

CHAPTER 415
(CORRECTED COPY)

AN ACT concerning the New Jersey Educational Facilities Authority, revising parts of statutory law, and supplementing chapter 72A of Title 18A of the New Jersey Statutes.

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

1. N.J.S.18A:72A-1 is amended to read as follows:

Preamble, purpose of chapter.

18A:72A-1. It is hereby declared that a serious public emergency exists affecting and threatening the welfare, comfort, health, safety and prosperity of the people of the state and resulting from the fact that financial resources are lacking with which to construct required dormitory and other educational facilities at public and private institutions of higher education and that there is a shortage of working capital for the development, establishment, and operation of public and private institutions of higher education; that it is essential that this and future generations of youth be given the fullest opportunity to learn and to develop their intellectual and mental capacities; that it is essential that institutions of higher education within the state be provided with appropriate additional means to assist such youth in achieving the required levels of learning and development of their intellectual and mental capacities; that it is essential that all resources of the state be employed in order to meet the tremendous demand for higher educational opportunities; that all institutions of higher education in the state, both public and private, are an integral part of the total educational effort in the state for providing higher educational opportunities, and that it is the purpose of this chapter to provide a measure of assistance and an alternative method to enable institutions of higher education in the state to provide the facilities which are sorely needed to accomplish the purposes of this chapter and to provide working capital to public and private institutions of higher education, all to the public benefit and good, to the extent and manner provided herein.

2. N.J.S.18A:72A-3 is amended to read as follows:

Definitions.

18A:72A-3. As used in this act, the following words and terms shall have the following meanings, unless the context indicates or requires another or different meaning or intent:

“Affiliate” means a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, a private college, a private institution of higher education, a public institution of higher education, a school, or a university, or a nonprofit organization exempt from federal tax under section 501(c)(3) of the Internal Revenue Code designated for the purpose of supporting an institution of higher education;

"Authority" means the New Jersey Educational Facilities Authority created by this chapter or any board, body, commission, department or officer succeeding to the principal functions thereof or to whom the powers conferred upon the authority by this chapter shall be given by law;

"Bond" means bonds or notes of the authority issued pursuant to this chapter;

“Control” means the power of the authority to manage, direct, superintend, restrict, regulate, govern, administer, or oversee;

"County college capital project" means any capital project of a county college certified pursuant to section 2 of P.L.1971, c.12 (C.18A:64A-22.2) and approved by the State Treasurer for funding pursuant to the "County College Capital Projects Fund Act," P.L.1997, c.360 (C.18A:72A-12.2 et seq.);

"Dormitory" means a housing unit with necessary and usual attendant and related facilities and equipment, and shall include a dormitory of a public or private school, or of a public or private institution of higher education;

"Educational facility" means a structure suitable for use as a dormitory, dining hall, student union, administration building, academic building, library, laboratory, research facility, classroom, athletic facility, health care facility, teaching hospital, and parking maintenance storage or utility facility and other structures or facilities related thereto or required or useful for the instruction of students or the conducting of research or the operation of a participating institution, and public libraries, and the necessary and usual attendant and related facilities and equipment, but shall not include any facility used or to be used for sectarian instruction or as a place for religious worship;

"Emerging needs program" means a program at one or more public or private institutions of higher education directed to meeting new and advanced technology needs or to supporting new academic programs in science and technology;

"Higher education equipment" means any property consisting of, or relating to, scientific, engineering, technical, computer, communications or instructional equipment;

"Participating institution" means a private college, a private institution of higher education, a public institution of higher education, a school, a university, or an affiliate, which, pursuant to the provisions of this chapter, participates with the authority in undertaking the financing and construction or acquisition of a project;

"Private college" means an institution for higher education other than a public college which, by virtue of law or charter, is a nonprofit educational institution empowered to provide a program of education beyond the high school level and is situated within the State or, if incorporated and located outside of the State, the project for which assistance is provided by the authority is located within the State;

"Private institution of higher education" means independent colleges or universities incorporated and located in New Jersey, which by virtue of law or character or license, are nonprofit educational institutions authorized to grant academic degrees and which provide a level of education which is equivalent to the education provided by the State's public institutions of higher education as attested by the receipt of and continuation of regional accreditation by the Middle States Association of Colleges and Schools, and which are eligible to receive State aid;

"Project" means (1) a dormitory or an educational facility or any combination thereof; (2) a county college capital project; or (3) the provision of working capital;

"Public institution of higher education" means Rutgers, The State University, the State colleges, the New Jersey Institute of Technology, Rowan University, Montclair State University, Kean University, the county colleges and any other public university or college now or hereafter established or authorized by law;

"School" means a secondary school, military school, or boarding school;

"University" means Rutgers, The State University; and

"Working capital" means, with respect to any participating institution, funds to be used in, or reserved for, the operation of the participating institution.

