

No. 165

AN ACT

HB 957

Amending the act of August 23, 1967 (P.L.251, No.102), entitled, as amended, "An act providing for the incorporation as public instrumentalities of the Commonwealth and as bodies corporate and politic of industrial and commercial development authorities for municipalities, counties and townships; prescribing the rights, powers and duties of such authorities hereafter incorporated; authorizing such authorities to acquire, by gift or purchase, to construct, improve and maintain industrial or commercial development projects including projects for the elimination or prevention of blight and the control of air and water pollution, and to borrow money and issue bonds therefor; providing for the payment of such bonds and giving security therefor, and prescribing the rights of the holders of such bonds; authorizing the lease or sale of industrial or commercial development projects to industrial, commercial, manufacturing or research and development enterprises; authorizing any county, municipality or township to transfer or convey to such authorities, any facilities or property available for industrial or commercial development projects; exempting the property and securities of such authorities from taxation; authorizing such authorities to enter into contracts with and to accept grants from the Federal Government or any agency thereof; and providing for approval by the Secretary of Commerce of the proceedings relating to industrial or commercial development projects of such authorities," revising the title of the act; defining, further defining, and reordering certain terms; further providing for purposes and powers and further clarifying tax exemptions.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The title, act of August 23, 1967 (P.L.251, No.102), known as the "Industrial and Commercial Development Authority Law," amended December 29, 1972 (P.L.1675, No.359), is amended to read:

AN ACT

Providing for the incorporation as public instrumentalities of the Commonwealth and as bodies corporate and politic of industrial and commercial development authorities for municipalities, counties and townships; prescribing the rights, powers and duties of such authorities hereafter incorporated; authorizing such authorities to acquire, by gift or purchase, to construct, improve and maintain industrial, *specialized*, or commercial development projects including projects for the elimination or prevention of blight and the control of air and water pollution, and to borrow money and issue bonds therefor; providing for the payment of such bonds and giving security therefor, and prescribing the rights of the holders of such bonds; authorizing the lease or sale of industrial, *specialized*, or commercial development projects to industrial, *specialized*, or commercial

[**manufacturing or research and development**] enterprises; authorizing any county, municipality or township to transfer or convey to such authorities, any facilities or property available for industrial, *specialized*, or commercial development projects; exempting the property and securities of such authorities from taxation; authorizing such authorities to enter into contracts with and to accept grants from the Federal Government or any agency thereof; and providing for approval by the Secretary of Commerce of the proceedings relating to industrial, *specialized*, or commercial development projects of such authorities.

Section 2. Clauses (3), (5), (6) and (7) of section 2 of the act, amended December 29, 1972 (P.L.1675, No.359), are amended to read:

Section 2. Findings and Declaration of Policy.—It is hereby determined and declared as a matter of legislative finding:

* * *

(3) That the present and prospective health, safety, morals and general welfare of the people of the Commonwealth require as a public purpose the promotion and development of new, expanded and rehabilitated industrial, commercial, manufacturing and research and development [**enterprises**] *activities*;

* * *

(5) That to continue and further the successful program of The Pennsylvania Industrial Development Authority, it is necessary to provide additional means of financing the promotion and development of new, expanded and rehabilitated industrial, *specialized, and* commercial [**manufacturing and research and development facilities,**] *enterprises*, including in conjunction therewith the financing of machinery and equipment;

(6) That many existing industrial, *specialized and* commercial [**manufacturing and research and development**] enterprises throughout the Commonwealth could become more competitive and could expand more rapidly if such additional means of financing were available for modern buildings, plant facilities and modern machinery and equipment;

(7) That additional industrial, *specialized, and* commercial [**manufacturing and research and development facilities**] *enterprises* could be attracted to the Commonwealth if such additional means of financing were available to construct, rehabilitate and expand industrial, *specialized facilities*, or commercial buildings, or plants and in conjunction therewith equip the same with modern machinery and equipment;

* * *

Section 3. Clause (9) of section 2 of the act, added December 29, 1972 (P.L.1675, No.359), is amended and clauses are added to read:

