

P.L. 2005, CHAPTER 163, *approved August 3, 2005*

Senate, No. 2583 (*First Reprint*)

1 **AN ACT** concerning financing of housing for individuals with special
2 needs by the New Jersey Housing and Mortgage Finance Agency
3 with the proceeds of motor vehicle surcharges securitization bonds
4 to be issued by the New Jersey Economic Development Authority,
5 and designated the Special Needs Housing Trust Fund Act,
6 amending and supplementing P.L.2004, c.70, and supplementing
7 P.L.1983, c.530 (C.55:14K-1 et seq.).

8
9 **BE IT ENACTED** by the Senate and General Assembly of the State
10 of New Jersey:

- 11
12 1. (New section) a. The Legislature finds and declares that:
13 (1) The State of New Jersey has the responsibility of providing for
14 and assuring the continued operation of safe and humane residences
15 for individuals who require supportive housing or extended care in a
16 community residence;
17 (2) The State of New Jersey requires additional funding to
18 continue efforts to create permanent supportive housing and
19 community residences as alternatives to institutionalization or
20 homelessness for those who would benefit from these programs;
21 (3) The State of New Jersey requires immediate programs: (i) to
22 create additional units of permanent supportive housing and
23 community residences through new construction or substantial
24 rehabilitation; and (ii) to support community grants and loans to
25 develop and ensure the long-term viability of such housing and
26 residential opportunities for individuals with special needs with priority
27 given to individuals with mental illness;
28 (4) Implementation of these programs will be a substantial step
29 toward meeting the immediate and critical need of the people of New
30 Jersey, will substantially further the public interest, and can most
31 economically be financed through a bond issue;
32 (5) The establishment of the Special Needs Housing Trust Fund
33 under the auspices of the New Jersey Housing and Mortgage Finance
34 Agency, funded through the issuance of bonds by the New Jersey
35 Economic Development Authority under the already authorized
36 "Motor Vehicle Surcharges Securitization Act of 2004," P.L.2004,
37 c.70 (C.34:1B-21.23 et al.), is the most desirable means to provide
38 funding and to implement the programs.
39 b. There is established in the agency a special nonlapsing, revolving

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SBA committee amendments adopted June 16, 2005.

1 fund to be known as the Special Needs Housing Trust Fund. The
2 proceeds from the sale of bonds issued by the authority pursuant to the
3 "Motor Vehicle Surcharges Securitization Act of 2004," P.L.2004,
4 c.70 (C.34:1B-21.23 et al.), to finance special needs housing projects
5 pursuant to P.L. , c. (C.) (pending before the Legislature as this
6 bill) and deposited into the Motor Vehicle Surcharges Securitization
7 Proceeds Fund shall be paid by the authority to the agency for deposit
8 into the Special Needs Housing Trust Fund based upon executed
9 agreements between the authority and the State Treasurer. For the
10 purpose of obtaining moneys from the authority to be deposited into
11 the Special Needs Housing Trust Fund, the agency may enter into
12 agreements with the authority to receive moneys from the authority for
13 any purposes authorized by P.L. , c. (C.) (pending before the
14 Legislature as this bill) and specified in the agreements between the
15 agency and the authority. The proceeds of this fund shall be deposited
16 in those depositories as may be selected by the agency to the credit of
17 the fund.

18 c. Funds deposited into the Special Needs Housing Trust Fund
19 shall be used by the agency to make loans, grants or other investments
20 to finance or otherwise pay the costs of special needs housing projects,
21 upon such terms as the agency shall determine. In making any of the
22 foregoing loans, grants or other investments, the agency shall not be
23 limited by any of the restrictions imposed by P.L.1983, c.530
24 (C.55:14K-1 et seq.) on eligible loans, funding or financial assistance
25 for housing projects, or other financing vehicles, and shall give priority
26 to special needs housing projects benefiting persons with mental
27 illness. Special needs housing projects funded from the Special Needs
28 Housing Trust Fund shall be eligible for exemption from real property
29 taxation pursuant to subsection b. of section 37 of P.L.1983, c.530
30 (C.55:14K-37).