3. N.J.S.18A:72A-4 is amended to read as follows:

“New Jersey education facilities authority.”

18A:72A-4. (a) There is hereby established in but not of the Department of the Treasury a public body corporate and politic, with corporate succession to be known as the "New Jersey educational facilities authority." Notwithstanding this allocation, the authority shall be independent of any supervision or control by the department or any officer thereof. The authority shall constitute a political subdivision of the State established as an instrumentality exercising public and essential governmental functions, and the exercise by the authority of the powers conferred by this chapter shall be deemed and held to be an essential governmental function of the State.

(b) The authority shall consist of seven members, two of whom shall be the Secretary of Higher Education, ex officio, and the State Treasurer, ex officio, or when so designated by them, their deputies and five citizens of the State to be appointed by the Governor with the advice and consent of the Senate for terms of five years; provided that the terms of the members first appointed shall be arranged by the Governor so that one of such terms shall expire on April 30 in each successive year ensuing after such appointments. Members shall hold office for the term of their appointments and shall continue to serve during the term of their successors unless and until his successor shall have been appointed and qualified. Any vacancy among the members appointed by the Governor shall be filled by appointment for the unexpired term only. A member of the authority shall be eligible for reappointment.

(c) Any member of the authority appointed by the Governor may be removed from office by the Governor for cause after a public hearing.

(d) The members of the authority shall serve without compensation, but the authority may reimburse its members for necessary expenses incurred in the discharge of their duties.

(e) The authority, upon the first appointment of its members and thereafter on or after April 30 in each year, shall annually elect from among its members a chairman and a vice chairman who shall hold office until April 30 next ensuing and shall continue to serve during the terms of their respective successors unless and until their respective successors shall have been appointed and qualified. The authority may also appoint, retain and employ, without regard to the provisions of Title 11, Civil Service, of the Revised Statutes, such officers, agents, employees and experts as it may require, and it shall determine their qualifications, terms of office, duties, services and compensation.

(f) The powers of the authority shall be vested in the members thereof in office from time to time and a majority of the total authorized membership of the authority shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the authority at any meeting thereof by the affirmative vote of a majority of the members present, unless in any case the bylaws of the authority shall require a larger number. No vacancy in the membership of the authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the authority.

(g) Before the issuance of any bonds under the provisions of this chapter, the members and the officer of the authority charged with the handling of the authority's moneys shall be covered by a surety bond or bonds in a penal sum of not less than \$25,000.00 per person conditioned upon the faithful performance of the duties of their respective offices, and executed by a surety company authorized to transact business in the State of New Jersey as surety. Each such bond shall be submitted to the Attorney General for his approval and upon his approval shall be filed

in the Office of the Secretary of State prior to the issuance of any bonds by the authority. At all times after the issuance of any bonds by the authority the officer of the authority and each member charged with the handling of the authority's moneys shall maintain such surety bonds in full force and effect. All costs of such surety bonds shall be borne by the authority.

(h) Notwithstanding any other law to the contrary, it shall not be or constitute a conflict of interest for a trustee, director, officer or employee of a participating institution to serve as a member of the authority; provided such trustee, director, officer or employee shall abstain from discussion, deliberation, action and vote by the authority under this chapter in specific respect to such participating institution of which such member is a trustee, director, officer or employee.

(i) A true copy of the minutes of every meeting of the authority shall be forthwith delivered by and under the certification of the secretary thereof, to the Governor. No action taken at such meeting by the authority shall have force or effect until 10 days, Saturdays, Sundays and public holidays excepted, after such copy of the minutes shall have been so delivered. If, in said 10-day period, the Governor returns such copy of the minutes with veto of any action taken by the authority or any member thereof at such meeting, such action shall be null and of no effect. If the Governor shall not return the minutes within said 10-day period, any action therein recited shall have force and effect according to the wording thereof. At any time prior to the expiration of the said 10-day period, the Governor may sign a statement of approval of any such action of the authority, in which case the action so approved shall not thereafter be disapproved.

