

Title 30-A, Chapter 205, COMMUNITY DEVELOPMENT (HEADING: PL 1987, c. 737, Pt. A, @2 (new))

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Chapter 205: COMMUNITY DEVELOPMENT (HEADING: PL 1987, c. 737, Pt. A, @2 (new))

§5201. Findings and declaration of necessity

The Legislature finds and declares that: [1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

1. Existence of depressed areas. There exists in the municipalities of the State deteriorating, dilapidated, slum and blighted areas, dangerous buildings and incompatible uses of property, which constitute a serious threat to the public health, safety or welfare of the residents of the State; [1999, c. 540, §1 (amd).]

2. Expense to public. [1999, c. 540, §2 (rp).]

3. Effect on municipalities. These areas, buildings and uses constitute an economic and social liability and substantially impair or arrest the sound growth of municipalities; [1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

4. Not remediable by regulation or private enterprise. These threats are beyond remedy and control solely by regulatory process in the exercise of police power and cannot be dealt with effectively by the ordinary operation of private enterprise without the aids provided in this chapter; [1999, c. 540, §3 (amd).]

5. Public purpose. The elimination of these areas, buildings and uses, the acquisition and preparation of land in or necessary to the redevelopment and rehabilitation of the areas, buildings and uses, and its sale or lease in accordance with community development programs adopted by municipalities, any assistance which may be given by any state or federal public bodies or agencies and any money raised or appropriated by municipalities in connection with that activity, are public uses required by the public exigencies and are purposes for which public money may be expended and private property acquired; and [1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

6. Legislative determination. The necessity of the public interest for this chapter is hereby declared as a matter of legislative determination. [1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

§5202. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

1. Blighted area. "Blighted area" means: [1999, c. 540, §4 (amd).]

A. An area in which there are a substantial number of buildings or improvements that are detrimental to the public health, safety or welfare because of:

- (1) Dilapidation, deterioration, age or obsolescence;
- (2) Inadequate provision for ventilation, light, air, sanitation or open spaces;

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(3) High density of population and overcrowding;

(4) The existence of conditions that endanger life or property by fire and other causes; or

(5) Any combination of these factors; or

[1999, c. 540, §4 (amd).]

B. An area that is a threat to the public health, safety or welfare in its present condition and use because of:

(1) Inadequate street layout, unsanitary or unsafe conditions;

(2) Tax or special assessment delinquency exceeding the fair value of the land;

(3) The existence of conditions that endanger life or property by fire and other causes; or

(4) Any combination of these factors.

[1999, c. 540, §4 (amd).]

2. Community development program. "Community development program" means a program adopted by a municipality under this chapter which has as its primary objective the development of a viable community by providing decent housing principally for persons of low and moderate incomes, or by expanding economic opportunity by providing public facilities. This program must conform to the municipality's comprehensive plan. The program may include the following specific objectives: [1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

A. The identification and elimination of slums and blight and the prevention of blighting influences and the deterioration of property and neighborhood and community facilities important to the welfare of the community and principally to persons of low and moderate income;

[1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

B. The elimination of conditions which are detrimental to health, safety and public welfare through code enforcement, demolition, interim rehabilitation assistance and related activities;

[1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

C. The conservation and expansion of housing stock in order to provide a decent home and a suitable living environment for all persons, but principally those of low and moderate income;

[1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

D. The expansion and improvement of the quantity and quality of community services, principally for persons of low and moderate income, which are essential for sound community development and for the development of viable urban communities;

[1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

E. A more rational use of land and other natural resources and the better arrangement of residential, commercial, industrial, recreational and other needed activity centers;

[1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

F. The reduction of the isolation of income groups within the community and surrounding geographical areas and the promotion of an increase in the diversity and vitality of neighborhoods through the spatial deconcentration of housing opportunities for persons of low income and the revitalization of deteriorating or deteriorated neighborhoods in order to attract persons of higher income; and

[1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

G. The restoration and preservation of properties of special value for historic, architectural or aesthetic reasons.

[1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

3. Disposition. "Disposition" includes the sale or lease of the property to persons not necessarily the original owners, or the municipality's retention of the property after acquisition or after acquisition and rehabilitation or demolition. [1987, c. 737, Pt.