31 d. Pending their application to the purposes provided in
32 P.L. , c. (C.) (pending before the Legislature as this bill), the
33 moneys in the Special Needs Housing Trust Fund may be invested and
34 reinvested as are other trust funds in the custody of the agency, in the
35 manner provided by law. Net earnings received from the investment
36 or deposit of moneys in the Special Needs Housing Trust Fund shall
37 remain in such fund and be applied to the purposes set forth in
38 P.L. , c. (C.) (pending before the Legislature as this bill).

39 e. The agency is authorized to promulgate the rules and
40 regulations, policies and procedures necessary to effectuate the
41 provisions and purposes of P.L. , c. (C.) (pending before the
42 Legislature as this bill) in accordance with the "Administrative
43 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).
44

45 2. (New section) As a condition of any loan, grant or other
46 investment by the agency pursuant to P.L. , c. (C.) (pending

1 before the Legislature as this bill), the agency shall have the power at
2 all times during the construction, improvement, rehabilitation or
3 operation of a special needs housing project:

4 a. To enter upon and inspect without prior notice any special needs
5 housing project, including all parts thereof, for the purpose of
6 investigating the physical and financial condition thereof, and its
7 construction, improvement, rehabilitation, operation, management and
8 maintenance, and to examine all books and records with respect to
9 capitalization, income and other matters relating thereto and to make
10 such charges as may be required to cover the cost of such inspections
11 and examinations;

12 b. To order such alterations, changes or repairs as may be
13 necessary to protect the security of its investment in a special needs
14 housing project or the health, safety, and welfare of the occupants
15 thereof;

16 c. To order any project sponsor to do such acts as may be
17 necessary to comply with the provisions of all applicable laws or
18 ordinances or any rule or regulation of the agency or the terms of any
19 agreement concerning the special needs housing project or to refrain
20 from doing any acts in violation thereof and in this regard the agency
21 shall be a proper party to file a complaint and to prosecute thereon for
22 any violations of laws or ordinances as set forth herein;

23 d. To require the adoption and continuous use of uniform systems
24 of accounts and records for a special needs housing project and to
25 require all project sponsors to file annual reports containing that
26 information and verified in such manner as the agency shall require,
27 and to file at the times and on the forms as it may prescribe, reports
28 and answers to specific inquiries required by the agency to determine
29 the extent of compliance with any agreement, the terms of the loan,
30 the provisions of P.L. , c. (C.) (pending before the Legislature as
31 this bill) and any other applicable law; and

32 e. To enforce, by court action if necessary, the terms and
33 provisions of any agreement between the agency and the project
34 sponsor.

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36 3. The Title of P.L.2004, c.70 is amended to read as follows:

37 **AN ACT** authorizing the issuance of motor vehicle surcharges
38 securitization bonds, notes or other obligations by the New Jersey
39 Economic Development Authority for the purposes of providing
40 revenue to meet appropriations in [any] State fiscal year 2005
41 commencing on [or after] July 1, 2004, and to create additional
42 units of supportive housing and community residences for
43 individuals with special needs, providing a source of payment and
44 security for such bonds, notes or other obligations, supplementing
45 P.L.1974, c.80 (C.34:1B-1 et seq.) and amending P.L.1994, c.57

1 and P.L.1983, c.65.

2 (cf: P.L.2004, c.70, Title)

3

4 4. Section 2 of P.L.2004, c.70 (C.34:1B-21.24) is amended to read
5 as follows:

6 2. The following words or terms as used in this act shall have the
7 following meanings unless a different meaning clearly appears from the
8 context:

9 "Agency" means the New Jersey Housing and Mortgage Finance
10 Agency created pursuant to P.L.1983, c.530 (C.55:14K-1 et seq.);

11 "Authority" means the New Jersey Economic Development
12 Authority created pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.);

13 "Bonds" means any bonds, notes or other obligations issued or
14 entered into by the authority, bearing either a fixed rate or a variable
15 rate of interest, issued by the authority pursuant to [this act] the
16 "Motor Vehicle Surcharges Securitization Act of 2004," P.L.2004,
17 c.70 (C.34:1B-21.23 et al.), the proceeds of which shall be applied in
18 accordance with that act and P.L. , c. (C.) (pending before the
19 Legislature as this bill);

20 "Community residences" means group homes, supervised
21 apartments, and other types of shared living environments that provide
22 housing and treatment or specialized services needed to assist
23 individuals with special needs to live in community settings;