The powers conferred in this subsection (i) upon the Governor shall be exercised with due regard for the rights of the holders of bonds of the authority at any time outstanding, and nothing in, or done pursuant to, this subsection (i) shall in any way limit, restrict or alter the obligation or powers of the authority or any representative or officer of the authority to carry out and perform in every detail each and every covenant, agreement or contract at any time made or entered into by or on behalf of the authority with respect to its bonds or for the benefit, protection or security of the holders thereof.

4. N.J.S.18A:72A-5 is amended to read as follows:

Authority's powers.

18A:72A-5. The authority shall have power:

- (a) To adopt bylaws for the regulation of its affairs and the conduct of its business;
- (b) To adopt and have an official common seal and alter the same at pleasure;
- (c) To maintain an office at such place or places within the State as it may designate;
- (d) To sue and be sued in its own name, and plead and be impleaded;
- (e) To borrow money and to issue bonds and notes and other obligations of the authority and to provide for the rights of the holders thereof as provided in this chapter;
- (f) To acquire, lease as lessee, hold and dispose of real and personal property or any interest therein, in the exercise of its powers and the performance of its duties under this chapter;
- (g) To acquire in the name of the authority by purchase or otherwise, on such terms and conditions and in such manner as it may deem proper, or by the exercise of the power of eminent domain, any land or interest therein and other property which it may determine is reasonably necessary for any project, including any lands held by any county, municipality or

other governmental subdivision of the State; and to hold and use the same and to sell, convey, lease or otherwise dispose of property so acquired, no longer necessary for the authority's purposes; and when the term of a lease agreement with a participating institution has expired or the property acquired is no longer subject to any lease agreement and no bond proceeds remain outstanding with respect to the property, and the participating institution shall have complied with all applicable terms of the lease agreement and any other agreement for any other authority bonds with respect to the property, the authority or its designee may transfer all of its rights, title and interest in and to the property to the participating institution who entered into the lease agreement with the authority;

(h) To receive and accept, from any federal or other public agency or governmental entity, grants or loans for or in aid of the acquisition or construction of any project, and to receive and accept aid or contributions from any other source, of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which such grants, loans and contributions may be made;

(i) To prepare or cause to be prepared plans, specifications, designs and estimates of costs for the construction and equipment of projects for participating institutions under the provisions of this chapter, and from time to time to modify such plans, specifications, designs or estimates;

(j) By contract or contracts or by its own employees to construct, acquire, reconstruct, rehabilitate and improve, and furnish and equip, projects for participating institutions; however, in any contract or contracts undertaken by the authority for the construction, reconstruction, rehabilitation or improvement of a project for any public institution of higher education where the cost of such work will exceed \$25,000, the contracting agent shall advertise for and receive in the manner provided by law:

(1) separate bids for branches of work in the following categories:

(a) the plumbing and gas fitting work;

(b) the refrigeration, heating and ventilating systems and equipment;

(c) the electrical work, including any electrical power plants, tele-data, fire alarm, or security system;

(d) the structural steel and ornamental iron work;

(e) general construction, which shall include all other work and materials required for the completion of the project, or

(2) bids for all work and materials required to complete the entire project if awarded as a single contract; or

(3) both (1) and (2) above.

In the case of separate bids pursuant to paragraph (1) or (3) of this subsection, prime contractors shall not be required to name subcontractors for categories (a) through (d) in their bid. In the case of a single bid under paragraph (2) or (3), all bids submitted shall set forth the names and license numbers of, and evidence of performance security from, all subcontractors to whom the general contractor will subcontract the work described in the foregoing categories (a) through (d) in paragraph (1). Subcontractors who furnish non-specialty trade work pursuant to category (e), or subcontractors who furnish work to named subcontractors pursuant to categories (a) through (d), shall not be named in the bid. Notwithstanding the foregoing provisions of this subsection, an authority may choose to require in its bid specification that a subcontractor shall be named in a bid when, in the case of paragraph (1), separate bids for each

category, the work of that subcontractor exceeds 35 percent of the authority's estimated amount of value of the work, which shall be set forth in the bid specification.

