. Subdivision 3 of section 859 of the general municipal law is REPEALED.

§ 6. The opening paragraph and subdivisions 1 and 2 of section 859-a of the general municipal law, as added by chapter 356 of the laws of 1993, are amended and a new subdivision 3-a is added to read as follows:

Prior to providing any financial assistance ~~[of]~~ totaling 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 type and amount of financial assistance that the agency is contemplating with respect to such project. Such assistance shall be consistent with the uniform ~~[tax-exemption]~~ financial assistance policy adopted by the agency pursuant to subdivision four of section eight hundred seventy-four of this ~~[chapter]~~ title, unless the agency has followed the procedures for deviation from such policy specified in paragraph (b) of such subdivision.

2. The agency must hold a public hearing with respect to the project and the proposed financial assistance being contemplated by the agency not less than thirty days prior to executing a written agreement to provide financial assistance. Said public hearing shall be held in ~~[a]~~ each city, town or village where the project to receive financial assistance is located or 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 and the type and amount of financial assistance to be provided. The agency shall also accept written comments up to seven days after such hearing is held.

3-a. The agency shall maintain a complete record of the hearing, including all documents, oral statements, and written statements presented at or within seven days following the hearing. All members shall be provided with a copy of such record at least seven days before voting whether to approve financial assistance for the project. Such record shall also be posted on the agency website at the time it is provided to members.

§ 7. The general municipal law is amended by adding four new sections 859-d, 859-e, 859-f and 859-g to read as follows:

§ 859-d. Project application and approval criteria. 1. The project applicant shall submit an application, developed by the agency, for approval of a proposed project and financial assistance. The agency shall adopt project application review and approval criteria that shall be applied to all project applications under consideration for approval and financial assistance. The decision to approve or not approve financial assistance shall be based on, but not limited to, consideration of the following criteria:

(a) Strategic objectives. Consideration is to be given to the purpose of the project, such as the nature of the planned business activity, the extent to which the planned business activity is unrepresented or under-represented in the community, and whether the project involves a business interested in relocating from outside the state of New York.

(b) Job creation. A decision to fund a project shall be based on the number of jobs to be created or retained by the proposed project, the

1 range of projected salaries and benefits associated with jobs to be  
2 created, and the benchmarks and timeframes to be used by the project to  
3 determine whether it is meeting projected job creation and retention  
4 goals.

5 (c) The financial viability of the project. Approval for funding must  
6 consider the extent to which the viability and success of the project is  
7 dependent on financial assistance from the agency. The agency shall also  
8 consider the amount and type of financial assistance being requested,  
9 the amount and type of private financing required, the amount and type  
10 of capital investment to be provided by the project applicant, and any  
11 prior financial assistance provided to the project or to the project  
12 applicant.

13 (d) Economic benefits. Funding decisions shall consider the potential  
14 economic and financial impact of the project on existing businesses in  
15 the area, on the affected tax jurisdictions, and on the local labor  
16 market.

17 (e) Legal issues. Consideration shall be given to the project appli-  
18 cant's record of compliance with applicable laws and regulations.

19 2. The project application review and approval criteria shall be  
20 reviewed and approved annually at a regular meeting of the agency and  
21 made available to the public on the agency's website.

22 3. The agency shall provide the director of the authorities budget  
23 office with an electronic copy of the application and project review and  
24 approval criteria within thirty days of their adoption or revision.

25 4. The agency shall retain a written record of the evaluation of each  
26 project application to document its decision to provide or deny finan-  
27 cial assistance.

28 § 859-e. Financial assistance agreement. 1. The agency shall enter  
29 into a written agreement with the project applicant prior to providing  
30 financial assistance. The agreement shall include the following informa-  
31 tion:

32 (a) a description of the amount and type of financial assistance to be  
33 provided by the agency, including a description and the value of proper-  
34 ty conveyed at less than fair market value;

35 (b) a description of the amount of financing to be provided by the  
36 project applicant, including the amount and type of capital investment  
37 to be provided;

38 (c) the purpose of the project;

39 (d) the amount, types, sources and commitments of any private financ-  
40 ing;

41 (e) the projected number of new full-time and part-time positions  
42 expected to be created over the period of financial assistance, and an  
43 estimated schedule by year of when those positions will be created;

44 (f) the number and types of full-time and part-time jobs to be  
45 retained, and the number of filled positions at the project as of the  
46 date the agreement is executed;

47 (g) the types and value of other forms of financial assistance  
48 provided to the project or requested by the project applicant from other  
49 state or local government agencies or authorities; and

50 (h) the penalties to be imposed on the project applicant if the terms  
51 of the agreement are not met.

52 2. The length of a financial assistance agreement shall be limited to  
53 no more than five years; provided however that the agreement may be  
54 renewed for up to five additional years if the agency determines that  
55 the project applicant has acted in good faith to meet the terms and  
56 conditions of the agreement. In no event may financial assistance in the

1 form of a loan or exemption from taxation be provided to a project for  
2 more than ten years.

3 3. The financial assistance agreement shall be made available to the  
4 public on the website of the agency.

5 4. The agency shall adopt a methodology to evaluate the conformance of  
6 each assisted project to the terms and conditions of the financial  
7 assistance agreement. This methodology shall be made available to the  
8 public on the agency's website.

9 § 859-f. Recapture of certain financial assistance. 1. The agency,  
10 pursuant to the terms and conditions of its financial assistance agree-  
11 ment, may recapture financial assistance to a project from real property  
12 tax exemptions, mortgage recording tax exemptions, or local sales or  
13 compensating use tax exemptions if (a) the project violates state or  
14 federal tax law, labor law, environmental protection law, or contract  
15 law, or any state or federal rule or regulation implementing such law,  
16 as determined by a court of competent jurisdiction or administrative  
17 tribunal, provided that such court or tribunal concludes that the  
18 violation would cause material harm to the economy or quality of life of  
19 the community; or (b) all or part of the project's business activity or  
20 workforce is moved to a location outside the community served by the  
21 agency and by doing so violates the terms and conditions of its finan-  
22 cial assistance agreement.

23 2. An agency which elects to initiate the recapture of financial  
24 assistance pursuant to subdivision one of this section must notify the  
25 recipient of such financial assistance in writing that it is in default  
26 of its financial assistance agreement and may direct the recipient of  
27 financial assistance to repay up to the full amount of such financial  
28 assistance received as of the date of the written notice plus interest  
29 at the rate set forth in section five thousand four of the civil prac-  
30 tice law and rules.

31 3. Financial assistance recaptured pursuant to this section and any  
32 interest paid shall be redistributed to affected tax jurisdictions in  
33 proportion to the amount of real property tax and other taxes which  
34 would have been received by each affected tax jurisdiction had the  
35 project not been tax exempt. Unless otherwise agreed to in writing by an  
36 affected tax jurisdiction, the agency shall not retain any portion of  
37 such funds as an administrative or project fee.

38 § 859-g. Wages and standards. Whenever a recipient of financial  
39 assistance from an agency enters into a contract, subcontract, lease or  
40 other agreement for or in connection with the construction, demolition,  
41 reconstruction, rehabilitation, repair, or renovation of an assisted  
42 project, the recipient of financial assistance shall pay workers engaged  
43 in such work no less than the prevailing rate of wage and supplements  
44 under article eight of the labor law.

45 § 8. Subdivision 1 of section 862 of the general municipal law, as  
46 amended by section 1 of part J of chapter 59 of the laws of 2013, is  
47 amended to read as follows:

48 (1) (a) No [~~funds~~] financial assistance of the agency shall be used in  
49 respect [~~of~~] to any project if the [~~completion thereof would result in~~]  
50 project approval or provision of financial assistance contributes to the  
51 removal of [~~an industrial or manufacturing plant of~~] all or part of the  
52 project occupant from one area of the state to another area of the state  
53 or in the abandonment of one or more [~~plants or~~] facilities of the  
54 project occupant located within the state, or provides the project with  
55 a competitive advantage over existing like businesses in the same indus-  
56 try located in the same city, town, or village as such project.

provided, however, that [~~neither restriction~~] such restrictions shall not 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.