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A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

4. Owner. "Owner" means any person having an estate, interest or easement in the property to be acquired, or having a lien, charge, mortgage or encumbrance on the property. [1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

5. Slum area. "Slum area" means a blighted area in an extreme state of deterioration and decay. [1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

§5203. Municipal powers

1. Appropriations. A municipality may raise or appropriate money and may accept and appropriate state or federal grants to provide decent housing and a suitable living environment and to expand economic opportunities under a duly approved and adopted community development program. [1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

2. Community development program. The municipal officers of a municipality may prepare or have prepared a community development program. Before recommending a community development program to the municipal legislative body for approval, if the program has not been prepared by the planning board, the municipal officers shall submit the program to the municipal planning board for review and recommendations as to its conformity with the comprehensive plan and any applicable zoning ordinances. The planning board shall submit its written recommendations to the municipal officers within 45 days after receiving the program for review. The municipal officers shall, after 10 days' notice, hold public hearings on the plan upon receipt of those recommendations or, if no recommendations are received within the 45-day period, then without the recommendations. After the hearings are completed, the municipal officers shall submit the program and any recommendations of the planning board to the municipal legislative body for their approval and adoption. [1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

A. Notwithstanding any other provision of this subsection, any community development program approved by a municipal legislative body before July 1, 1975, is deemed approved and adopted under this section if the program conforms with the municipality's comprehensive plan.

[1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

3. Development powers. Except as provided, the municipal officers of a municipality may exercise, pursuant to a duly approved and adopted community development program, all appropriate and necessary powers to implement and complete the program, including, but not limited to: [1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

A. Acquisition by purchase or by eminent domain of any vacant or undeveloped land and of any developed land and structures, buildings and improvements existing on the land located in designated slum or blighted areas for the purposes of the demolition and removal or rehabilitation and repair or redevelopment of property so acquired;

[1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

B. Loaning or granting of money or the guaranteeing of loans to encourage owners of property to voluntarily rehabilitate and repair their properties to comply with all zoning, housing, building, plumbing, electrical and other structural and constructional ordinances, regulations and standards of the municipality or State or to voluntarily demolish their properties;

[1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

C. Installation, construction or reconstruction of streets, utilities, parks, playgrounds and other improvements necessary for carrying out the objectives of the community development program;

[1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

D. Contracting with, delegating of powers to or loaning or granting of money to any other political subdivision of the State, quasi-municipal corporation or agency of the State or its political subdivisions as may be required to implement and complete all or any portion of the community development program; and

[1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

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E. The disposition of acquired property, provided that the municipality may not, within 10 years of the date of acquisition, sell undeveloped or unrehabilitated property, in whole or in part, that was acquired by eminent domain without first offering it to the prior owner, owners or their heirs, except as provided in subparagraph (1). This offer must be kept open for at least 60 days and must be at a price no more than the sum of the compensation and damages given in the eminent domain proceedings, any relocation payments or benefits and the costs of the municipality for any improvements. The offer may be limited by requiring use of the property in accordance with the community development program.

(1) When the property to be sold is one of 3 or more contiguous or abutting parcels or lots that are to be redeveloped or rehabilitated as a unit, the property may be sold without first offering it to the prior owner, owners or their heirs.

(2) Any disposition of acquired property, other than to the prior owner, owners or their heirs, must require use of the property in accordance with the community development program.

[1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

4. Tax increment revenues from rehabilitated or developed property. The legislative body of a municipality may provide that tax increment revenues from property rehabilitated or developed and subsequently sold by the municipality will be set aside annually and deposited to the credit of a sinking fund, which is pledged to and charged with the payment of the interest and principal as they fall due, and the necessary charges of paying agents for paying interest and principal of any notes, bonds or other evidences of indebtedness that were issued to fund or refund the rehabilitation or development of the property. [1987, c. 737; Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

A. Tax increment revenues from property rehabilitated or developed shall be the real property tax revenues received, based on the amount of valuation that exceeds the valuation of the property on the April 1st immediately preceding the adoption of the municipal community development plan.

[1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

B. The sinking fund is a fund for the benefit of the notes, bonds or other evidences of indebtedness issued to fund or refund the rehabilitation or development of the property, and any money deposited in this fund shall be held and applied solely for that purpose.

[1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

§5204. Eminent domain

The following provisions govern the exercise of eminent domain powers by the municipal officers. [1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

1. Adoption of resolution of condemnation. The municipal officers shall adopt a resolution of condemnation. This resolution must: [1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

A. Specifically describe the property, or interest in the property to be acquired, and its location by metes and bounds;

[1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

B. Specify the name or names of the owner or owners;

[1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

C. Set forth the amount of damages determined by the municipal officers to be just compensation for the property or interest in the property taken; and

[1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

D. Declare that the acquisition is pursuant to a duly adopted community development program.

[1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

The resolution shall be served on the owners either personally or by registered mail, and then shall be submitted to the municipal legislative body for approval or disapproval. The municipal legislative body may not amend the resolution to decrease the amount of damages to be paid. [1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2

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(amd); c. 104, Pt. C, §§8, 10 (amd).]