Section 2. Findings and Declaration of Policy.—It is hereby determined and declared as a matter of legislative finding:

* * *

(9) That the provisions of the Constitution of Pennsylvania guaranteeing the residents of the Commonwealth clean air and water and their implementation through the establishment of quality standards relating to abatement or elimination of air and water pollution have resulted in the need for additional means of financing to assist and encourage industrial, **[manufacturing, research and development, agricultural and utility] specialized, and commercial** enterprises to comply with such air and water pollution control standards;

(10) That there is now, and is expected to be, a critical need for the production of water suitable for public use and consumption, natural gas, coal, oil, and other resources, and that in order to insure continuing supplies of such resources at reasonable rates, it is necessary to provide additional means of financing enterprises directed to such production;

(11) That to protect the health, safety and general welfare of the people of the Commonwealth and to further encourage economic development within the Commonwealth by providing basic services and facilities, it is necessary to provide additional or alternative means of financing certain transportation facilities, industrial parks, nursing homes, energy conversion facilities and facilities for the furnishing of gas or through the use of coal-fired generating facilities, gas, or water available on reasonable demand to members of the general public.

* * *

Section 4. Section 3 of the act, amended December 29, 1971 (P.L.647, No.171), September 1, 1972 (Sp.Sess. No.1, P.L.2015, No.2) and December 29, 1972 (P.L.1675, No.359), is amended to read:

Section 3. Definitions.—As used in this act:

(1) “Authority” or “industrial and commercial development authority” means a public instrumentality of the Commonwealth and a body politic and corporate, created pursuant to this act.

(2) “Board” means the governing body of an authority.

(3) “Bonds” mean and include the notes, bonds, refunding notes and bonds and other evidence of indebtedness or obligations which each authority is authorized to issue pursuant to section 6 (b) (10) of this act.

(4) “Construction” means and includes acquisition by deed, lease, sale, gift or otherwise, and construction, and the term “to construct” means and includes to acquire by deed, lease, sale, gift or otherwise, and to construct, all in such manner as may be deemed desirable.

(5) “Cost of the industrial or commercial development project” or “cost of the project” or “cost” means and includes the cost of construction, the cost of acquisition of all structures, lands and other property rights and interests in land necessary to the project, the cost of demolishing, removing or relocating any buildings or structures on lands acquired or to be acquired, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated, the cost of sewage treatment, industrial waste treatment and air

pollution control facilities and of all labor, materials, machinery and equipment, financing charges, interest on all bonds prior to and during construction, and for a period of six months thereafter, cost of engineering, financial and legal services, plans, specifications, studies, surveys necessary or incidental to determining the feasibility or practicability of constructing an industrial or commercial development project, administrative expenses, reserves for interest and for extensions, enlargements, additions and improvements, and such other expenses as may be necessary or incidental to the construction of industrial or commercial development projects and the placing of the same in operation.

(6) "Federal agency" means and includes the United States of America, the President of the United States of America, and any department of or corporation, agency or instrumentality heretofore or hereafter created, designated or established by the United States of America.

(7) "Governmental body" or "governmental bodies" means the body or board authorized by law to enact ordinances or adopt resolutions for the particular municipality.

(8) "Improvement" means and includes extension, enlargement and other improvement; and the term "to improve" means and includes to extend, to enlarge, and to otherwise improve all in such manner as may be deemed desirable.

(9) "Industrial enterprise" means an enterprise other than a mercantile, commercial or retail enterprise, which by virtue of its size requires substantial capital and which by its nature and size has created or will create substantial employment opportunities. The term "industrial enterprise" may include warehouse, distribution and national and regional headquarters facilities. The term "industrial enterprise" may also include enterprises directly related to tourism and recreational facilities provided such activity comprises or is a part of a planned tourist or recreational complex and provided that such activity requires substantial capital and by its nature and size has created or will create substantial employment opportunities.