(b) For the purposes of this subdivision, "competitive advantage" shall include trade secrets that are submitted to an agency by a commercial enterprise or derived from information obtained from a commercial enterprise and which if disclosed would cause substantial injury to the competitive position of the subject enterprise. Other factors to be considered in determining whether a trade secret exists include:

(i) the extent to which the information is known outside the business;

(ii) the extent to which the information is known by a business' employees and others involved in the business;

(iii) the extent of measures taken by a business to guard the secrecy of the information;

(iv) the value of the information to a business and to its competitors;

(v) the amount of effort or money expended by a business in developing the information; and,

(vi) the ease or difficulty with which the information could be properly acquired or duplicated by others. If there has been a voluntary disclosure by the plaintiff, or if the facts pertaining to the matter are a subject of general knowledge in the trade, then any property right has evaporated.

§ 9. Subdivision 4 of section 874 of the general municipal law, as amended by chapter 357 of the laws of 1993, paragraph (a) as amended by chapter 386 of the laws of 2019, and paragraph (b) as amended by chapter 766 of the laws of 2022, is amended to read as follows:

(4) (a) The agency shall [~~establish~~] adopt a uniform [~~tax exemption~~] financial assistance policy, [~~with input from~~] subject to the approval of all affected tax jurisdictions, which shall be applicable to the provision of financial assistance pursuant to section eight hundred fifty-nine-a of this [~~chapter~~] 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; payments in lieu of taxes, as a percentage of [~~exemption~~] taxes that would have been levied by or on behalf of affected tax jurisdictions if the project was not tax exempt by reason of agency involvement; 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,

1 resource conservation, energy efficiency, green technologies, and alter-  
2 native and renewable energy measures; the extent to which the proposed  
3 project will require the provision of additional services, including,  
4 but not limited to additional educational, transportation, police, emer-  
5 gency medical or fire services; and the extent to which the proposed  
6 project will provide additional sources of revenue for municipalities  
7 and school districts. The adopted uniform financial assistance policy  
8 shall be provided to the chief executive officer and the members of the  
9 governing body of each affected tax jurisdiction and shall be made  
10 available for public inspection at the agency's office and on the agen-  
11 cy's website upon its adoption.

12 (b) The agency shall [~~establish a procedure~~] adopt criteria for devi-  
13 ation from the uniform [~~tax exemption~~] financial assistance policy  
14 required pursuant to this subdivision, which shall be subject to the  
15 approval of all affected local tax jurisdictions. The agency shall set  
16 forth in writing the reasons for deviation from such policy, and shall  
17 further notify by certified mail, return receipt requested, the affected  
18 local taxing jurisdictions of the proposed deviation from such policy  
19 and the reasons therefor not less than sixty days before such deviation  
20 from the uniform financial assistance policy takes effect. When the  
21 affected local taxing jurisdiction is a school district, the agency  
22 shall notify by certified mail, return receipt requested, the school  
23 board and district superintendent of each affected school district.

24 § 10. Section 1953 of the public authorities law, as added by chapter  
25 759 of the laws of 1967, the opening paragraph, second undesignated  
26 paragraph, and subdivisions 4 and 7 as amended by chapter 579 of the  
27 laws of 2021, subdivision 8 as amended, subdivision 14 as added and  
28 subdivisions 15 and 16 as renumbered by chapter 356 of the laws of 1993,  
29 and subdivisions 9 and 13 as amended by chapter 907 of the laws of 1972,  
30 is amended to read as follows:

31 § 1953. Purpose and powers of the authority.

32 The purposes of the authority shall be to promote, develop, encourage  
33 and assist in the acquiring, constructing, reconstructing, improving,  
34 maintaining, equipping and furnishing industrial, manufacturing, ware-  
35 house, civic facilities, commercial and research facilities including  
36 industrial pollution control facilities, transportation facilities  
37 including but not limited to those relating to water, highway, rail and  
38 air, in one or more areas of the city, particularly but not exclusively  
39 at the site of what was formerly the Troy airport including an airstrip  
40 or airport located in the southern section of the city and thereby  
41 advance the job opportunities, health, general prosperity and economic  
42 welfare of the people of said city and to improve their standard of  
43 living; provided, however, that the authority shall not undertake any  
44 project if the completion thereof would result in the removal of an  
45 industrial or manufacturing plant of the project occupant from one area  
46 of the state to another area of the state or in the abandonment of one  
47 or more plants or facilities of the project applicant located within the  
48 state, provided, however, that neither restriction shall apply if the  
49 authority shall determine on the basis of the application before it that  
50 the project is reasonably necessary to discourage the project occupant  
51 from removing such other plant or facility to a location outside the  
52 state or is reasonably necessary to preserve the competitive position of  
53 the project occupant in its respective industry. Except as otherwise  
54 provided for in this section, no financial assistance of the authority  
55 shall be provided in respect of any project where facilities or property  
56 that are primarily used in making retail sales to customers who

1 personally visit such facilities constitute more than one-third of the  
2 total project cost. For the purposes of this article, "retail sales"  
3 shall mean: (i) sales by a registered vendor under article twenty-eight  
4 of the tax law primarily engaged in the retail sale of tangible personal  
5 property, as defined in subparagraph (i) of paragraph four of subdivi-  
6 sion (b) of section eleven hundred one of the tax law; or (ii) sales of  
7 a service to such customers. Except, however, that tourism destination  
8 projects shall not be prohibited by this paragraph. For the purpose of  
9 this paragraph, "tourism destination" shall mean a location or facility  
10 which is likely to attract a significant number of visitors from outside  
11 the economic development region as established by section two hundred  
12 thirty of the economic development law in which the project is located.

13 Notwithstanding the provisions of this section to the contrary, such  
14 financial assistance may, however, be provided to a project where facil-  
15 ities or property that are primarily used in making retail sales of  
16 goods or services to customers who personally visit such facilities to  
17 obtain such goods or services constitute more than one-third of the  
18 total project cost, where: (i) the predominant purpose of the project  
19 would be to make available goods or services which would not, but for  
20 the project, be reasonably accessible to the residents of the city of  
21 Troy because of a lack of reasonably accessible retail trade facilities  
22 offering such goods or services; or (ii) the project is located in a  
23 highly distressed area. With respect to projects authorized pursuant to  
24 this paragraph no project shall be approved unless the authority shall  
25 find after the public hearing required by section twenty-three hundred  
26 seven of this chapter that undertaking the project will serve the public  
27 purposes of this article by preserving permanent, private sector jobs or  
28 increasing the overall number of permanent, private sector jobs in the  
29 state. Where the authority makes such a finding, prior to providing  
30 financial assistance to the project by the authority, the chief execu-  
31 tive officer of the city of Troy shall confirm the proposed action of  
32 the authority. To carry out said purposes, the authority shall have  
33 power:

34 1. To sue and be sued;

35 2. To have a seal and alter the same at pleasure;

36 3. To acquire, hold and dispose of personal property for its corporate  
37 purpose;

38 4. To acquire by purchase, grant, lease, gift, condemnation, or other-  
39 wise and to use, real property or rights or easements therein necessary  
40 for its corporate purposes, and to sell, convey, mortgage, lease,  
41 pledge, exchange or otherwise dispose of any such property in such  
42 manner as the authority shall determine. With respect to real property  
43 conveyed to it by the city, however, such power of disposition shall be  
44 limited as hereinafter provided in section nineteen hundred fifty-five  
45 of this title;

46 5. To acquire real property within the city of Troy as necessary for  
47 its corporate purposes pursuant to section eight hundred fifty-eight-c  
48 of the general municipal law;

