§ 1823. Further restrictions on loans and loan guarantees. In addition to other provisions of this title limiting the power of the authority to make loans to local development corporations in respect of a particular project, and to guarantee loans made by banking organizations, the following restrictions shall also apply:

1. No funds of the authority shall be used in respect of any project if the completion thereof would result in the removal of an industrial or manufacturing plant or research and development facility or other eligible business facility of the project occupant from one area of the state to another area of the state or in the abandonment of one or more plants or facilities of the project occupant located within the state, provided, however, that neither restriction shall apply if the 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.

2. No funds of the authority shall be used in respect of any project if the authority would be required to operate, service or maintain the project pursuant to any lease or other agreement except upon foreclosure or except upon the occurrence of a default in the payment or terms of any loan guaranteed by the authority, provided, however, notwithstanding any other provision of this subtitle, the authority may take title to a project under a financing lease which does not require the authority to operate, service or maintain the project itself, and which provides for payments in lieu of property taxes as approved by the local taxing jurisdiction which are equal to or less than any property taxes which would have been due had the authority not taken title to the property. Nothing shall prevent the authority from transferring such property to the project occupant or its designee at the end of the term of such financing.

3. No funds of the authority shall be used for a project unless the applicant shows to the satisfaction of the authority that funds equal to the amount of the proposed loan from the authority are not reasonably

available from other sources at a comparable cost of borrowing.

4. No funds of the authority shall be used in violation of any further restrictions imposed by general rule or regulation of the authority in relation to assisted projects and the authority is hereby authorized to adopt rules and regulations containing such restrictions as it may deem necessary or appropriate to effectuate its corporate purposes.

5. No provision of this title shall prevent the inclusion in a mortgage, lease or other agreement relating to an assisted project of a provision granting the project occupant the right to purchase such project upon such terms and conditions as the authority may approve.

6. No funds of the authority shall be loaned or used for any project unless the applicant demonstrates to the authority that such project has a valid permit or permits for the following, when such permits are required pursuant to applicable federal, state or local law: the generation, treatment, storage and disposal of hazardous wastes; the discharge of pollutants into the waters of the state, or, if such a plant or facility is in violation thereof, that the project contemplated includes the elimination of any such violation or violations.

7. Loans in economically distressed areas and to companies in need of special assistance. (a) Loans by the authority pursuant to paragraphs (a) and (b) of subdivision two of section eighteen hundred three of this chapter may exceed forty percent but shall not exceed sixty percent of the cost of the project for:

(i) projects which are or will be located in empire zones designated pursuant to article eighteen-b of the general municipal law or in areas that meet, in accordance with the most recent census data available, the following criteria:

(A) the area must have a poverty rate of at least twenty percent for the year to which the data relate; and

(B) the area must have an unemployment rate of at least one hundred twenty-five percent of the statewide unemployment rate for the year to which the data relate;

(ii) projects involving companies in need of special assistance as

determined by the findings of the members of the authority that such companies are unable to obtain a sufficient amount of financing at prevailing market rates of interest for businesses of similar size in the same industry in New York state.

(b) In determining eligibility for loans involving companies in need of special assistance pursuant to subparagraph (ii) of paragraph (a) of this subdivision, the members of the authority shall consider:

(i) the applicant's potential for creating jobs in New York state;

(ii) the benefits derived from the project in the community in which the project is or will be located;

(iii) the interaction of a project with economic development programs administered by the department of economic development, the New York state urban development corporation and the New York state science and technology foundation;

(iv) the meaningful participation of minority and women-owned business enterprises and minority group members and women in a project;

(v) the degree to which the project will support apprenticeship training;

(vi) compliance with the provisions of section eighteen hundred twenty-six of this chapter with regard to the project occupant; and

(vii) in consultation with the department of economic development, the eligibility of the applicant for assistance under the industrial effectiveness program pursuant to article seven of the economic development law.

(c) In addition to the rules and regulations promulgated with regard to loans made by the authority under other provisions of this title, the members of the authority shall also promulgate rules and regulations pertaining to the loans made under subparagraphs (i) and (ii) of paragraph (a) of this subdivision by December first, nineteen hundred ninety-two.

(d) On an annual basis, the authority shall compile and publish:

(i) in consultation with the department of economic development, a listing of economically distressed areas as defined in subparagraph (i) of paragraph (a) of this subdivision.

(ii) the criteria for determining the eligibility of a project that is in need of special assistance under subparagraph (ii) of paragraph (a) of this subdivision.

(e) All otherwise applicable requirements and restrictions of this title shall apply to projects that are described in paragraph (a) of this subdivision, provided, however, that in the case of projects which involve the relocation of economic activity from another municipality within New York state, the authority shall also find that the project occupant has made reasonable efforts to carry out the project within the municipality from which the project occupant intends to move an industrial, or manufacturing plant, or research and development facility, or other eligible business facility.