(10) "Industrial development project" or "project" means any building or facility or combination or part thereof or pollution control facilities occupied or utilized by an industrial, manufacturing, or research and development enterprise, or, in the case of pollution control facilities, occupied or utilized by a utility or agricultural enterprise or by a company engaged in the extraction of any mineral coal, oil or natural resources, located within or without or partially within or without the municipality creating the authority, now existing or hereafter acquired or constructed by the authority pursuant to the terms of this act, including any or all buildings, improvements, additions, extensions, replacements, appurtenances, lands, rights in land, water rights,

franchises, machinery, equipment, furnishings, landscaping, utilities, railroad spurs and sidings, wharfs, approaches and roadways necessary or desirable in connection therewith or incidental thereto.

(11) "Industrial occupant" means any person, partnership, or corporation engaged in industrial, manufacturing or research and development activities and determined by the authority to be financially responsible to assume all obligations prescribed by the authority and this act in the leasing, sale and operation of an industrial development project, and shall also mean a financially responsible nonprofit community industrial development agency engaged in establishing industrial development projects, whether for single or multiple occupancy for use by any person, partnership, or corporation engaged in industrial manufacturing or research and development activities.

(12) "Manufacturing enterprise" means an enterprise which is engaged in the giving of new shapes, new qualities or new combinations to matter by the application of skill and labor thereto through the use of equipment or otherwise.

(12.1) "Commercial enterprise" means a business enterprise other than one used for industrial purposes, which by virtue of its size requires substantial capital and which by its nature and size has created or will create substantial employment opportunities. The term "commercial enterprise" may include office buildings, hotel or motel structures, shopping centers and department stores and national and regional headquarters facilities: Provided, however, That with respect to redevelopment pursuant to a redevelopment proposal, there shall be no requirement concerning the expenditure of substantial capital or the creation of substantial employment opportunities.

(12.2) "Commercial development project" means any building or facility or combination or part thereof occupied or utilized by a commercial enterprise located within or without or partially within or without the municipality creating the authority, now existing or hereafter acquired or constructed by the authority pursuant to the terms of this act, including any or all buildings, improvements, additions, extensions, replacements, appurtenances, lands, rights in land, water rights, franchises, landscaping, utilities, railroad spurs and sidings, wharfs, approaches and roadways necessary or desirable in connection therewith or incidental thereto.

(12.3) "Commercial occupant" means any person, partnership, or corporation engaged in commercial activities and determined by the authority to be financially responsible to assume all obligations prescribed by the authority and this act in the leasing, sale and operation of a commercial development project.

(13) "Municipality" means any county, city, town, borough or township of the Commonwealth of Pennsylvania.

(14) "Research and development enterprise" means an enterprise for the discovery of new and the refinement of known substances,

processes, products, theories and ideas, but shall not include activities directed primarily to the accumulation or analysis of commercial, financial or mercantile data.

(15) "Secretary" means the Secretary of Commerce of this Commonwealth.

(16) "Investor-developer" means any person, partnership or corporation engaged in the development for use by commercial and or industrial occupants of one or more commercial development projects and or industrial development projects and determined by the authority to be financially responsible to assume all obligations prescribed by the authority and this act in the acquisition, development, construction, leasing, sale, operation and financing in whole or in part of a commercial development project or an industrial development project.

(17) "Pollution control facilities" means any property, real or personal which is to be used to abate or reduce or aid in the prevention, control, disposal or monitoring of noise, air, water or thermal pollution, solid waste or other pollutants without limitation thereto and may include property or equipment which is to be installed primarily to supplement or to replace existing property or equipment not meeting acceptable pollution control standards or which is to be supplemented or replaced to comply with an order or citation to eliminate pollution issued by any Federal, State or local authority having jurisdiction.

(18) "Disaster relief project" means any undertaking to rehabilitate, repair, reconstruct, clean-up, replace, or otherwise return to economic use any land, site, structure, or facility, including machinery, equipment and tools damaged or lost due to disaster of flood or fire or other casualty caused by the floods of September, 1971 or June, 1972 and comprising or being a part of an industrial, commercial, agricultural, utility, manufacturing or research and development enterprise.

(19) "Utility enterprise" means any public or private company or corporation engaged primarily in an activity regulated by the Pennsylvania Public Utility Commission.

