CHAPTER 163

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

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

C.34:1B-21.25a Findings, declarations relative to special needs housing; trust fund, established; use.

1. a. The Legislature finds and declares that:

(1) The State of New Jersey has the responsibility of providing for and assuring the continued operation of safe and humane residences for individuals who require supportive housing or extended care in a community residence;

(2) The State of New Jersey requires additional funding to continue efforts to create permanent supportive housing and community residences as alternatives to institutionalization or homelessness for those who would benefit from these programs;

(3) The State of New Jersey requires immediate programs: (i) to create additional units of permanent supportive housing and community residences through new construction or substantial rehabilitation; and (ii) to support community grants and loans to develop and ensure the long-term viability of such housing and residential opportunities for individuals with special needs with priority given to individuals with mental illness;

(4) Implementation of these programs will be a substantial step toward meeting the immediate and critical need of the people of New Jersey, will substantially further the public interest, and can most economically be financed through a bond issue;

(5) The establishment of the Special Needs Housing Trust Fund under the auspices of the New Jersey Housing and Mortgage Finance Agency, funded through the issuance of bonds by the New Jersey Economic Development Authority under the already authorized "Motor Vehicle Surcharges Securitization Act of 2004," P.L.2004, c.70 (C.34:1B-21.23 et al.), is the most desirable means to provide funding and to implement the programs.

b. There is established in the agency a special nonlapsing, revolving fund to be known as the Special Needs Housing Trust Fund. The proceeds from the sale of bonds issued by the authority pursuant to the "Motor Vehicle Surcharges Securitization Act of 2004," P.L.2004, c.70 (C.34:1B-21.23 et al.), to finance special needs housing projects pursuant to P.L.2005, c.163 (C.34:1B-21.25a et al.) and deposited into the Motor Vehicle Surcharges Securitization Proceeds Fund shall be paid by the authority to the agency for deposit into the Special Needs Housing Trust Fund based upon executed agreements between the authority and the State Treasurer. For the purpose of obtaining moneys from the authority to be deposited into the Special Needs Housing Trust Fund, the agency may enter into agreements with the authority to receive moneys from the authority for any purposes authorized by P.L.2005, c.163 (C.34:1B-21.25a et al.) and specified in the agreements between the agency and the authority. The proceeds of this fund shall be deposited in those depositories as may be selected by the agency to the credit of the fund.

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

d. Pending their application to the purposes provided in P.L.2005, c.163 (C.34:1B-21.25a et al.), the moneys in the Special Needs Housing Trust Fund may be invested and reinvested as are other trust funds in the custody of the agency, in the manner provided by law. Net earnings received from the investment or deposit of moneys in the Special Needs Housing Trust Fund shall remain in such fund and be applied to the purposes set forth in P.L.2005, c.163 (C.34:1B-

21.25a et al.).

e. The agency is authorized to promulgate the rules and regulations, policies and procedures necessary to effectuate the provisions and purposes of P.L.2005, c.163 (C.34:1B-21.25a et al.) in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

C.55:14K-7.2 Powers of agency as condition of loan, grant, investment for special needs housing projects.

2. As a condition of any loan, grant or other investment by the agency pursuant to P.L.2005, c.163 (C.34:1B-21.25a et al.), the agency shall have the power at all times during the construction, improvement, rehabilitation or operation of a special needs housing project:

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

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

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

d. To require the adoption and continuous use of uniform systems of accounts and records for a special needs housing project and to require all project sponsors to file annual reports containing that information and verified in such manner as the agency shall require, and to file at the times and on the forms as it may prescribe, reports and answers to specific inquiries required by the agency to determine the extent of compliance with any agreement, the terms of the loan, the provisions of P.L.2005, c.163 (C.34:1B-21.25a et al.) and any other applicable law; and

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

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

Title amended.

AN ACT authorizing the issuance of motor vehicle surcharges securitization bonds, notes or other obligations by the New Jersey Economic Development Authority for the purposes of providing revenue to meet appropriations in State fiscal year 2005 commencing on July 1, 2004, and to create additional units of supportive housing and community residences for individuals with special needs, providing a source of payment and security for such bonds, notes or other obligations, supplementing P.L.1974, c.80 (C.34:1B-1 et seq.) and amending P.L.1994, c.57 and P.L.1983, c.65.