49 6. To make by-laws for the management and regulation of its affairs  
50 and, subject to agreements with its bondholders, for the regulation of  
51 the use of the project;

52 [~~6-~~] 7. With the consent of the city, to use agents, employees and  
53 facilities of the city, paying the city its agreed proportion of the  
54 compensation or costs;

55 [~~7-~~] 8. To appoint officers, agents and employees, to prescribe their  
56 qualifications and to fix their compensation and to pay the same out of

1 funds of the authority, subject, however, to the provisions of the civil  
2 service law as hereinafter provided in section nineteen hundred fifty-  
3 four of this title;

4 ~~[8-]~~ 9. To appoint an attorney, who may be the corporation counsel of  
5 the city, and to fix the attorney's compensation for services which  
6 shall be payable to the attorney, and to retain and employ private  
7 consultants for professional and technical assistance and advice;  
8 provided that an attorney acting as bond counsel for a project must file  
9 with the authority a written statement in which the attorney identifies  
10 each party to the transaction which such attorney represents. If bond  
11 counsel provides any legal services to parties other than the authority,  
12 the written statement must describe the nature of legal services  
13 provided by such bond counsel to all parties to the transaction, includ-  
14 ing the nature of the services provided to the authority;

15 ~~[9-]~~ 10. To make contracts and leases upon such terms as the authority  
16 shall deem appropriate, including without limitation leases which grant  
17 the tenant of a project an option to renew or an option to purchase the  
18 project, or both, at a fixed or otherwise predetermined price and to  
19 execute all instruments necessary or convenient;

20 ~~[10-]~~ 11. To acquire, construct, reconstruct, lease, improve, main-  
21 tain, equip or furnish one or more projects;

22 ~~[11-]~~ 12. To accept gifts, grants, loans or contributions from, and  
23 enter into contracts or other transactions with, the United States and  
24 the state or any agency of either of them, any municipality, any public  
25 or private corporation or any other legal entity, and to use any such  
26 gifts, grants, loans or contributions for any of its corporate purposes;

27 ~~[12-]~~ 13. To provide financial assistance in the form of loans to  
28 improve, maintain or equip one or more projects consistent with its  
29 corporate purposes;

30 14. To provide financial assistance in the form of grants to one or  
31 more projects consistent with its corporate purposes;

32 15. To borrow money and to issue bonds and to provide for the rights  
33 of the holders thereof;

34 ~~[13-]~~ 16. To designate the depositories of its money either within or  
35 without the state of New York;

36 ~~[14-]~~ 17. To enter into agreements requiring payments in lieu of  
37 taxes. Such agreements shall be in writing and in addition to other  
38 terms shall contain: the amount due annually to each affected tax juris-  
39 diction (or a formula by which the amount due can be calculated), the  
40 name and address of the person, office or agency to which payment shall  
41 be delivered, the date on which payment shall be made, and the date on  
42 which payment shall be considered delinquent if not paid. Unless other-  
43 wise agreed by the affected tax jurisdictions, any such agreement shall  
44 provide that payments in lieu of taxes shall be allocated among affected  
45 tax jurisdictions in proportion to the amount of real property tax and  
46 other taxes which would have been received by each affected tax juris-  
47 diction had the project not been tax exempt due to the status of the  
48 authority involved in the project. A copy of any such agreement shall be  
49 delivered to each affected tax jurisdiction within fifteen days of sign-  
50 ing the agreement. In the absence of any such written agreement,  
51 payments in lieu of taxes made by an agency shall be allocated in the  
52 same proportions as they had been prior to January first, nineteen  
53 hundred ninety-three for so long as the authority's activities render a  
54 project non-taxable by affected tax jurisdictions.

55 ~~[15-]~~ 18. To establish and reestablish its fiscal year; and

1     ~~[16-]~~ 19. To do all things necessary or convenient to carry out its  
2 purposes and exercise the powers expressly given in this title.

3     § 10-a. Subdivision 14 of section 1953 of the public authorities law,  
4 as amended by chapter 708 of the law of 2022, is amended to read as  
5 follows:

6     ~~[14-]~~ 17. To enter into agreements requiring payments in lieu of  
7 taxes. Such agreements shall be in writing and in addition to other  
8 terms shall contain: the amount due annually to each affected tax juris-  
9 diction (or a formula by which the amount due can be calculated), the  
10 name and address of the person, office or agency to which payment shall  
11 be delivered, the date on which payment shall be made, and the date on  
12 which payment shall be considered delinquent if not paid. Unless other-  
13 wise agreed by the affected tax jurisdictions, any such agreement shall  
14 provide that payments in lieu of taxes shall be allocated among affected  
15 tax jurisdictions in proportion to the amount of real property tax and  
16 other taxes which would have been received by each affected tax juris-  
17 diction had the project not been tax exempt due to the status of the  
18 authority involved in the project. A copy of any such agreement shall be  
19 delivered to each affected tax jurisdiction within fifteen days of sign-  
20 ing the agreement. In the absence of any such written agreement,  
21 payments in lieu of taxes made by an agency shall be allocated in the  
22 same proportions as they had been prior to January first, nineteen  
23 hundred ninety-three for so long as the authority's activities render a  
24 project non-taxable by affected tax jurisdictions. A notification of the  
25 expiration of such agreement shall be delivered to the affected tax  
26 jurisdiction two years prior to the expiration of such agreement and  
27 immediately upon early termination of an agreement;

28     § 11. Section 1953-a of the public authorities law, as added by chap-  
29 ter 356 of the laws of 1993, subdivision 1 as amended by chapter 357 of  
30 the laws of 1993, and subdivision 1-a as added by chapter 766 of the  
31 laws of 2022, is amended to read as follows:

32     § 1953-a. Additional prerequisites to the provision of financial  
33 assistance. Prior to providing any financial assistance ~~[of]~~ totaling  
34 more than one hundred thousand dollars to any project, the authority  
35 must comply with the following prerequisites:

36     1. The authority must adopt a resolution describing the project and  
37 type and amount of the financial assistance that the authority is  
38 contemplating with respect to such project. Such assistance shall be  
39 consistent with the uniform ~~[tax-exemption]~~ financial assistance policy  
40 adopted by the agency pursuant to subdivision one of section nineteen  
41 hundred sixty-three-a of this ~~[chapter]~~ title, unless the agency has  
42 followed procedures for deviation from such policy specified in subdivi-  
43 sion two of such section.

44     1-a. The authority shall deliver a copy of the resolution adopted  
45 pursuant to subdivision one of this section by certified mail, return  
46 receipt requested, to the chief executive officer of each affected tax  
47 jurisdiction. When the affected tax jurisdiction is a school district,  
48 the authority shall deliver a copy of such resolution by certified mail,  
49 return receipt requested, to the school board and district superinten-  
50 dent of each affected school district.

51     2. The authority must hold a public hearing with respect to the  
52 project and the proposed financial assistance being contemplated by the  
53 authority not less than thirty days prior to executing a written agree-  
54 ment to provide financial assistance. At said public hearing, inter-  
55 ested parties shall be provided reasonable opportunity, both orally and  
56 in writing, to present their views with respect to the project and the

1 type and amount of financial assistance to be provided. The authority  
2 shall also accept written comments up to seven days after such hearing  
3 is held.

4 3. The authority must give at least ten days published notice of said  
5 public hearing and shall, at the same time, provide notice of such hear-  
6 ing to the chief executive officer of the affected tax jurisdiction  
7 within which the project is located. The notice of hearing must state  
8 the time and place of the hearing, contain a general, functional  
9 description of the project, describe the prospective location of the  
10 project, identify the initial owner, operator or manager of the project  
11 and generally describe the financial assistance contemplated by the  
12 authority with respect to the project.

13 4. The authority shall maintain a complete record of the hearing,  
14 including all documents and oral statements, and written statements  
15 presented at or within seven days following such hearing. All members  
16 shall be provided with a copy of such record at least seven days before  
17 voting whether to approve financial assistance for the project. Such  
18 record shall also be posted on the authority website at the time it is  
19 provided to members.