(20) "Agricultural enterprise" means any proprietorship, partnership, company, or corporation which is engaged primarily in raising, preparing, or marketing crops, livestock or related products.

(21) "Redevelopment proposal" shall mean a proposal, including a copy of the redevelopment area plan and supporting data submitted for approval to the governing body by an authority, for the development of all or any part of a redevelopment area. A redevelopment area shall be determined by the provisions of the act of May 24, 1945 (P.L.991, No.385), known as the "Urban Redevelopment Law."]

"Agricultural activity" means any person, partnership, or corporation which is engaged primarily in raising, preparing, or marketing crops, livestock, or related products.

"Authority" or "industrial and commercial development authority"

means a public instrumentality of the Commonwealth and a body politic and corporate, created pursuant to this act.

"Board" means the governing body of an authority.

"Bonds" means and includes the notes, bonds, refunding notes and bonds and other evidence of indebtedness or obligations which each authority is authorized to issue pursuant to section 6 (b) (10) of this act.

"Certain transportation facilities" means airports, docks, wharves, mass commuting facilities, public parking facilities, inter modal transportation facilities, or storage or training facilities directly related to any such facility.

"Commercial enterprise" means an enterprise other than a specialized enterprise or industrial enterprise which by its nature or size requires substantial capital and which by its nature or size has created, or offers reasonable likelihood of creating, substantial employment opportunities. The term "commercial enterprise" may include wholesale, retail and other mercantile activities, office buildings, hotel or motel structures, shopping centers, department stores and international, national and regional headquarters facilities: Provided, however, That with respect to redevelopment pursuant to a redevelopment proposal, there shall be no requirement concerning substantiality of capital nor substantiality of creation of employment opportunities.

"Construction" and "to construct" mean and include the acquisition, erection, extension, renovation, enlargement or substantial repair of structures employed in, or related to, activities comporting with the intent of this act, and also include activities substantially related to such acquisition, erection, extension, renovation, enlargement or substantial repair of structures employed in, or related to, such activities.

"Cost of the industrial development project, specialized development project or commercial development project" or "cost of the project" or "cost" means and includes the expense of construction, the expense of acquisition of all structures, lands and other property rights and interests in land necessary to the project. The terms also include the expense of demolishing, removing or relocating any buildings or structures on lands acquired or to be acquired, including the expense of acquiring any lands to which such buildings or structures may be moved or relocated, the expense of sewage treatment, waste treatment and pollution control facilities, railroad sidings, spurs, or branch lines and of all labor, materials, machinery and equipment, financing charges, interest on all bonds prior to and during construction, and for a period of six months thereafter, cost of engineering, financial and legal services, plans, specifications, studies, surveys necessary or incidental to determining the feasibility or practicability of constructing an industrial, specialized, or commercial development project, administrative expenses, reserves for interest and for extensions,

enlargements, additions and improvements, and such other expenses as may be necessary or incidental to the construction of industrial, specialized, or commercial development projects and the placing of the same in operation.

“Disaster relief project” means any undertaking to rehabilitate, repair, reconstruct, clean up, replace or otherwise return to economic use any land, site, structure, or facility, including machinery, equipment and tools damaged or lost due to disaster of flood or fire or other casualty comprising or being a part of an industrial, specialized or commercial enterprise. In order to qualify as a disaster relief project, a project must be located within a county designated as a disaster area by the President of the United States.

“Energy conversion facility” means an improvement to an industrial, commercial, or specialized development project which changes its fuel consumption capability to a fuel determined by the authority, with the approval of the secretary to be more desirable than the fuel used by the occupant of the project at the time application is made to the authority.

“Energy producing activity” means an activity to create, extract, transmit, or store energy or energy producing substances, including, but not limited to coal mine operations, oil and gas operations, solar, nuclear, or geothermal energy operations, except the production of electrical energy by a utility activity.

“Federal agency” means and includes the United States of America, the President of the United States of America, and any department of or corporation, agency or instrumentality heretofore or hereafter created, designated or established by the United States of America.