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

C.34:1B-21.24 Definitions relative to motor vehicle surcharges securitization bonds.

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

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

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

"Bonds" means any bonds, notes or other obligations issued or entered into by the authority,

bearing either a fixed rate or a variable rate of interest, issued by the authority pursuant to the "Motor Vehicle Surcharges Securitization Act of 2004," P.L.2004, c.70 (C.34:1B-21.23 et al.), the proceeds of which shall be applied in accordance with that act and P.L.2005, c.163 (C.34:1B-21.25a et al.);

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

"Cost of special needs housing project" means any and all expenses reasonably incurred by a project sponsor in connection with the acquisition, construction, improvement, or rehabilitation of property which is or shall be used for a special needs housing project, including, but not limited to, the costs and expenses of engineering, inspection, planning, legal, financial, or other professional services; the funding of appropriate reserves to address the anticipated future capital needs of a special needs housing project; and the administrative, organizational, or other expenses incident to the financing, completing, and placing into service of any special needs housing project authorized by P.L.2005, c.163 (C.34:1B-21.25a et al.);

"Dedicated Motor Vehicle Surcharge Revenues" means:

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

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

c. after such time as all Market Transition Facility bonds, notes and obligations and all New Jersey Motor Vehicle Commission bonds, notes and obligations issued pursuant to section 4 of P.L.1994, c.57 (C.34:1B-21.4), and the costs thereof are discharged and no longer outstanding, all other plan surcharges collected by the commission pursuant to subsection b. of section 6 of P.L.1983, c.65 (C.17:29A-35) and required to be transferred to the Motor Vehicle Surcharges Revenue Fund from the DMV Surcharge Fund pursuant to section 12 of P.L.1994, c.57 (C.34:1B-21.12);

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

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

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

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

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

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

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

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

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

"Special needs housing project" means a housing development, or such portion of a housing development, that is permanent supportive housing or a community residence that is primarily for occupancy by individuals with special needs who shall occupy such housing as their usual and permanent residence, together with any structures or facilities, appurtenant or ancillary thereto, and shall include the planning, development, acquisition, construction and rehabilitation of structures, and residences undertaken by a project sponsor for such purposes, including the cost of land and structures, construction, rehabilitation or any interest therein;

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

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

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

C.34:1B-21.25 "Motor Vehicle Surcharges Securitization Proceeds Fund."

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

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

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

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

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

(1) Upon written request of the State Treasurer or as otherwise provided in any contract between the authority and the State Treasurer authorized and entered into pursuant to section 7 of this act, and paid to the State Treasurer for deposit either into the General Fund of the State or into the Motor Vehicle Surcharges Securitization Fund, as determined by the State Treasurer, and used for any lawful purpose of the State for which moneys on deposit in the General Fund may be used. All amounts withdrawn from the Motor Vehicle Surcharges Securitization Proceeds Fund and deposited into the General Fund of the State as provided in this paragraph shall represent financial resources and revenues of the State upon deposit into the General Fund. Notwithstanding any provision of this paragraph to the contrary, the State Treasurer shall not request the authority to pay, and the authority shall not pay, to the State Treasurer during State fiscal year 2005 for deposit into the General Fund of the State, amounts on deposit in the Motor Vehicle Surcharges Securitization Proceeds Fund which are in excess of the amounts anticipated as revenues from that fund as certified by the Governor pursuant to Article VIII, Section II, paragraph 2 of the State Constitution for the State annual appropriation act for State fiscal year 2005.

(2) Upon written request of the agency or as otherwise provided in any contract between the authority and the agency authorized and entered into pursuant to P.L.2005, c.163 (C.34:1B-

21.25a et al.), an amount not to exceed $200,000,000 in the aggregate from the proceeds of bonds authorized under the "Motor Vehicle Surcharges Securitization Act of 2004," P.L.2004, c.70 (C.34:1B-21.23 et al.), shall be paid to the agency for deposit into the Special Needs Housing Trust Fund to fund the costs of special needs housing projects authorized pursuant to P.L.2005, c.163 (C.34:1B-21.25a et al.).

6. This act shall take effect immediately.

Approved August 3, 2005.