20 § 12. The public authorities law is amended by adding four new  
21 sections 1953-b, 1953-c, 1953-d and 1953-e to read as follows:

22 § 1953-b. Project application and approval criteria. 1. The project  
23 applicant shall submit an application, developed by the authority, for  
24 approval of a proposed project and financial assistance. The authority  
25 shall adopt project application review and approval criteria that shall  
26 be applied to all project applications under consideration for approval  
27 and financial assistance. The decision to approve or not approve finan-  
28 cial assistance shall be based on, but not limited to, consideration of  
29 the following criteria:

30 (a) Strategic objectives. Consideration is to be given to the purpose  
31 of the project, such as the nature of the planned business activity, the  
32 extent to which the planned business activity is unrepresented or under-  
33 represented in the community, and whether the project involves a busi-  
34 ness interested in relocating from outside the state of New York.

35 (b) Job creation. A decision to fund a project shall be based on the  
36 number of jobs to be created or retained by the proposed project, the  
37 range of projected salaries and benefits associated with jobs to be  
38 created, and the benchmarks and timeframes to be used by the project to  
39 determine whether it is meeting projected job creation and retention  
40 goals.

41 (c) The financial viability of the project. Approval for funding shall  
42 consider the extent to which the viability and success of the project is  
43 dependent on financial assistance from the authority. The authority  
44 shall also consider the amount and type of financial assistance being  
45 requested, the amount and type of private financing required, the amount  
46 and type of capital investment to be provided by the project applicant,  
47 and any prior financial assistance provided to the project or to the  
48 project applicant.

49 (d) Economic benefits. Funding decisions shall consider the potential  
50 economic and financial impact of the project on existing businesses in  
51 the area, on the affected tax jurisdictions, and on the local labor  
52 market.

53 (e) Legal issues. Consideration shall be given to the project appli-  
54 cant's record of compliance with applicable laws and regulations.

2. The project application review and approval criteria shall be reviewed and approved annually at a regular meeting of the authority and made available to the public on the authority's website.

3. The authority shall provide the director of the authorities budget office with an electronic copy of the application and project review and approval criteria within thirty days of their adoption or revision.

4. The authority shall retain a written record of the evaluation of each project application to document its decision to provide or deny financial assistance.

§ 1953-c. Financial assistance agreement. 1. The authority shall enter into a written agreement with the project applicant prior to providing financial assistance. The agreement shall include the following information:

(a) a description of the amount and type of financial assistance to be provided by the authority, including a description and the value of property conveyed at less than fair market value;

(b) a description of the amount of financing to be provided by the project applicant, including the amount and type of capital investment to be provided;

(c) the purpose of the project;

(d) the amount, types, sources and commitments of any private financing;

(e) the projected number of new full-time and part-time positions expected to be created over the period of financial assistance, and an estimated schedule by year of when those positions will be created;

(f) the number and types of full-time and part-time jobs to be retained, and the number of filled positions at the project as of the date the agreement is executed;

(g) the types and value of other forms of financial assistance provided to the project or requested by the project applicant from other state or local government agencies or authorities; and

(h) the penalties to be imposed on the project applicant if the terms of the agreement are not met.

2. The length of a financial assistance agreement shall be limited to no more than five years; provided however that the agreement may be renewed for up to five additional years if the authority determines that the project applicant has acted in good faith to meet the terms and conditions of the agreement. In no event may financial assistance in the form of a loan or exemption from taxation be provided to a project for more than ten years.

3. The financial assistance agreement shall be made available to the public on the website of the authority.

4. The authority shall adopt a methodology to evaluate the conformance of each assisted project to the terms and conditions of the financial assistance agreement. This methodology shall be made available to the public on the authority's website.

§ 1953-d. Recapture of certain financial assistance. 1. The authority, pursuant to the terms and conditions of its financial assistance agreement, may recapture financial assistance to a project from the proceeds of bonds issued by the authority, mortgage recording tax exemptions, or local sales or compensating use tax exemptions if (a) the project violates state or federal tax law, labor law, environmental protection law, or contract law, or any state or federal rule or regulation implementing such law, as determined by a court of competent jurisdiction or administrative tribunal, provided that such court or tribunal concludes that the violation would cause material harm to the economy or quality

1 of life of the community; or (b) all or part of the project's business  
2 activity or workforce is moved to a location outside the community  
3 served by the authority and by doing so violates the terms and condi-  
4 tions of its financial assistance agreement.

5 2. An authority which elects to initiate the recapture of financial  
6 assistance pursuant to subdivision one of section eight hundred fifty-  
7 nine-f of the general municipal law must notify the recipient of such  
8 financial assistance in writing that it is in default of its financial  
9 assistance agreement and may direct the recipient of financial assist-  
10 ance to repay up to the full amount of such financial assistance  
11 received as of the date of the written notice plus interest at the rate  
12 set forth in section five thousand four of the civil practice law and  
13 rules.

14 3. Financial assistance recaptured pursuant to this section and any  
15 interest paid shall be redistributed to affected tax jurisdictions in  
16 proportion to the amount of real property tax and other taxes which  
17 would have been received by each affected tax jurisdiction had the  
18 project not been tax exempt. Unless otherwise agreed to in writing by an  
19 affected tax jurisdiction, the authority shall not retain any portion of  
20 such funds as an administrative or project fee.

21 § 1953-e. Wages and standards. Whenever a recipient of financial  
22 assistance from the authority enters into a contract, subcontract, lease  
23 or other agreement for or in connection with the construction, demoli-  
24 tion, reconstruction, rehabilitation, repair, or renovation of an  
25 assisted project, the recipient of financial assistance shall pay work-  
26 ers engaged in such work no less than the prevailing rate of wage and  
27 supplements under article eight of the labor law.

28 § 13. Section 1963-a of the public authorities law, as amended by  
29 chapter 357 of the laws of 1993, subdivision 1 as amended by chapter 386  
30 of the laws of 2019, and subdivision 2 as amended by chapter 766 of the  
31 laws of 2022, is amended to read as follows:

32 § 1963-a. Uniform ~~[tax-exemption]~~ financial assistance policy. 1. The  
33 authority shall ~~[establish]~~ adopt a uniform ~~[tax-exemption]~~ financial  
34 assistance policy, ~~[with input from]~~ subject to the approval of affected  
35 local taxing jurisdictions, which shall be applicable to provisions of  
36 financial assistance pursuant to section nineteen hundred fifty-three-a  
37 of this title and shall provide guidelines for the claiming of real  
38 property, mortgage recording, and sales tax exemptions. Such guidelines  
39 shall include, but not be limited to: period of exemption; payments in  
40 lieu of taxes as a percentage of ~~[exemption]~~ taxes that would have been  
41 levied by or on behalf of affected tax jurisdictions if the project was  
42 not exempt by reason of authority involvement; types of projects for  
43 which exemptions can be claimed; procedures for payments in lieu of  
44 taxes and instances in which real property appraisals are to be  
45 performed as a part of an application for tax exemption; in addition,  
46 the authority in adopting such policy shall consider such issues as: the  
47 extent to which a project will create or retain permanent, private  
48 sector jobs; the estimated value of any tax exemption to be provided;  
49 whether affected tax jurisdictions should be reimbursed by the project  
50 occupant if a project does not fulfill the purposes for which an  
51 exemption was provided; the impact of a proposed project on existing and  
52 proposed businesses and economic development projects in the vicinity;  
53 the amount of private sector investment generated or likely to be gener-  
54 ated by the proposed project; the demonstrated public support for the  
55 proposed project; the likelihood of accomplishing the proposed project  
56 in a timely fashion; the effect of the proposed project upon the envi-

ronment; 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 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 ~~[or]~~ of revenue for municipalities and school districts. The adopted uniform financial assistance policy shall be provided to the chief executive officer and members of the governing body of each affected tax jurisdiction and shall be made available for public inspection at the authority's office and on the authority's website upon its adoption.