“Governmental body” or “governmental bodies” means the body or board authorized by law to enact ordinances or adopt resolutions for the particular municipality.

“Improvement” and “to improve” mean and include construction and other changes determined by an authority with the approval of the secretary to comport with the purposes of this act.

“Industrial development project,” “specialized development project,” “commercial development project,” “development project” or “project” means any pollution control facilities or any combination or part of buildings or facilities occupied or utilized by an industrial, specialized, or commercial enterprise located within or without, or partially within or without, the municipality creating the authority, or existing or hereafter acquired or constructed by the authority pursuant to the terms of this act, including any or all buildings, improvements, additions, extensions, replacements, appurtenances, lands, rights in land, water rights, franchises, machinery, equipment, furnishings, landscaping, utilities, railroad spurs and sidings, wharves, approaches and roadways necessary or desirable in connection therewith or incidental thereto. The term “development project” includes, as well, pollution control facilities

occupied or utilized by any utility activity, agricultural activity or any person, partnership, or corporation engaged in the extraction of any mineral coal, natural gas, oil or other natural resources.

“Industrial enterprise” means an enterprise other than a specialized enterprise or commercial enterprise which by its nature or size requires substantial capital and which by its nature or size has created or offers a reasonable likelihood of creating substantial employment opportunities. The term “industrial enterprise” may include manufacturing activities and research and development activities, as well as warehouse facilities, distribution facilities, and international, national and regional headquarters facilities. The term “industrial enterprise” also includes activities directly related to tourism and recreational facilities, provided that such activities comprise or are part of a planned or established tourist or recreational complex.

“Industrial parks” means land areas acquired (including existing buildings and improvements), and improvements to be placed thereon by a nonprofit development organization in accordance with plans and specifications approved by the secretary as sites for the establishment thereon of two or more industrial, specialized, or commercial development projects.

“Investor-developer” means any person, partnership or corporation engaged in the development for use by occupants of one or more development projects and determined by the authority to be financially responsible to assume all obligations prescribed by the authority and this act in the acquisition, development, construction, leasing, sale, operation and financing in whole or in part of a development project.

“Manufacturing activity” means the giving of new shapes, new qualities or new combinations to matter by the application of skill and labor thereto through the use of equipment or otherwise.

“Municipality” means any county, city, town, borough or township of the Commonwealth of Pennsylvania, each of which political subdivisions are separate incorporated municipalities of the Commonwealth of Pennsylvania for the purposes of this act.

“Nursing home” means any facility licensed or approved as a nursing home by the Department of Public Welfare or by the Department of Health.

“Occupant” means any person, partnership, or corporation engaged in an industrial, commercial or specialized enterprise and determined by the authority to be financially responsible to assume all obligations prescribed by the authority and this act in the lease, sale, and operation of a development project. The term “occupant” shall also mean a financially responsible nonprofit development agency engaged in establishing development projects, whether for single or multiple occupancy for use by any person, partnership, or corporation engaged in any enterprise.

“Pollution control facilities” means any property, real or personal, which is to be used to abate or reduce or aid in the prevention, control, disposal or monitoring of noise, air, water or thermal pollution, solid waste or other pollutants without limitation thereto and may include property or equipment which is to be installed primarily to supplement or to replace existing property or equipment not meeting acceptable pollution control standards or which is to be supplemented or replaced to comply with an order or citation to eliminate pollution issued by any Federal, State or local agency having jurisdiction.

“Redevelopment proposal” means a proposal, including a copy of the redevelopment area plan and supporting data submitted for approval to the governing body by an authority, for the development of all or any part of a redevelopment area.

“Research and development activity” means an activity for the discovery of new and the refinement of known substances, processes, products, theories and ideas, but shall not include activities directed primarily to the accumulation or analysis of commercial, financial or mercantile data.

“Secretary” means the Secretary of Commerce of the Commonwealth.