Contracts shall be awarded to the lowest responsible bidder whose bid, conforming to the invitation for bids, will be the most advantageous to the authority;

(k) To determine the location and character of any project to be undertaken pursuant to the provisions of this chapter, and to construct, reconstruct, maintain, repair, operate, lease, as lessee or lessor, and regulate the same; to enter into contracts for any or all such purposes; to enter into contracts for the management and operation of a project, and to designate a participating institution as its agent to determine the location and character of a project undertaken by such participating institution under the provisions of this chapter and, as the agent of the authority, to construct, reconstruct, maintain, repair, operate, lease, as lessee or lessor, and regulate the same, and, as agent of the authority, to enter into contracts for any and all such purposes including contracts for the management and operation of such project;

(l) To establish rules and regulations for the use of a project or any portion thereof and to designate a participating institution as its agent to establish rules and regulations for the use of a project undertaken by such participating institution;

(m) Generally to fix and revise from time to time and to charge and collect rates, rents, fees and other charges for the use of and for the services furnished or to be furnished by a project or any portion thereof and to contract with holders of its bonds and with any other person, party, association, corporation or other body, public or private, in respect thereof;

(n) To enter into any and all agreements or contracts, execute any and all instruments, and do and perform any and all acts or things necessary, convenient or desirable for the purposes of the authority or to carry out any power expressly given in this chapter;

(o) To invest any moneys held in reserve or sinking funds, or any moneys not required for immediate use or disbursement, at the discretion of the authority, in such obligations as are authorized by law for the investment of trust funds in the custody of the State Treasurer;

(p) To enter into any lease relating to higher education equipment with a public or private institution of higher education pursuant to the provisions of P.L.1993, c.136 (C.18A:72A-40 et al.);

(q) To enter into loan agreements with any county, to hold bonds or notes of the county evidencing those loans, and to issue bonds or notes of the authority to finance county college capital projects pursuant to the provisions of the "County College Capital Projects Fund Act," P.L.1997, c.360 (C.18A:72A-12.2 et seq.);

(r) To issue bonds and notes and other obligations of the authority under the direction of law for the purpose of providing financial assistance for the installation of fire prevention and safety systems in dormitories;

(s) To consider and review public-private partnership agreements for certain building projects entered into by a private entity and the New Jersey Institute of Technology pursuant to section 4 of P.L.2018, c.90 (C.18A:64E-33) or by a private entity and a State or county college pursuant to section 43 of P.L. 2009, c. 90 (C.18A:64-85), for the purposes set forth therein and to provide to a private entity that is a party to an agreement any tax exempt private activity bond financing, including but not limited to a loan of funds under terms and conditions established by the authority in consultation with the State Treasurer and as otherwise authorized under State or federal law;

(t) To enter into loan agreements with any public institution of higher education or any affiliate of a public institution of higher education, to hold bonds or notes of the public

institution of higher education evidencing these loans, and to issue bonds or notes of the authority in connection with the financing or refinancing of a project.

5. N.J.S.18A:72A-8 is amended to read as follows:

Issuance of negotiable bonds for corporate purpose.

18A:72A-8. (a) The authority is authorized from time to time to issue its negotiable bonds for any corporate purpose. In anticipation of the sale of such bonds the authority may issue negotiable bond anticipation notes and may renew the same from time to time, but the maximum maturity of any such note, including renewals thereof, shall not exceed five years from the date of issue of the original note. Such notes shall be paid from any revenues or other moneys of the authority available therefor and not otherwise pledged, or from the proceeds of sale of the bonds of the authority in anticipation of which they were issued. The notes shall be issued in the same manner as the bonds. Such notes and the resolution or resolutions authorizing the same may contain any provisions, conditions or limitations which a bond resolution of the authority may contain.

(b) Except as may otherwise be expressly provided by the authority, every issue of its bonds or notes shall be general obligations of the authority payable from any revenues or moneys of the authority, subject only to any agreements with the holders of particular bonds or notes pledging any particular revenues or moneys. Notwithstanding that bonds and notes may be payable from a special fund, they shall be fully negotiable within the meaning of Title 12A, the Uniform Commercial Code, of the New Jersey Statutes, subject only to the provisions of the bonds and notes for registration.

(c) The bonds may be issued as serial bonds or as term bonds, or the authority, in its discretion, may issue bonds of both types. The bonds shall be authorized by resolution of the members of the authority and shall bear such date or dates, mature at such time or times, not exceeding 50 years from their respective dates, bear interest at such rate or rates, be payable at such time or times, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, and be subject to such terms of redemption, as such resolution or resolutions may provide. The bonds or notes may be sold at public or private sale for such price or prices as the authority shall determine. Pending preparation of the definitive bonds, the authority may issue interim receipts or certificates which shall be exchanged for such definitive bonds.