2. Filing, bonds and notice. Within 3 months after the municipality approves the resolution: [1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

A. The municipal officers shall have a copy of the resolution filed in the registry of deeds of the county in which the property is located. After this copy is filed, the municipal officers shall have filed in the Superior Court of the county in which the property is located:

(1) A copy of the resolution; and

(2) A statement of the sum of money approved by the municipality as just compensation for the property taken;

[1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

B. After the copy of the resolution has been filed in the registry and the statement of estimated just compensation has been filed in the Superior Court, the municipal officers shall have bonds deposited in the Superior Court with surety satisfactory to the clerk of the court, in the amounts that the court determines to be sufficient to satisfy the claims of all persons interested in the property. These bonds shall be deposited for the use of persons entitled to them. The court may, in its discretion, take evidence on the question to determine:

(1) The amounts of the bonds to be deposited;

(2) Title to the property; or

(3) Interest in the property; and

[1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

C. After the copy of the resolution has been filed in the registry and the statement of just compensation has been filed in the Superior Court, the municipal officers shall have notice of the taking of the property or interest in the property served upon the owners of the property by a sheriff or deputies. Service shall be made by leaving a true and attested copy of the resolution and the statement of estimated just compensation with each owner personally or at the last known address in the State or with some person living at that address.

(1) If any owner is not a resident of the State, a true and attested copy of the resolution and statement shall be sent by registered mail, return receipt requested, to the owner at the last known address.

(2) In addition, municipal officers shall have a copy of the resolution together with the names of the owners of the property and the amount to be awarded to each of them, published in a newspaper having general circulation in the county, at least once a week for 3 consecutive weeks; and

[1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

After the bonds are deposited in the Superior Court, and notice is given, title to the property vests in the municipality in fee simple absolute and the municipality may take possession of the property. [1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

3. Unknown ownership. If ownership of the property cannot be ascertained after due and diligent search, an award shall be made to persons unknown for the value of the property, and bonds for that amount running to the treasurer of the county for the use of the persons entitled to them, shall be deposited in the Superior Court. If no person has been able to prove ownership of the property within 2 years after the bonds are deposited, the Superior Court shall order those bonds to be cancelled and delivered up to the municipality. [1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

4. Agreement and cancellation of bonds. When any person entitled to the bonds agrees with the municipality for the price of the property or interest in the property so taken and the sum agreed upon is paid by the municipality, the court shall order the bond deposited under this section to be cancelled and delivered up to the municipality. [1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

5. Complaint to Superior Court; trial. Any owner of the property taken under this section, who cannot agree with the municipality

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on the price of the property or interest in the property in which the owner is interested, may apply by complaint to the Superior Court in the county where the property is located. [1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

A. The complaint must be made within 3 months after personal notice of the taking or, if the owner has no personal notice, within one year from the first publication of the copy of the resolution and description required in subsection 2, paragraph C. It must set forth the taking of the property or interest in property, and pray for the assessment of damages by jury or, by agreement of the parties, by a referee or referees appointed by the court.

[1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

B. When the complaint is filed, the Superior Court shall have 20 days' notice of the pendency of the action given to the municipality by serving the municipal clerk with a certified copy of the complaint. The court may proceed after this notice to obtain a trial of the action.

[1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

C. The trial shall determine all questions of fact relating to the value of the property or interest in the property and the amount of that interest. Judgment shall be entered upon the verdict of the jury and execution shall be issued for that judgment against the money deposited in the court.

[1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

6. Conflicting ownership. If the municipal officers are in doubt as to conflicting ownership or interest, the municipality may file a complaint in the Superior Court for the county in which the property is located for a determination of the various rights and amounts due. If 2 or more plaintiffs make claims to the real property, or to any interest in the property, or to different interests in the same property, the Superior Court, upon motion, shall consolidate their several complaints for trial at the same time by the same jury and may frame all necessary issues for the trial of those actions. [1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

7. Appeal. An appeal from the decision of the Superior Court may be made in the manner provided for appeals in civil cases. [1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

8. Guardian ad litem. If a municipality takes any real property or interest in property in which any minor or other person not capable in law to act in the minor's or other person's own behalf is interested, the appropriate Superior Court may, upon the filing of a complaint under subsection 5 by or on behalf of the minor or other person, appoint a guardian ad litem for the minor or other person. This guardian may appear and be heard on behalf of the minor or other person and may, with the advice and consent of the Superior Court and upon such terms as the Superior Court prescribes, release to the municipality all claims for damages for the property of the minor or other person or for any interest in the property. [1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