“Specialized enterprise” means an enterprise, other than an industrial enterprise, or a commercial enterprise, which by its nature or size requires substantial capital. The term “specialized enterprise” includes, and is expressly limited to, certain transportation facilities, nursing homes, industrial parks, facilities for the furnishing by a utility activity of gas or water available on reasonable demand to members of the general public, energy conversion facilities, energy-producing activities, and the construction of rail sidings, spurs, and branch lines.

“Utility activity” means any public or private company or corporation engaged primarily in an activity regulated by the Pennsylvania Public Utility Commission.

Section 5. Subsection (a), clauses (8), (9) and (16) of subsection (b) and subsection (d) of section 6 of the act, subsection (a) and clauses (1), (2) and (4) of subsection (d) amended December 29, 1971 (P.L.647, No.171), and clauses (8), (9) and (16) of subsection (b) amended December 29, 1972 (P.L.1675, No.359), are amended to read:

Section 6. Purposes and Powers; General.—(a) Every authority incorporated under this act shall be a public instrumentality of the Commonwealth and a public body corporate and politic, and shall be for the purpose of acquiring, holding, constructing, improving, maintaining, owning, financing and leasing, either in the capacity of lessor or lessee, industrial, *specialized* or commercial development projects. In the event of default by an [industrial or commercial] occupant, an authority may, in its discretion, do any and all acts necessary or convenient to protect the holders of any bonds issued to

establish such project or to maintain and preserve the project pending the remedying of such default or defaults or the obtaining of a new **[industrial or commercial]** occupant.

(b) Every authority is hereby granted, and shall have and may exercise all powers necessary or convenient for the carrying out of the aforesaid purposes, including but without limiting the generality of the foregoing, the following rights and powers:

* * *

(8) To enter into acquisition agreements providing for (i) the construction of industrial, *specialized*, or commercial development projects by either the authority or the **[industrial or commercial]** occupant; (ii) the financing of industrial, *specialized* and commercial development projects to be constructed initially by an **[industrial or commercial]** occupant if prior to the commencement of construction an *agreement as to financing* is entered into between the authority and the **[industrial or commercial]** occupant; (iii) the financing of improvements to existing industrial, *specialized* or commercial development projects if the existing project is owned by the authority or will be conveyed in fee to the authority, free and clear of all encumbrances and without consideration; (iv) the leasing or sale of the industrial, *specialized* or commercial development projects to the **[industrial or commercial]** occupants or to an investor-developer as hereinafter provided; and (v) the financing of the activities of investor-developers in any activity set forth in (i), (ii), (iii) or (iv) above.

(9) To enter into agreements of lease or sale with **[industrial or commercial]** occupants or investor-developers providing, inter alia, (i) for the leasing or sale of industrial, *specialized* and commercial development projects to the **[industrial or commercial]** occupants or investor-developers for a term of years not to extend beyond the term of existence of the authority; (ii) for a rental or other payments sufficient to amortize the principal, interest and premium, if any, of all bonds and other obligations of the authority incurred to pay the costs of the industrial, *specialized* or commercial development project to be leased or sold; (iii) for the **[industrial or commercial]** occupant or investor-developer to pay to the authority or to otherwise assume and pay all other costs of maintaining and operating the project; (iv) provisions, if deemed desirable, that the **[industrial or commercial]** occupant or investor-developer of a project pursuant to a lease shall have the options to renew such lease or to purchase any or all of such project; **[or upon payment of all bonds and other obligations of the authority incurred with respect to such project, the authority may convey any part or all of said project to the industrial or commercial occupants or investor-developers with or without consideration; and]** (v) *for conveyance with or without consideration of any part, or all, of a project to occupants or investor-developers on or before payment of all bonds and other obligations of the authority incurred with respect to such project; and*

(vi) such other provisions as are customary in such leases or agreements of sale or as may be deemed necessary or convenient by the authority.