(d) Any resolution or resolutions authorizing any bonds or any issue of bonds may contain provisions, which shall be a part of the contract with the holders of the bonds to be authorized, as to:

(i) pledging all or any part of the revenues of a project or any revenue-producing contract or contracts made by the authority with any individual, partnership, corporation or association or other body, public or private, to secure the payment of the bonds or of any particular issue of bonds, subject to such agreements with bondholders as may then exist;

(ii) the rentals, fees and other charges to be charged, and the amounts to be raised in each year thereby, and the use and disposition of the revenues;

(iii) the setting aside of reserves or sinking funds, and the regulation and disposition thereof;

(iv) limitations on the right of the authority or its agent to restrict and regulate the use of a project;

(v) limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the bonds or any issue of the bonds;

(vi) limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of outstanding bonds;

(vii) the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(viii) limitations on the amount of moneys derived from a project to be expended for operating, administrative or other expenses of the authority; and

(ix) defining the acts or omissions to act which shall constitute a default in the duties of the authority to holders of its obligations and providing the rights and remedies of such holders in the event of a default.

(e) Neither the members of the authority nor any person executing the bonds or notes shall be liable personally on the bonds or notes or be subject to any personal liability or accountability by reason of the issuance thereof.

(f) The authority shall have power out of any funds available therefor to purchase its bonds or notes. The authority may hold, pledge, cancel or resell such bonds, subject to and in accordance with agreements with bondholders.

(g) In connection with any bonds or refunding bonds issued pursuant to this section, the authority may also enter into any revolving credit agreement; agreement establishing a line of credit or letter of credit; reimbursement agreement; bank loan agreement; interest rate exchange agreement; currency exchange agreement; interest rate floor or cap, option, put or call to hedge payment, currency, rate, spread or similar exposure, or similar agreement; float agreement; forward agreement; insurance contract; surety bond; commitment to purchase or sell bonds; purchase or sale agreement; or commitment or other contract or agreement and other security agreement approved by the authority.

6. N.J.S.18A:72A-11 is amended to read as follows:

Further powers of authority.

18A:72A-11. The authority is authorized to fix, revise, charge and collect rates, rents, fees and charges for the use of and for the services furnished or to be furnished by each project and to contract with any person, partnership, association or corporation, or other body, public or private, in respect thereof. Such rates, rents, fees and charges shall be fixed and adjusted in respect of the aggregate of rents, rates, fees and charges from such project so as to provide funds sufficient with other revenues or moneys, if any:

(a) to pay the cost of maintaining, repairing and operating the project and each and every portion thereof, to the extent that the payment of such cost has not otherwise been adequately provided for;

(b) to pay the principal of and the interest on outstanding bonds of the authority issued in respect of such project as the same shall become due and payable; and

(c) to create and maintain reserves required or provided for in any resolution authorizing, or trust agreement securing, such bonds of the authority.

Such rates, rents, fees and charges shall not be subject to supervision or regulation by any department, commission, board, body, bureau or agency of this state other than the authority.

A sufficient amount of the revenues derived in respect of a project, except such part of such revenues as may be necessary to pay the cost of maintenance, repair and operation and to provide reserves for renewals, replacements, extensions, enlargements and improvements as may be provided for in the resolution authorizing the issuance of any bonds of the authority or in the trust agreement securing the same, shall be set aside at such regular intervals as may be provided in such resolution or trust agreement in a sinking or other similar fund which is hereby pledged to, and charged with, the payment of the principal of and the interest on such bonds as the same shall become due, and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made; the rates, rents, fees and charges and other revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the authority. The use and disposition of moneys to the credit of such sinking or other similar fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust agreement. Except as may otherwise be provided in such resolution or such trust agreement, such sinking or other similar fund shall be a fund for all such bonds issued to finance projects at a participating institution without distinction or priority of one over another; provided the authority in any such resolution or trust agreement may provide that such sinking or other similar fund shall be the fund for a particular project at a participating institution and for the bonds issued to finance a particular project and may, additionally, permit and provide for the issuance of bonds having a subordinate lien in respect of the security herein authorized to other bonds of the authority and, in such case, the authority may create separate sinking or other similar funds in respect of such subordinate lien bonds.