24 "Cost of special needs housing project" means any and all expenses
25 reasonably incurred by a project sponsor in connection with the
26 acquisition, construction, improvement, or rehabilitation of property
27 which is or shall be used for a special needs housing project, including,
28 but not limited to, the costs and expenses of engineering, inspection,
29 planning, legal, financial, or other professional services; the funding of
30 appropriate reserves to address the anticipated future capital needs of
31 a special needs housing project; and the administrative, organizational,
32 or other expenses incident to the financing, completing, and placing
33 into service of any special needs housing project authorized by
34 P.L. , c. (C.) (pending before the Legislature as this bill);

35 "Dedicated Motor Vehicle Surcharge Revenues" means:

36 a. on and after July 1, 2006, moneys required to be transferred to
37 the Motor Vehicle Surcharges Revenue Fund from the Facility
38 Revenue Fund pursuant to subsection b. of section 7 of P.L.1994, c.57
39 (C.34:1B-21.7),

40 b. on and after July 1, 2006, all Unsafe Driving Surcharges
41 required to be transferred to the Motor Vehicle Surcharges Revenue
42 Fund from the Unsafe Driving Surcharges Fund pursuant to section 5
43 of this act, and

44 c. after such time as all Market Transition Facility bonds, notes and
45 obligations and all New Jersey Motor Vehicle Commission bonds,
46 notes and obligations issued pursuant to section 4 of P.L.1994, c.57

1 (C.34:1B-21.4), and the costs thereof are discharged and no longer
2 outstanding, all other plan surcharges collected by the commission
3 pursuant to subsection b. of section 6 of P.L.1983, c.65
4 (C.17:29A-35) and required to be transferred to the Motor Vehicle
5 Surcharges Revenue Fund from the DMV Surcharge Fund pursuant to
6 section 12 of P.L.1994, c.57 (C.34:1B-21.12);

7 "Division of Motor Vehicles Surcharge Fund" or "DMV Surcharge
8 Fund" means the fund created pursuant to section 12 of P.L.1994, c.57
9 (C.34:1B-21.12);

10 "Individuals with mental illness" means individuals with a
11 psychiatric disability or individuals with a mental illness eligible for
12 housing or services funded by the Division of Mental Health Services
13 in the Department of Human Services;

14 "Individuals with special needs" means individuals with mental
15 illness, individuals with physical or developmental disabilities and
16 'individuals in' other emerging special needs groups identified by
17 State agencies;

18 "Market Transition Facility Revenue Fund" or "Facility Revenue
19 Fund" means the fund created pursuant to section 7 of P.L.1994, c.57
20 (C.34:1B-21.7);

21 "Motor Vehicle Surcharges Revenue Fund" means the fund within
22 the authority created and established pursuant to section 6 of this act;

23 "Motor Vehicle Surcharges Securitization Proceeds Fund" means
24 the fund created and established pursuant to section 3 of this act;

25 "Permanent supportive housing" means a range of permanent
26 housing options such as apartments, condominiums, townhouses,
27 single and multi-family homes, single room occupancy housing, shared
28 living and supportive living arrangements that provide access to on-
29 site or off-site supportive services for individuals and families who can
30 benefit from housing with services;

31 "Project sponsor" means any person, partnership, corporation,
32 limited liability company, association, whether organized as for profit
33 or not for profit, or any governmental entity to which the agency has
34 made or proposes to make a loan or a grant, or otherwise to provide
35 assistance, to finance a special needs housing project;

36 "Refunding Bonds" means any bonds, notes or other obligations
37 issued by the authority to refinance bonds, notes or other obligations
38 previously issued by the authority pursuant to this act;

39 "Special needs housing project" means a housing development, or
40 such portion of a housing development, that is permanent supportive
41 housing or a community residence that is primarily for occupancy by
42 individuals with special needs who shall occupy such housing as their
43 usual and permanent residence, together with any structures or
44 facilities, appurtenant or ancillary thereto, and shall include the
45 planning, development, acquisition, construction and rehabilitation of
46 structures, and residences undertaken by a project sponsor for such

1 purposes, including the cost of land and structures, construction,
2 rehabilitation or any interest therein;

3 "Unsafe Driving Surcharges Fund" means the fund within the
4 Department of the Treasury created and established pursuant to
5 section 5 of this act; and

6 "Unsafe Driving Surcharges" means the revenues received by the
7 State resulting from the plan surcharges established as such pursuant
8 to subparagraph (a) of paragraph (2) of subsection b. of section 6 of
9 P.L.1983, c.65 (C.17:29A-35) and assessed and collected pursuant to
10 subsection f. of section 1 of P.L.2000, c.75 (C.39:4-97.2) for
11 convictions for unsafe driving pursuant to that section.