* * *

(16) Recognizing the necessity for enterprises to immediately commence rehabilitation work and pollution control facilities, no disaster relief project or project consisting of pollution control facilities shall be rejected by the Secretary of Commerce or be otherwise disqualified under this act on the grounds that the project has commenced or has been completed, provided that in respect to a disaster relief project an application for approval by the secretary is submitted to the Department of Commerce [**prior to January 1, 1973**] *within six months after the county in which the project is or will be located has been designated as a disaster area by the President of the United States.*

* * *

(d) An authority created hereunder shall have no power to:

(1) Construct or finance or aid in the construction or financing of an industrial, *specialized*, or commercial development project which shall cause the removal of a manufacturing, industrial, *specialized*, commercial [**or research**] *enterprise*, plant, facility or establishment from one area of the Commonwealth of Pennsylvania to another area of the Commonwealth.

(2) Acquire existing industrial, *specialized*, or commercial development projects under circumstances which would be primarily for the purpose of directly or indirectly refinancing the obligations of or providing working capital or other funds for any industrial, *specialized*, or commercial [**manufacturing or research**] *enterprise* or any parent, subsidiary, affiliate or shareholder thereof, which *enterprise*, or any parent, subsidiary, affiliate or shareholder thereof, would thereafter continue to occupy or utilize said project; however, this limitation shall not apply to refinancing in order to improve an existing project now financed by the authority or by any authority or nonprofit corporation heretofore recognized as agency or an instrumentality of the Commonwealth or any municipality thereof.

(3) Enter into any agreement to finance the acquisition or construction of an industrial development project in excess of the cost of the project.

(4) Finance machinery or equipment except in conjunction with the construction of a new, or the improvement of an existing industrial, *specialized*, or commercial development project, but such prohibition shall not relate to the financing of pollution control facilities; or

(5) Engage in business, trade or commerce for a profit as lessee of a project, or otherwise.

Section 6. Subsections (c) and (f) of section 7 of the act, subsection (c) amended December 29, 1971 (P.L.647, No.171), and subsection (f) amended December 29, 1972 (P.L.1675, No.359), are amended to read.

Section 7. Purposes and Powers; Bonds.—* * *

(c) Any resolution or resolutions authorizing any bonds may contain provisions which shall be part of the contract with the holders thereof, as to (i) pledging the full faith and credit of the authority (but not of the Commonwealth of Pennsylvania or any political subdivision thereof) for such obligations, or restricting the same to all or any of the assets or to all or any of the revenues or receipts of the authority from all or any projects or properties; (ii) the construction, improvement, operation, extension, enlargement, maintenance and repair of the project and the duties of the authority and the **[industrial or commercial]** occupant with reference thereto; (iii) the terms and provisions of the bonds; (iv) limitations on the purposes to which the proceeds of the bonds then or thereafter to be issued, or of any loan or grant by a Federal agency may be applied; (v) the rentals and other charges for use of the project; (vi) the setting aside of reserves or sinking funds and the regulation and disposition thereof; (vii) limitations on the issuance of additional bonds; (viii) the terms and provisions of any deed of trust, mortgage or indenture securing the bonds, or under which the same may be issued, and (ix) any other or additional agreements with the holders of the bonds.

* * *

(f) No bonds shall be issued and sold and the construction of a project shall not be commenced until the proceedings to be undertaken in respect of the issuance and sale of the bonds and the construction of the project have been first approved by the secretary: Provided, That construction of disaster relief projects and projects consisting of pollution control facilities may be commenced prior to the approval of the secretary: And provided further, That in respect to disaster relief projects, an application for approval in respect thereof is submitted to the secretary **[prior to January 1, 1973] within six months after the county in which the project is or will be located has been designated as a disaster area by the President of the United States.** The chairman of the authority shall cause to be certified under seal of the authority and delivered to the secretary such documents relating to the proceedings as may be necessary and as may be required by the secretary to enable him to determine that:

- (1) The project does not violate section 6 (d) hereof;
- (2) The lease or agreement of sale is in accordance with section 6 (b) (9) hereof;
- (3) The proceedings are in conformity with this act, and
- (4) The industrial, *specialized*, and commercial development project will accomplish the public purposes of this act.

If such proceedings are found to be in conformity with this act, the secretary shall within twenty days after receipt thereof approve the same and certify his approval to the authority.