7. Section 1 of P.L.1980, c.31 (C.18A:72A-11.1) is amended to read as follows:

C.18A:72A-11.1 Refinancing outstanding mortgages of private lenders.

1. In addition to other powers and duties which have been granted to the authority, whenever any participating institution has constructed or acquired any work or improvement or other project which would otherwise qualify under this act except for the fact that such construction, acquisition, or project was undertaken and financed without assistance from the authority, the authority may purchase such work or improvement, and lease the same to such participating institution, or may lend funds to such participating institution for the purpose of enabling the latter to retire obligations incurred for such construction or acquisition; except that the amount of any such price or loan shall not exceed the original project cost and administrative costs, reserves, and other costs associated with the retirement of such obligations. All powers, rights, obligations and duties granted to or imposed upon the authority, participating institutions, State departments and agencies or others by this chapter in respect to projects shall apply to the same extent with respect to transactions pursuant to this section; except that any action otherwise required to be taken at a particular time in the progression of a project may, where the circumstances are so required in connection with a transaction under this section, be taken with the same effect as if taken at that particular time.

8. N.J.S.18A:72A-19 is amended to read as follows:

Restriction on alteration of powers.

18A:72A-19. The state of New Jersey does pledge to and agree with the holders of the bonds, notes and other obligations issued pursuant to authority contained in this chapter, and with those parties who may enter into contracts with the authority pursuant to the provisions of this chapter, that the state will not limit, alter or restrict the rights hereby vested in the authority and the participating institutions to maintain, construct, reconstruct and operate any project as defined in this chapter or to establish and collect such rents, fees, receipts or other charges as may be convenient or necessary to produce sufficient revenues to meet the expenses of maintenance and operation thereof and to fulfill the terms of any agreements made with the holders of bonds authorized by this chapter, and with the parties who may enter into contracts with the authority pursuant to the provisions of this chapter, or in any way impair the rights or remedies of the holders of such bonds or such parties until the bonds, together with interest thereon, are fully paid and discharged and such contracts are fully performed on the part of the authority. The authority as a public body corporate and politic shall have the right to include the pledge herein made in its bonds and contracts.

9. N.J.S.18A:72A-26 is amended to read as follows:

Powers and duties of treasurer; institutions under State jurisdiction.

18A:72A-26. In order to provide new dormitories and to enable the construction and financing thereof, to refinance indebtedness hereafter created by the authority for the purpose of providing a dormitory or dormitories or additions or improvements thereto, or for any one or more of said purposes, but for no other purpose unless authorized by law, each of the following bodies shall have the powers hereafter enumerated to be exercised upon such terms and conditions, including the fixing of any consideration or rental to be paid or received, as it shall determine by resolution as to such property and each shall be subject to the performance of the duties hereafter enumerated, that is to say, the treasurer as to such as are located on land owned by the State or by the authority, the board of governors of the university, the board of trustees of the New Jersey Institute of Technology, Rowan University, Montclair State University, or Kean University, the board of trustees of a State college, the board of trustees of a county college, or the governing body of an affiliate of a public institution of higher education as to such as are located on land owned by the university or by the particular public institution of higher education respectively, namely:

a. The power to sell and to convey to the authority title in fee simple in any such land and any existing dormitories thereon owned by the State or owned by the board of trustees of a county college or the power to sell and to convey to the authority such title as the university or the college respectively may have in any such land and any existing dormitories thereon.

b. The power to lease to the authority or any other entity which is a participating institution any land and any existing dormitories thereon so owned for a term or terms not exceeding 50 years each.

c. The power to lease or sublease from the authority or any other entity which is a participating institution, and to make available, any such land and existing dormitories conveyed or leased to the authority or entity under subsections a. and b. of this section, and any new dormitories erected upon such land or upon any other land owned by the authority or

entity, any rentals to be payable, as to the university or as to any such college from available funds other than moneys appropriated to it by the State.

d. The power and duty, upon receipt of notice of any assignment by the authority or any other entity which is a participating institution of any lease or sublease made under subsection c. of this section, or of any of its rights under any such lease or sublease, to recognize and give effect to such assignment, and to pay to the assignee thereof rentals or other payments then due or which may become due under any such lease or sublease which has been so assigned by the authority or entity.

e. The power to enter into loan agreements with the authority in connection with the financing or refinancing of a project upon terms and conditions deemed necessary to effect the financing by the authority and the participating public institution of higher education or affiliate thereof.