2. The authority shall ~~[establish a procedure]~~ adopt criteria for deviation from the uniform ~~[tax exemption]~~ financial assistance policy required pursuant to this section. The authority shall set forth in writing the reasons for deviation from such policy, and shall further notify by certified mail, return receipt requested, the affected tax jurisdictions of the proposed deviation from such policy and the reasons therefor not less than sixty days before such deviation from the uniform financial assistance policy takes effect. When the affected tax jurisdiction is a school district, the authority shall notify by certified mail, return receipt requested, the school board and district superintendent of each affected school district.

§ 14. Section 2306 of the public authorities law, as added by chapter 915 of the laws of 1969, the opening paragraph and an undesignated paragraph as amended by chapter 304 of the laws of 2013, subdivision 8 as amended, subdivision 14 as added and subdivisions 15 and 16 as renumbered by chapter 356 of the laws of 1993, and subdivision 9 as amended by chapter 556 of the laws of 1973, is amended to read as follows:

§ 2306. Purpose and powers of the authority. The purposes of the authority shall be to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing industrial, manufacturing, warehouse, civic facilities, commercial and research facilities and facilities for use by a federal agency or a medical facility including industrial pollution control facilities, which may include transportation facilities including but not limited to those relating to water, highway, rail and air, in one or more areas of the city, and thereby advance the job opportunities, health, general prosperity and economic welfare of the people of said city and to improve their medical care and standard of living; provided, however, that the authority shall not undertake 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 abandonment of one or more plants or facilities of the project applicant located within the state, provided, however, that neither restriction shall apply if the authority 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. Except as otherwise provided for in this section, no financial assistance of the authority 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 paragraph. 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.

Notwithstanding the provisions of this section to the contrary, such 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 of Auburn 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. With respect to projects authorized pursuant to this paragraph no project shall be approved unless the authority shall find after the public hearing required by section twenty-three hundred seven 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 authority makes such a finding, prior to providing financial assistance to the project by the authority, the chief executive officer of the city of Auburn shall confirm the proposed action of the authority. To carry out said purpose, the authority shall have power:

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 purpose;

4. To acquire by purchase, grant, lease, gift, condemnation, or otherwise and to use, real property or rights or easements therein necessary for its corporate purposes, and to sell, convey, mortgage, lease, pledge, exchange or otherwise dispose of any such property in such manner as the authority shall determine. With respect to real property conveyed to it by the city, however, such power of disposition shall be limited as hereinafter provided in section twenty-three hundred ten of this title;

5. To acquire real property within the city of Auburn as necessary for its corporate purposes pursuant to section eight hundred fifty-eight-c of the general municipal law;

6. 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 the project[-];

[6-] 7. With the consent of the city, to use agents, employees and facilities of the city, paying the city its agreed proportion of the compensation or costs[-];

[7-] 8. 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 authority, subject, however, to the provisions of the civil

1 service law hereinafter provided in section twenty-three hundred eight  
2 of this title;

3 ~~[8-]~~ 9. To retain and employ financial advisors, engineers, archi-  
4 tects, attorneys and other consultants for professional and technical  
5 assistance and advice; that an attorney acting as bond counsel for a  
6 project must file with the authority a written statement in which the  
7 attorney identifies each party to the transaction which such attorney  
8 represents. If bond counsel provides any legal services to the parties  
9 other than the authority, the written statement must describe the nature  
10 of legal services provided by such bond counsel to all parties to the  
11 transaction, including the nature of the services provided to the  
12 authority;

13 ~~[9-]~~ 10. To make contracts and leases upon such terms as the authority  
14 shall deem appropriate, including without limitation leases which grant  
15 the tenant of a project an option to renew or an option to purchase the  
16 project, or both, at a fixed or otherwise predetermined price, and to  
17 execute all instruments necessary or convenient;

18 ~~[10-]~~ 11. To acquire, construct, reconstruct, lease, improve, main-  
19 tain, equip or furnish one or more projects;

20 ~~[11-]~~ 12. To accept gifts, grants, loans or contributions from, and  
21 enter into contracts or other transactions with, the United States and  
22 the state or any agency of either of them, any municipality, any public  
23 or private corporation or any other legal entity, and to use any such  
24 gifts, grants, loans or contributions for any of its corporate purposes;

25 ~~[12-]~~ 13. To provide financial assistance in the form of loans to  
26 improve, maintain or equip one or more projects consistent with its  
27 corporate purposes;

28 14. To provide financial assistance in the form of grants for one or  
29 more projects consistent with its corporate purposes;

30 15. To borrow money and to issue bonds and to provide for the rights  
31 of the holders thereof;

32 ~~[13-]~~ 16. To designate the depositories of its money in the city of  
33 Auburn~~[+]~~;

34 ~~[14-]~~ 17. To enter into agreements requiring payments in lieu of  
35 taxes. Such agreements shall be in writing and in addition to other  
36 terms shall contain: the amount due annually to each affected tax juris-  
37 diction (or a formula by which the amount due can be calculated), the  
38 name and address of the person, office or agency to which payment shall  
39 be delivered, the date on which the payment shall be made, and the date  
40 on which payment shall be considered delinquent if not paid. Unless  
41 otherwise agreed by the affected tax jurisdictions, any such agreement  
42 shall provide that payments in lieu of taxes shall be allocated among  
43 affected tax jurisdictions in proportion to the amount of real property  
44 tax and other taxes which would have been received by each affected tax  
45 jurisdiction had the project not been tax exempt due to the status of  
46 the agency involved in the project. A copy of any such agreement shall  
47 be delivered to each tax affected jurisdiction within fifteen days of  
48 signing the agreement. In the absence of any such written agreement,  
49 payments in lieu of taxes shall be allocated in the same proportions as  
50 they had been prior to January first, nineteen hundred ninety-three for  
51 so long as the authority's activities render a project non-taxable by  
52 affected tax jurisdictions~~[+]~~;

53 ~~[15-]~~ 18. To establish and reestablish its fiscal year; and

54 ~~[16-]~~ 19. To do all things necessary or convenient to carry out its  
55 purposes and exercise the powers expressly given in this title.

§ 14-a. Subdivision 14 of section 2306 of the public authorities law, as amended by chapter 708 of the laws of 2022, is amended to read as follows:

~~[14.]~~ 17. 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 the 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 tax affected jurisdiction within fifteen days of signing the agreement. In the absence of any such written agreement, payments in lieu of taxes shall be allocated in the same proportions as they had been prior to January first, nineteen hundred ninety-three for so long as the authority'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;

§ 15. Section 2307 of the public authorities law, as added by chapter 356 of the laws of 1993, subdivision 1 as amended by chapter 357 of the laws of 1993, and subdivision 1-a as added by chapter 766 of the laws of 2022, is amended to read as follows:

§ 2307. Additional prerequisites to the provision of financial assistance. Prior to providing any financial assistance ~~[of]~~ totaling more than one hundred thousand dollars to any project, the authority must comply with the following prerequisites:

1. The authority must adopt a resolution describing the project and type and amount of the financial assistance that the authority is contemplating with respect to such project. Such assistance shall be consistent with the uniform ~~[tax-exemption]~~ financial assistance policy adopted by the agency pursuant to subdivision one of section twenty-three hundred fifteen of this chapter, unless the agency has followed procedures for deviation from such policy specified in subdivision two of such section.

1-a. The authority shall deliver a copy of the resolution adopted pursuant to subdivision one of this section by certified mail, return receipt requested, to the chief executive officer of each affected tax jurisdiction. When the affected tax jurisdiction is a school district, the authority shall deliver a copy of such resolution by certified mail, return receipt requested, to the school board and district superintendent of each affected school district.

