

[First Reprint]

**ASSEMBLY, No. 3996**

**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

INTRODUCED MAY 1, 2020

**Sponsored by:**

**Assemblywoman YVONNE LOPEZ**

**District 19 (Middlesex)**

**Assemblywoman ANGELA V. MCKNIGHT**

**District 31 (Hudson)**

**Assemblyman ROBERT J. KARABINCHAK**

**District 18 (Middlesex)**

**Co-Sponsored by:**

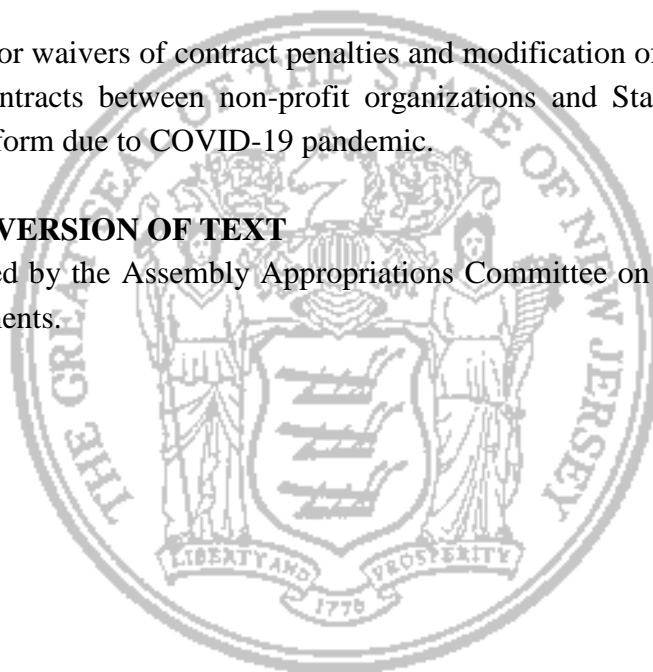
**Assemblywomen Pinkin, Speight, Assemblyman Spearman,  
Assemblywoman Tucker, Assemblymen Mukherji, Thomson,  
Assemblywomen Murphy, Vainieri Huttle, Jimenez and Assemblyman  
Freiman**

**SYNOPSIS**

Provides for waivers of contract penalties and modification of contract terms on public contracts between non-profit organizations and State agencies for failure to perform due to COVID-19 pandemic.

**CURRENT VERSION OF TEXT**

As reported by the Assembly Appropriations Committee on May 11, 2020, with amendments.



**(Sponsorship Updated As Of: 5/14/2020)**

1 AN ACT providing for waivers of contract penalties and  
 2 modification of contract terms on public contracts between non-  
 3 profit organizations and State agencies for failure to perform due  
 4 to the COVID-19 Public Health Emergency and State of  
 5 Emergency.

6  
 7 **BE IT ENACTED** by the Senate and General Assembly of the State  
 8 of New Jersey:

9  
 10 1. Notwithstanding the provisions of any law, rule, or  
 11 regulation to the contrary, a State agency that has awarded a  
 12 contract to or entered into an agreement with a non-profit  
 13 organization may provide a waiver of any penalty provided in the  
 14 contract or agreement for the failure of the non-profit organization  
 15 to fulfill the terms and conditions in the contract or agreement if the  
 16 failure is due to the COVID-19 Public Health Emergency and State  
 17 of Emergency declared by the Governor in Executive Order No. 103  
 18 of 2020 and the failure occurred during the period of the  
 19 emergencies or during the six-month period immediately following  
 20 the end of the emergencies. The waiver shall be provided to the  
 21 extent the State agency or agencies deem it feasible and appropriate  
 22 under the circumstances.

23 A non-profit organization shall be permitted to request a  
 24 modification of the terms and conditions of a contract awarded by,  
 25 or of an agreement entered into with, a State agency and the State  
 26 agency shall consider such a request to modify the terms and  
 27 conditions in the contract or agreement, when compliance by the  
 28 non-profit organization with the terms and conditions was impacted  
 29 due to the emergencies and the impact occurred during the period of  
 30 the emergencies or during the six-month period immediately  
 31 following the end of the emergencies.

32 Non-profit organizations shall submit to the appropriate State  
 33 agency supportive documentation as proof that the failure to fulfill  
 34 the terms and conditions of a contract or agreement was due to, or  
 35 that the compliance was impacted by, the COVID-19 Public Health  
 36 Emergency and State of Emergency declared by the Governor in  
 37 Executive Order No. 103 of 2020, in order to receive a waiver of a  
 38 penalty or to have a <sup>1</sup>**[medication]** modification<sup>1</sup> of the terms and  
 39 conditions considered by a State agency.

40 As used in this section, “State agency” means any of the  
 41 principal departments in the Executive Branch of the State  
 42 Government, and any division, board, bureau, office, commission,  
 43 or other instrumentality within or created by such department, the  
 44 Legislature of the State, and any office, board, bureau, or  
 45 commission within or created by the Legislative Branch, and any

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly AAP committee amendments adopted May 11, 2020.

1 independent State authority, commission, instrumentality, or  
2 agency. A county or municipality shall not be deemed an agency or  
3 instrumentality of the State.

4

5 2. This act shall take effect immediately and shall expire on the  
6 first day of the ninth month following the end of the Public Health  
7 Emergency and State of Emergency declared by the Governor in  
8 Executive Order No. 103 of 2020.