10. N.J.S.18A:72A-27.1 is amended to read as follows:

Powers and duties, revenue-producing facilities.

18A:72A-27.1. In addition to the powers and duties with respect to dormitories given under N.J.S.18A:72A-26 and N.J.S.18A:72A-27 the treasurer, the board of governors of the university, the board of trustees of the New Jersey Institute of Technology, the board of trustees of a State college, the board of trustees of Rowan University, the board of trustees of Montclair State University, the board of trustees of Kean University, the board of trustees of a county college, and the governing body of an affiliate of a public institution of higher education shall also have the same power and be subject to the same duties in relation to any conveyance, lease or sublease made under subsection a., b., or c. of N.J.S.18A:72A-26 or loan agreement under subsection e. of N.J.S.18A:72A-26, with respect to revenue-producing facilities; that is to say, structures or facilities which produce revenues sufficient to pay the rentals due and to become due under any lease or sublease made under subsection c. of N.J.S.18A:72A-26 or loan payments due and to become due under any loan agreement made under subsection e. of N.J.S.18A:72A-26 including, without limitation, student unions and parking facilities.

11. Section 1 of P.L.1988, c.159 (C.18A:72A-27.2) is amended to read as follows:

C.18A:72A-27.2 Powers of board of trustees.

1. In addition to the powers and duties with respect to dormitories and revenue-producing facilities given under the provisions of this chapter, the board of trustees of a State college shall have the following powers with respect to any educational facility, as defined in N.J.S. 18A:72A-3:

a. To enter into any conveyance, lease, sublease, or loan agreement of the type provided for in N.J.S. 18A:72A-26, N.J.S.18A:72A-27, and N.J.S.18A:72A-27.1 with the authority, with respect to the acquisition, construction and financing of any educational facility;

b. To enter into any other agreement with the authority, with respect to the acquisition, construction or financing of an educational facility according to terms and conditions which the authority and the board of trustees shall determine in accordance with the powers of the authority;

c. To pledge and assign all or any part of any funds appropriated to the State college and available for the purposes provided in subsections a. and b. of this section or any other

available monies of the State college to the payment of any amount due and owing under any agreement made under subsections a. and b. of this section if that agreement expressly states that the payment of any and all amounts due and owing thereunder shall, to the extent the funds shall be derived from appropriations, depend on appropriations being made by the Legislature.

12. Section 2 of P.L.1988, c.159 (C.18A:72A-27.3) is amended to read as follows:

C.18A:72A-27.3 Submission of proposed projects to the Legislature.

2. The board of trustees of the public institution of higher education shall submit a copy of a resolution approving any non-revenue-producing facility project to the President of the Senate and the Speaker of the General Assembly and shall submit informational copies of the proposal to the members of the Senate Budget and Appropriations Committee and the Assembly Appropriations Committee and to the Secretary of Higher Education. The submission shall include all appropriate supporting information including, but not limited to, a description of the project, its impact, cost and construction schedule, and a detailed explanation of the sources of revenue which will be dedicated to the financing of the project. If the Legislature does not disapprove the proposal by the adoption of a concurrent resolution within 45 days, the proposal shall be deemed to be approved.

13. N.J.S.18A:72A-29 is amended to read as follows:

Lands, assets titled in name of State.

18A:72A-29. All lands and other assets real or personal presently titled in the name of the State Board of Higher Education or the State Department of Higher Education, which are occupied by a public institution of higher education shall be titled in the name of the State of New Jersey only. All conveyances, leases and subleases, pursuant to this chapter shall be made, executed and delivered in the name of the State and shall be signed by the State Treasurer and sealed with the seal of the State.

To the extent not otherwise expressly provided under existing law, all powers and duties conferred upon the university or an affiliate pursuant to this chapter shall be exercised and performed by resolution of its governing board and all powers and duties conferred upon any of said colleges pursuant to this chapter shall be exercised and performed by resolution of its board of trustees.

All conveyances, leases and subleases made pursuant to this chapter, when duly authorized by the university, shall be made, executed and delivered in the name of the university and shall be signed by its president or a vice president and sealed with the seal of the university and all conveyances, leases and subleases made pursuant to this chapter, when duly authorized by any of said colleges, shall be made, executed and delivered in the name of the college and shall be signed by the president or a vice president and sealed with the seal of the college.