If, upon examination, the secretary shall find that such proceedings are not in accordance with this act, he shall disapprove the same and shall within twenty days after receipt thereof certify his disapproval to the authority; thereafter, it shall be unlawful for such authority to issue any bonds upon such proceedings or to commence construction of the project unless the proceedings are corrected and as corrected have been approved by the secretary. If the secretary shall not have approved or disapproved the proceedings within such twenty days the same shall be deemed to have been approved. The decision of the secretary shall be final.

* * *

Section 7. Section 11 of the act, amended December 29, 1971 (P.L.647, No.171), is amended to read:

Section 11. Transfer of Existing Facilities to Authority.—Any municipality may, and it is hereby authorized to sell, lease, grant, convey and transfer to any authority, any facilities, or any interest in real or personal property available for industrial, *specialized*, or commercial development projects. This section without reference to any other law, shall be deemed complete, the provisions of other laws to the contrary notwithstanding.

Section 8. Subsection (a) of section 12 of the act, amended December 29, 1972 (P.L.1675, No.359), is amended to read:

Section 12. Competition in Award of Contracts.—(a) All construction, reconstruction, repairs or work of any nature made directly by any authority where the entire cost, value or amount of such construction, reconstruction, repairs or work, including labor and materials, shall exceed five thousand dollars (\$5,000), except construction, reconstruction, repairs or work done by employes of said authority, or by labor supplied under agreement with any Federal or State agency, with supplies and materials purchased as hereinafter provided, shall be done only under contract or contracts to be entered into by the authority with the lowest responsible bidder upon proper terms, after due public notice has been given asking for competitive bids as hereinafter provided: Provided, however, That where the authority is the legal title holder to the industrial, *specialized*, or commercial development project, and there exists an agreement whereby an [industrial or commercial] occupant or an investor-developer will or can acquire legal title to the said project under the then certain terms and conditions, contracts for construction, reconstruction, repair, or work of any nature, or purchase of machinery and equipment, may be awarded by the [industrial or commercial] occupant or the investor-developer without regard to the limitations of this section 12: And provided further, however, That for the purposes of this section 12, "construction" or "*acquisition*" shall not include acquisition of property for industrial, *specialized*, or commercial development purposes. No

contract shall be entered into between an authority and a contractor for construction or improvement or repair of any project or portion thereof, unless the contractor shall give an undertaking with a sufficient surety or sureties approved by the authority, and in an amount fixed by the authority, for the faithful performance of the contract. All contracts of surety shall provide among other things that the contractor entering into a contract with the authority will pay for all materials furnished and services rendered for the performance of the contract, and that any person or corporation furnishing such materials or rendering such services may maintain an action to recover for the same against the obligor in the undertaking, as though such person or corporation was named therein, provided the action is brought within one year after the time the cause of action accrued.

* * *

Section 9. Subsection (f) of section 12 of the act, amended December 29, 1971 (P.L.647, No.171), is amended to read:

Section 12. Competition in Award of Contracts.—* * *

(f) The provisions of this section 12 shall not apply in respect of the construction of any project or the purchase of any equipment, materials or supplies which the authority may have had transferred to it upon completion, by purchase or otherwise, by an [industrial or commercial] occupant or any other person or corporation.

Section 10. Section 15 of the act is amended to read:

Section 15. Exemption From Taxation.—The effectuation of the authorized purpose of authorities created under this act shall and will be in all respects for the benefit of the people of the Commonwealth of Pennsylvania, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions; and, since they will as public instrumentalities of the Commonwealth be performing essential governmental functions in effectuating such purposes, authorities shall not be required to pay any taxes or assessments upon any property acquired or used by them for such purposes, and the bonds issued by any authority, their transfer and the income therefrom, (including any profits made on the sale thereof) shall at all times be free from taxation within the Commonwealth of Pennsylvania. *The scope of the foregoing exemption from taxation includes, but is not limited to, property taxes, excise taxes for the privilege of doing business, and taxes measured or determined by income or net earnings.*

Section 11. This act shall take effect immediately.

APPROVED—The 19th day of December, A. D. 1975.

MILTON J. SHAPP