12 (cf: P.L.2004, c.70, s.2)

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14 5. Section 3 of P.L.2004, c.70 (C.34:1B-21.25) is amended to read
15 as follows:

16 3. a. The authority shall establish and maintain a special
17 nonlapsing fund to be known as the "Motor Vehicle Surcharges
18 Securitization Proceeds Fund" into which shall be deposited the
19 following moneys:

20 (1) the proceeds from the sale of all bonds (other than refunding
21 bonds) issued by the authority pursuant to this act which are remaining
22 after any required deposit to any reserve or other fund established for
23 such bonds or refunding bonds in accordance with subsection a. of
24 section 4 of this act and after the payment of all costs, fees and other
25 expenses related to, or incurred by the authority or the State in
26 connection with, the issuance of such bonds or refunding bonds;

27 (2) any amounts which shall be appropriated by the State
28 Legislature for the purposes of such fund; and

29 (3) any other amounts or funds which the authority shall determine
30 to deposit into such fund. Moneys on deposit in the Motor Vehicle
31 Surcharges Securitization Proceeds Fund shall be invested in such
32 obligations as the authority may determine or as shall otherwise be
33 provided in any contract between the authority and the State Treasurer
34 authorized and entered into pursuant to section 7 of this act, and
35 interest or other earnings on any such investments shall be credited to
36 such fund.

37 b. Amounts on deposit in the Motor Vehicle Surcharges
38 Securitization Proceeds Fund shall be withdrawn by the authority from
39 time to time, [upon] and applied as set forth in paragraphs (1) and (2)
40 of this subsection.

41 (1) Upon written request of the State Treasurer or as otherwise
42 provided in any contract between the authority and the State Treasurer
43 authorized and entered into pursuant to section 7 of this act, and paid
44 to the State Treasurer for deposit either into the General Fund of the
45 State or into the Motor Vehicle Surcharges Securitization Fund, as
46 determined by the State Treasurer, and used for any lawful purpose of

1 the State for which moneys on deposit in the General Fund may be
 2 used. All amounts withdrawn from the Motor Vehicle Surcharges
 3 Securitization Proceeds Fund and deposited into the General Fund of
 4 the State as provided in this paragraph shall represent financial
 5 resources and revenues of the State upon deposit into the General
 6 Fund. Notwithstanding any provision of this [subparagraph]
 7 paragraph to the contrary, the State Treasurer shall not request the
 8 authority to pay, and the authority shall not pay, to the State Treasurer
 9 during [any] State fiscal year 2005 for deposit into the General Fund
 10 of the State, amounts on deposit in the Motor Vehicle Surcharges
 11 Securitization Proceeds Fund which are in excess of the amounts
 12 anticipated as revenues from that fund as certified by the Governor
 13 pursuant to Article VIII, Section II, paragraph 2 of the State
 14 Constitution for the State annual appropriation act for [such] State
 15 fiscal year [, and as may be applicable for such annual appropriation
 16 act as may be amended and supplemented from time to time] 2005.

17 (2) Upon written request of the agency or as otherwise provided
 18 in any contract between the authority and the agency authorized and
 19 entered into pursuant to P.L. , c. (C.) (pending before the
 20 Legislature as this bill), an amount not to exceed \$200,000,000 in the
 21 aggregate from the proceeds of bonds authorized under the "Motor
 22 Vehicle Surcharges Securitization Act of 2004," P.L.2004, c.70
 23 (C.34:1B-21.23 et al.), shall be paid to the agency for deposit into the
 24 Special Needs Housing Trust Fund to fund the costs of special needs
 25 housing projects authorized pursuant to P.L. , c. (C.) (pending
 26 before the Legislature as this bill).

27 (cf: P.L.2004, c.70, s.3)

28

29 6. This act shall take effect immediately.

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34 Establishes the Special Needs Housing Trust Fund in the NJHMFA to
 35 finance special needs housing projects through bond proceeds issued
 36 by the NJEDA; designated the Special Needs Housing Trust Fund Act.