14. N.J.S.18A:72A-30 is amended to read as follows:

Additional powers; private colleges.

18A:72A-30. In addition to the foregoing powers, the authority with respect to private colleges, shall have power:

(a) upon application of the private college to construct, acquire or otherwise provide projects for the use and benefit of the private college and the students, faculty and staff of such private college. The private college for which such a project is undertaken by the authority shall, if applicable, approve the plans and specifications and location of such project;

(b) to operate and manage any project provided pursuant to this section, or the authority may lease any such project to the private college for which such project is provided. At such time as the liabilities of the authority incurred for any such project have been met and the bonds of the authority issued therefor have been paid, or such liabilities and bonds have otherwise been discharged, the authority shall transfer title to all the real and personal property of such project vested in the authority, to the private college in connection with which such project is then being operated, or to which such project is then leased; provided, however, that if at any time prior thereto such private college ceases to offer educational facilities, then such title shall vest in the state of New Jersey.

Any lease of a project authorized by this section shall be a general obligation of the lessee except as the authority expressly agrees and may contain provisions, which shall be a part of the contract with the holders of the bonds of the authority issued for such project, as to:

(i) pledging all or any part of the moneys, earnings, income and revenues derived by the lessee from such project or any part or parts thereof, or other personal property of the lessee, to secure payments required under the terms of such lease;

(ii) the rates, rentals, fees and other charges to be fixed and collected by the lessee, the amounts to be raised in each year thereby, and the use and disposition of such moneys, earnings, income and revenues;

(iii) the setting aside of reserves and the creation of special funds and the regulation and disposition thereof;

(iv) the procedure, if any, by which the terms of such lease may be amended, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(v) vesting in a trustee or trustees such specified properties, rights, powers and duties as shall be deemed necessary or desirable for the security of the holders of the bonds of the authority issued for such projects;

(vi) the obligations of the lessee with respect to the replacement, reconstruction, maintenance, operation, repairs and insurance of such project;

(vii) defining the acts or omissions to act which shall constitute a default in the obligations and duties of the lessee, and providing for the rights and remedies of the authority and of its bondholders in the event of such default;

(viii) any other matters, of like or different character, which may be deemed necessary or desirable for the security or protection of the authority or the holders of its bonds.

15. N.J.S.18A:72A-31 is amended to read as follows:

Construction loans; terms.

18A:72A-31. The authority also shall have power:

(a) to make loans to any participating institution for the construction or acquisition of projects in accordance with a loan agreement and plans and specifications, as appropriate, approved by the authority. No such loan shall exceed the total cost of such project and the equipment therefor as determined by the authority. Each such loan shall be premised upon an

agreement between the authority and the participating institution as to payment, security, maturity, redemption, interest and other appropriate matters.

(b) to make loans to any participating institution to refund existing bonds, mortgages or advances given or made by such participating institution for the construction of projects to the extent that this will enable such participating institution to offer greater security for loans for new project construction or acquisition.

16. N.J.S.18A:72A-32 is amended to read as follows:

Power of private colleges to mortgage.

18A:72A-32. For the purpose of obtaining and securing loans under N.J.S.18A:72A-31 every participating institution shall, notwithstanding the provisions of any other law, have power to mortgage and pledge any of its real or personal property, and to pledge any of its income from whatever source to repay the principal of and interest on any loan made to it by the authority or to pay the interest on and principal and redemption premium, if any, of any note, bond or other evidence of indebtedness evidencing the debt created by any such loan; provided that the foregoing shall not be construed to authorize actions in conflict with specific legislation, trusts, endowment, or other agreements relating to specific properties or funds.

C.18A:72A-11.2 Loan agreement, provision of working capital to participating institution; terms.

17. A participating institution and the authority may enter into a loan agreement in connection with a project which includes the provision of working capital to such institution. In no event shall working capital be considered a non-revenue-producing facility under chapter 72A of Title 18A of the New Jersey Statutes. Any loan agreement entered into under the provisions of this section may contain the provisions as may be agreeable to the participating institution and the authority and as may be necessary or desirable to secure the loan, including, without limitation, provisions for the granting of a security interest in personal property or receivables or a mortgage on all or any portion of the real property of the participating institution.

18. This act shall take effect immediately.

Approved January 18, 2022.