2. The authority must hold a public hearing with respect to the project and the proposed financial assistance being contemplated by the authority not less than thirty days prior to executing a written agreement to provide financial assistance. 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 and the type and amount of financial assistance to be provided. The authority

1 shall also accept written comments up to seven days after such hearing  
2 is held.

3 3. The authority must give at least ten days published notice of said  
4 public hearing and shall, at the same time, provide notice of such hear-  
5 ing to the chief executive officer of each affected tax ~~jurisdiction~~  
6 jurisdiction within which the project is located. The notice of hearing  
7 must state the time and place of the hearing, contain a general, func-  
8 tional description of the project, describe the prospective location of  
9 the project, identify the initial owner, operator or manager of the  
10 project and generally describe the financial assistance contemplated by  
11 the authority with respect to the project.

12 4. The authority shall maintain a complete record of the hearing,  
13 including all documents and oral statements, and written statements  
14 presented at or within seven days following such hearing. All members  
15 shall be provided with a copy of such record at least seven days before  
16 deciding whether to approve financial assistance for the project. Such  
17 record shall also be posted on the authority's website at the time it is  
18 provided to members.

19 § 16. The public authorities law is amended by adding four new  
20 sections 2307-a, 2307-b, 2307-c and 2307-d to read as follows:

21 § 2307-a. Project application and approval criteria. 1. The project  
22 applicant shall submit an application, developed by the authority, for  
23 approval of a proposed project and financial assistance. The authority  
24 shall adopt project application review and approval criteria that shall  
25 be applied to all project applications under consideration for approval  
26 and financial assistance. The decision to approve or not approve finan-  
27 cial assistance shall be based on, but not limited to, consideration of  
28 the following criteria:

29 (a) Strategic objectives. Consideration is to be given to the purpose  
30 of the project, such as the nature of the planned business activity, the  
31 extent to which the planned business activity is unrepresented or under-  
32 represented in the community, and whether the project involves a busi-  
33 ness interested in relocating from outside the state of New York.

34 (b) Job creation. A decision to fund a project shall be based on the  
35 number of jobs to be created or retained by the proposed project, the  
36 range of projected salaries and benefits associated with jobs to be  
37 created, and the benchmarks and timeframes to be used by the project to  
38 determine whether it is meeting projected job creation and retention  
39 goals.

40 (c) The financial viability of the project. Approval for funding shall  
41 consider the extent to which the viability and success of the project is  
42 dependent on financial assistance from the authority. The authority  
43 shall also consider the amount and type of financial assistance being  
44 requested, the amount and type of private financing required, the amount  
45 and type of capital investment to be provided by the project applicant,  
46 and any prior financial assistance provided to the project or to the  
47 project applicant.

48 (d) Economic benefits. Funding decisions shall consider the potential  
49 economic and financial impact of the project on existing businesses in  
50 the area, on the affected tax jurisdictions, and on the local labor  
51 market.

52 (e) Legal issues. Consideration shall be given to the project appli-  
53 cant's record of compliance with applicable laws and regulations.

54 2. The project application review and approval criteria shall be  
55 reviewed and approved annually at a regular meeting of the authority and  
56 made available to the public on the authority's website.

1 3. The authority shall provide the director of the authorities budget  
2 office with an electronic copy of the application and project review and  
3 approval criteria within thirty days of their adoption or revision.

4 4. The authority shall retain a written record of the evaluation of  
5 each project application to document its decision to provide or deny  
6 financial assistance.

7 § 2307-b. Financial assistance agreement. 1. The authority shall enter  
8 into a written agreement with the project applicant prior to providing  
9 financial assistance. The agreement shall include the following informa-  
10 tion:

11 (a) a description of the amount and type of financial assistance to be  
12 provided by the authority, including a description and the value of  
13 property conveyed at less than fair market value;

14 (b) a description of the amount of financing to be provided by the  
15 project applicant, including the amount and type of capital investment  
16 to be provided;

17 (c) the purpose of the project;

18 (d) the amount, types, sources and commitments of any private financ-  
19 ing;

20 (e) the projected number of new full-time and part-time positions  
21 expected to be created over the period of financial assistance, and an  
22 estimated schedule by year of when those positions will be created;

23 (f) the number and types of full-time and part-time jobs to be  
24 retained, and the number of filled positions at the project as of the  
25 date the agreement is executed;

26 (g) the types and value of other forms of financial assistance  
27 provided to the project or requested by the project applicant from other  
28 state or local government agencies or authorities; and

29 (h) the penalties to be imposed on the project applicant if the terms  
30 of the agreement are not met.

31 2. The length of a financial assistance agreement shall be limited to  
32 no more than five years; provided however that the agreement may be  
33 renewed for up to five additional years if the authority determines that  
34 the project applicant has acted in good faith to meet the terms and  
35 conditions of the agreement. In no event may financial assistance in the  
36 form of a loan or exemption from taxation be provided to a project for  
37 more than ten years.

38 3. The financial assistance agreement shall be made available to the  
39 public on the website of the authority.

40 4. The authority shall adopt a methodology to evaluate the conformance  
41 of each assisted project to the terms and conditions of the financial  
42 assistance agreement. This methodology shall be made available to the  
43 public on the authority's website.

44 § 2307-c. Recapture of certain financial assistance. 1. The authority,  
45 pursuant to the terms and conditions of its financial assistance agree-  
46 ment, may recapture financial assistance to a project from the proceeds  
47 of bonds issued by the authority, mortgage recording tax exemptions, or  
48 local sales or compensating use tax exemptions if (a) the project  
49 violates state or federal tax law, labor law, environmental protection  
50 law, or contract law, or any state or federal rule or regulation imple-  
51 menting such law, as determined by a court of competent jurisdiction or  
52 administrative tribunal, provided that such court or tribunal concludes  
53 that the violation would cause material harm to the economy or quality  
54 of life of the community; or (b) all or part of the project's business  
55 activity or workforce is moved to a location outside the community

1 served by the authority and by doing so violates the terms and condi-  
2 tions of its financial assistance agreement.

3 2. An authority which elects to initiate the recapture of financial  
4 assistance pursuant to subdivision one of section eight hundred fifty-  
5 nine-e of the general municipal law must notify the recipient of such  
6 financial assistance in writing that it is in default of its financial  
7 assistance agreement and may direct the recipient of financial assist-  
8 ance to repay up to the full amount of such financial assistance  
9 received as of the date of the written notice plus interest at the rate  
10 set forth in section five thousand four of the civil practice law and  
11 rules.

12 3. Financial assistance recaptured pursuant to this section and any  
13 interest paid shall be redistributed to affected tax jurisdictions in  
14 proportion to the amount of real property tax and other taxes which  
15 would have been received by each affected tax jurisdiction had the  
16 project not been tax exempt. Unless otherwise agreed to in writing by an  
17 affected tax jurisdiction, the authority shall not retain any portion of  
18 such funds as an administrative or project fee.

19 § 2307-d. Wages and standards. Whenever a recipient of financial  
20 assistance from the authority enters into a contract, subcontract, lease  
21 or other agreement for or in connection with the construction, demoli-  
22 tion, reconstruction, rehabilitation, repair, or renovation of an  
23 assisted project, the recipient of financial assistance shall pay work-  
24 ers engaged in such work no less than the prevailing rate of wage and  
25 supplements under article eight of the labor law.

26 § 17. Section 2315 of the public authorities law, as amended by chap-  
27 ter 357 of the laws of 1993, subdivision 1 as amended by chapter 386 of  
28 the laws of 2019, and subdivision 2 as amended by chapter 766 of the  
29 laws of 2022, is amended to read as follows:

30 § 2315. Uniform ~~[tax-exemption]~~ financial assistance policy. 1. The  
31 authority shall ~~[establish]~~ adopt a uniform ~~[tax-exemption]~~ financial  
32 assistance policy, ~~[with input from]~~ subject to the approval of affected  
33 local taxing jurisdictions, which shall be applicable to provisions of  
34 financial assistance pursuant to section twenty-three hundred seven of  
35 this title and shall provide guidelines for the claiming of real proper-  
36 ty, mortgage recording, and sales tax exemptions. Such guidelines shall  
37 include, but not be limited to: period of exemption; payments in lieu of  
38 taxes as a percentage of ~~[exemption]~~ taxes that would have been levied  
39 by or on behalf of affected tax jurisdictions if the project was not  
40 exempt by reason of authority involvement; types of projects for which  
41 exemptions may be claimed; procedures for payments in lieu of taxes and  
42 instances in which real property appraisals are to be performed as a  
43 part of an application for tax exemption; in addition, the authority in  
44 adopting such policy shall consider such issues as: the extent to which  
45 a project will create or retain permanent, private sector jobs; the  
46 estimated value of any tax exemption to be provided; whether affected  
47 tax jurisdictions should be reimbursed by the project occupant if a  
48 project does not fulfill the purposes for which an exemption was  
49 provided; the impact of a proposed project on existing and proposed  
50 businesses and economic development projects in the vicinity; the amount  
51 of private sector investment generated or likely to be generated by the  
52 proposed project; the demonstrated public support for the proposed  
53 project; the likelihood of accomplishing the proposed project in a time-  
54 ly fashion; the effect of the proposed project upon the environment; the  
55 extent to which the project will utilize, to the fullest extent practi-  
56 cable and economically feasible, resource conservation, energy efficien-

cy, green technologies, and alternative and renewable energy measures; 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. The adopted uniform financial assistance policy shall be provided to the chief executive officer and members of the governing body of each affected tax jurisdiction and shall be made available for public inspection at the authority's office and on the authority's website upon its adoption.

2. The authority shall [~~establish a procedure~~] adopt criteria for deviation from the uniform [~~tax exemption~~] financial assistance policy required pursuant to this section which shall be subject to the approval of affected local tax jurisdictions. The authority shall set forth in writing the reasons for deviation from such policy, and shall further notify by certified mail, return receipt requested, the affected local taxing jurisdictions of the proposed deviation from such policy and the reasons therefor not less than sixty days before such deviation from the uniform financial assistance policy shall take effect. When the affected tax jurisdiction is a school district, the authority shall notify by certified mail, return receipt requested, the school board and district superintendent of each affected school district.

§ 18. Subdivision 1 of section 2976 of the public authorities law, as amended by section 1 of part C of chapter 19 of the laws of 2010, is amended to read as follows:

1. Notwithstanding any other law to the contrary, public benefit corporations (which for purposes of this section shall include industrial development agencies created pursuant to title one of article eighteen-A of the general municipal law or any other provision of law and the New York city housing development corporation created pursuant to article twelve of the private housing finance law) which issue bonds, notes or other obligations and not-for-profit corporations that issue bonds on behalf of the state or a political subdivision thereof shall pay to the state a bond issuance charge upon the issuance of such bonds in an amount determined pursuant to subdivision two of this section. Such charge shall be paid to the state department of taxation and finance, upon forms prescribed therefor, no later than fifteen days from the end of the month within which such bonds are issued.

§ 19. The not-for-profit corporation law is amended by adding a new section 206 to read as follows:

§ 206. Financial assistance agreement.

1. A corporation, including a local development corporation, determined to be a local authority pursuant to subdivision two of section two and paragraph (j) of subdivision one of section six of the public authorities law that provides financial assistance to a project in the form of a grant, loan, exemption from taxation, or contribution for the public purpose of relieving or reducing unemployment, promoting and marketing job opportunities, or supporting the formation, relocation, expansion, or retention of business shall enter into a written agreement with the project applicant prior to providing financial assistance.

2. The agreement shall include the following information:

(a) a description of the amount and type of financial assistance to be provided by the corporation, including a description and the value of property conveyed at less than fair market value;

1 (b) a description of the amount of financing to be provided by the  
2 project applicant, including the amount and type of capital investment  
3 to be provided;

4 (c) the purpose of the project;

5 (d) the amount, types, sources and commitments of any private financ-  
6 ing;

7 (e) the projected number of new full-time and part-time positions  
8 expected to be created over the period of financial assistance, and an  
9 estimated schedule by year of when those positions will be created;

10 (f) the number and types of full-time and part-time jobs to be  
11 retained, and the number of filled positions at the project as of the  
12 date the agreement is executed;

13 (g) the types and value of other forms of financial assistance  
14 provided to the project or requested by the project applicant from other  
15 state or local government agencies or authorities; and

16 (h) the penalties to be imposed on the project applicant if the terms  
17 of the agreement are not met.

18 3. The length of a financial assistance agreement shall be limited to  
19 no more than five years; provided however that the agreement may be  
20 renewed for up to five additional years if the corporation determines  
21 that the project applicant has acted in good faith to meet the terms and  
22 conditions of the agreement. In no event may financial assistance in the  
23 form of a loan or exemption from taxation be provided to a project for  
24 more than ten years.

25 4. The financial assistance agreement shall be made available to the  
26 public on the website of the corporation.

27 5. The corporation shall adopt a methodology to evaluate the conform-  
28 ance of each assisted project to the terms and conditions of the finan-  
29 cial assistance agreement. This methodology shall be made available to  
30 the public on the corporation's website.

31 6. (a) The corporation, pursuant to the terms and conditions of its  
32 financial assistance agreement, may recapture financial assistance to a  
33 project from grants, loans, real property tax exemptions, mortgage  
34 recording tax exemptions, or local sales or compensating use tax  
35 exemptions if (i) the project violates state or federal tax law, labor  
36 law, environmental protection law, or contract law, or any state or  
37 federal rule or regulation implementing such law, as determined by a  
38 court of competent jurisdiction or administrative tribunal, provided  
39 that such court or tribunal concludes that the violation would cause  
40 material harm to the economy or quality of life of the community; or  
41 (ii) all or part of the project's business activity or workforce is  
42 moved to a location outside the community served by the corporation and  
43 by doing so violates the terms and conditions of its financial assist-  
44 ance agreement.

45 (b) A corporation which elects to initiate the recapture of financial  
46 assistance pursuant to subdivision one of this section must notify the  
47 recipient of such financial assistance in writing that it is in default  
48 of its financial assistance agreement and may direct the recipient of  
49 financial assistance to repay up to the full amount of such financial  
50 assistance received as of the date of the written notice plus interest  
51 at the rate set forth in section five thousand four of the civil prac-  
52 tice law and rules.

53 (c) Financial assistance recaptured pursuant to this section and any  
54 interest paid shall be redistributed to affected tax jurisdictions in  
55 proportion to the amount of real property tax and other taxes which  
56 would have been received by each affected tax jurisdiction had the

1 project not been tax exempt. Unless otherwise agreed to in writing by an  
2 affected tax jurisdiction, the corporation shall not retain any portion  
3 of such funds as an administrative or project fee.

4 7. Wages and standards. Whenever a recipient of financial assistance  
5 from the corporation enters into a contract, subcontract, lease or other  
6 agreement for or in connection with the construction, demolition, recon-  
7 struction, rehabilitation, repair, or renovation of an assisted project,  
8 the recipient of financial assistance shall pay workers engaged in such  
9 work no less than the prevailing rate of wage and supplements under  
10 article eight of the labor law.

11 8. For the purposes of this section, "project" shall mean any land,  
12 any building or other improvement, and all real and personal properties  
13 located within the state of New York and within or outside or partially  
14 within and partially outside the municipality for whose benefit the  
15 agency was created, including, but not limited to, machinery, equipment  
16 and other facilities deemed necessary or desirable in connection there-  
17 with, or incidental thereto, whether or not now in existence or under  
18 construction, which shall be suitable for manufacturing, warehousing,  
19 research, commercial or industrial purposes or other economically sound  
20 purposes identified and called for to implement a state designated urban  
21 cultural park management plan as provided in title G of the parks,  
22 recreation and historic preservation law and which may include or mean  
23 an industrial pollution control facility, a recreation facility, educa-  
24 tional or cultural facility, a horse racing facility, a railroad facili-  
25 ty or an automobile racing facility, provided, however, that no agency  
26 shall use its funds or provide financial assistance in respect of any  
27 project wholly or partially outside the municipality for whose benefit  
28 the agency was created without the prior consent thereto by the govern-  
29 ing body or bodies of all the other municipalities in which a part or  
30 parts of the project is, or is to be, located, and such portion of the  
31 project located outside such municipality for whose benefit the agency  
32 was created shall be contiguous with the portion of the project inside  
33 such municipality.

34 § 20. Paragraphs (a), (b) and (d) of section 1411 of the not-for-pro-  
35 fit corporation law, paragraph (a) as amended by chapter 847 of the laws  
36 of 1970 and paragraph (b) as amended by chapter 549 of the laws of 2013,  
37 are amended to read as follows:

38 (a) Purposes.

39 This section shall provide an additional and alternate method of  
40 incorporation or reincorporation of not-for-profit corporations for any  
41 of the purposes set forth in this paragraph [~~and shall not be deemed to~~  
42 ~~alter, impair or diminish the purposes, rights, powers or privileges of~~  
43 ~~any corporation heretofore or hereafter incorporated under this section~~  
44 ~~or under the stock or business corporation laws~~]. Corporations may be  
45 incorporated or reincorporated under this section as not-for-profit  
46 local development corporations operated for the exclusively charitable  
47 or public purposes of relieving and reducing unemployment, promoting and  
48 providing for additional and maximum employment, bettering and maintain-  
49 ing job opportunities, instructing or training individuals to improve or  
50 develop their capabilities for such jobs, carrying on scientific  
51 research for the purpose of aiding a community or geographical area by  
52 attracting new industry to the community or area or by encouraging the  
53 development of, or retention of, an industry in the community or area[~~7~~  
54 ~~and lessening the burdens of government and acting in the public inter-~~  
55 ~~est, and any~~]. Any one or more counties, cities, towns or villages of  
56 the state, or any combination thereof, or the New York job development

1 authority in exercising its power under the public authorities law to  
2 encourage the organization of local development corporations, may cause  
3 such corporations to be incorporated by public officers or private indi-  
4 viduals or reincorporated upon compliance with the requirements of this  
5 section, and it is hereby found, determined and declared that in carry-  
6 ing out said purposes and in exercising the powers conferred by para-  
7 graph (b) of this section such corporations will be acting in the public  
8 interest and performing an essential governmental function.

9 (b) Type of corporation.

10 A local development corporation [~~is~~] incorporated for one or more of  
11 the purposes described in paragraph (a) of this section shall be a char-  
12 itable corporation under this chapter.

13 (d) Purchase or lease of real property owned by a county, city, town  
14 or village.

15 (1) The local legislative body of a county, city, town or village or,  
16 if there is a board of estimate in a city, then the board of estimate,  
17 may by resolution determine that specifically described real property  
18 owned by the county, city, town or village is not required for use by  
19 such county, city, town or village and authorize the county, city, town  
20 or village to sell or lease such real property to a local development  
21 corporation incorporated or reincorporated under this article; provided,  
22 however, that title to such land be not declared inalienable as a forest  
23 preserve or a parkland.

24 (2) Notwithstanding the provisions of any general, special or local  
25 law, charter or ordinance to the contrary, no such sale or lease may be  
26 made without appraisal, public notice, (except as provided in subpara-  
27 graph (4)) or public bidding [~~for such price or rental and upon such~~  
28 ~~terms as may be agreed upon between the county, city, town or village~~  
29 ~~and said local development corporation~~]; provided, however, that in case  
30 of a lease the term may not exceed ninety-nine years and provided,  
31 further, that in cities having a population of one million or more, no  
32 such sale or lease shall be made without the approval of a majority of  
33 the members of the borough [~~improvement~~] board of the borough in which  
34 such real property is located.

35 (3) Before any sale or lease to a local development corporation incor-  
36 porated or reincorporated under this article shall be authorized, a  
37 public hearing shall be held by the local legislative body[~~, or by the~~  
38 ~~board of estimate, as the case may be,~~] to consider the proposed sale or  
39 lease.

40 (4) Notice of such hearing shall be published at least ten days before  
41 the date set for the hearing in such publication and in such manner as  
42 may be designated by the local legislative body[~~, or the board of esti-~~  
43 ~~mate as the case may be~~]. Such notice shall include a description of the  
44 real property proposed to be sold or leased; a statement of the esti-  
45 ated fair market value of the real property proposed to be sold or  
46 leased; the value of the financial consideration to be received by the  
47 county, city, town or village from such sale or lease of the real prop-  
48 erty; and a statement of the intended use or disposition of such real  
49 property by the local development corporation.

50 (5) A local development corporation, incorporated or reincorporated  
51 under this section, which purchases or leases real property from a coun-  
52 ty, city, town or village, shall not, without the written approval of  
53 the county, city, town or village, use such real property for any  
54 purpose except the purposes set forth in the certificate of incorpo-  
55 ration or reincorporation of said local development corporation. In the  
56 event such real property is used in violation of the restrictions of

1 this paragraph, the attorney-general may bring an action or special  
2 proceeding to enjoin the unauthorized use.

3 § 21. Paragraphs (e), (f), (g), (h), and (i) of section 1411 of the  
4 not-for-profit corporation law are relettered paragraphs (f), (g), (h),  
5 (i), and (j) and a new paragraph (e) is added to read as follows:

6 (e) Contracts with municipalities.

7 Any contract or other agreement between a local development corpo-  
8 ration and a municipality or state authority or local authority for one  
9 or more of the purposes described in paragraph (a) of this section  
10 shall: (i) cause the local development corporation to be defined as a  
11 local authority pursuant to subdivision two of section two of the public  
12 authorities law; (ii) provide for the municipality or state authority or  
13 local authority to receive fair and adequate consideration for the  
14 services provided by the local development corporation; (iii) be subject  
15 to the requirements of article five-A of the general municipal law; and  
16 (iv) have a term not to exceed ten years, subject to one or more  
17 renewals for a term not to exceed ten years upon the mutual consent of  
18 the parties; provided however that a contract with a municipality shall  
19 not be used to finance the municipality's operations or to acquire or  
20 improve an asset for use of the municipality.

21 § 22. Paragraph (j) of section 1411 of the not-for-profit corporation  
22 law, as relettered by section twenty-one of this act, is amended to read  
23 as follows:

24 (j) Effect of section.

25 Corporations incorporated or reincorporated under this section shall  
26 be organized and operated exclusively for the purposes set forth in  
27 paragraph (a), shall have, in addition to the powers otherwise conferred  
28 by law, the powers conferred by paragraph (c) of this section and shall  
29 be subject to all the restrictions and limitations imposed by [~~paragraph~~  
30 ~~(e) and paragraph (g)~~] paragraphs (c), (d), (e), (h) and (i) of this  
31 section. In so far as the provisions of this section are inconsistent  
32 with the provisions of any other law, general or special, the provisions  
33 of this section shall be controlling as to corporations incorporated or  
34 reincorporated hereunder.

35 § 23. Federal preemption and severability. The provisions of each  
36 section of this act shall be deemed severable, and the declaration by a  
37 court of competent jurisdiction that any part thereof is preempted or  
38 otherwise invalid shall not affect the remaining parts thereof.

39 § 24. This act shall take effect on the thirtieth day after it shall  
40 have become a law, or January 1, 2024, whichever shall come first;  
41 provided, however, that section fifteen of this act shall apply to bonds  
42 issued or re-issued on or after the effective date of this act;  
43 provided, however, sections 3-a, 10-a and 14-a of this act shall take  
44 effect on the same date and in the same manner as chapter 708 of the  
45 laws of 2022, takes effect.