Any lawfully appointed, qualified and acting guardian or other fiduciary of the estate of any such minor or other person, with the approval of the Probate Court having jurisdiction to authorize the sale of real property within this State, may, before filing any complaint under this section, agree with the municipality on the amount of damages suffered by the minor or other person by any taking of property or of interest in the property and may, upon receiving that amount, release to the municipality all claims for damages of the minor or other person for the taking. [1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

9. Expedited proceedings; property devoted to public use. In any proceedings for assessment of compensation and damages for property or interest in the property taken or to be taken by eminent domain by the municipality, the following provisions apply. [1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

A. At any time during the pendency of the action or proceedings, the municipality or an owner may apply to the court for an order directing the owner or the municipality, as the case may be, to show cause why further proceedings should not be expedited. Upon this application the court may make an order requiring that the hearings proceed and that any other steps be taken with all possible expedition.

[1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

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B. If any property or interest in property is devoted to a public use, it may nevertheless be acquired and the taking is effective, provided that:

(1) No property or interest in property belonging to any governmental agency may be acquired without its consent; and

(2) No property or interest in property belonging to a public utility corporation may be acquired without the approval of the Public Utilities Commission or other officer or tribunal having regulatory power over the corporation.

[1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

C. Any property or interest in property previously deeded to or acquired by the municipality may be included within the taking for the purpose of acquiring any outstanding interests in the property.

[1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

§5205. Records confidential

1. Confidential information. Records containing the following information are deemed confidential for the purposes of Title 1, section 402, subsection 3, paragraph A: [1997, c. 201, §1 (amd).]

A. Any information acquired by a municipality or a member, officer, employee or agent of a municipality from an applicant for assistance provided by this chapter or from any 3rd person pertaining to an applicant for assistance provided pursuant to this chapter; and

[1997, c. 201, §1 (amd).]

B. Any written or recorded financial statement of an applicant submitted to a municipality or a member, officer, employee or agent of a municipality in connection with an application for assistance pursuant to this chapter.

[1997, c. 201, §1 (amd).]

The term "applicant" includes individuals, partnerships, limited partnerships, limited liability companies and corporations, but does not include partnerships, limited liability companies and corporations whose shares, interests or other evidence of proportional ownership are publicly traded upon a recognized exchange. [1997, c. 201, §1 (amd).]

2. Wrongful disclosure prohibited. A member, officer, employee or agent of a municipality may not knowingly divulge or disclose information declared confidential by this section, except that: [1991, c. 322 (new).]

A. A municipality or its agent may make such full and complete reports concerning its administration of programs provided with state or federal funds as required by State Government or Federal Government;

[1991, c. 322 (new).]

B. A municipality or its agent may publish statistics or other information of a general nature drawn from information declared confidential by this section, provided that the publication is accomplished in a manner that preserves confidentiality;

[1991, c. 322 (new).]

C. A municipality or its agent may comply with a subpoena, request for production of documents, warrant or court order issued or made upon lawful authority; and

[1991, c. 322 (new).]

D. In any litigation or proceeding in which a municipality or its agent is a party, the municipality or its agent may introduce evidence based on any information deemed confidential that is within the control or custody of the municipality or its agent.

[1991, c. 322 (new).]

3. Waiver. This section may not be construed to limit in any way the right of any person whose interest is protected by this section to waive, in writing or otherwise, the benefits of that protection. [1991, c. 322 (new).]

4. Penalty. A person violating any provision under subsection 2 commits a civil violation for which a forfeiture of not more than \$200 may be adjudged. Each separate act of disclosure is considered a separate offense. [1991, c. 322 (new).]

5. Application. Notwithstanding this section, the confidentiality of information provided to a municipality during the course of the application process with the Department of Economic and Community Development is governed by Title 5, sections 13119 to 13119-C. [1997, c. 201, §2 (new).]

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Chapter 205-A: MUNICIPAL CAPITAL IMPROVEMENT DISTRICTS (HEADING: PL 2003, c. 510, Pt. A, @29 (new))

§5211. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [2003, c. 510, Pt. A, §29 (new).]

1. Assessed share. "Assessed share" means a special assessment that represents that portion of the total projected cost of an improvement undertaken by a municipality in a capital improvement district that is the obligation of an owner of property within the capital improvement district. The assessed share must be calculated by the municipal officers in the same manner and according to the same standards as the capital costs of sewer improvements are assessed pursuant to sections 3442 and 3444, except the total assessment must be calculated on the basis of the projected cost of the entire improvement rather than any percentage of the projected costs of the improvement, and no type of property within the capital improvement district is exempt from the assessment. [2003, c. 510, Pt. A, §29 (new).]

2. Capital improvement district. "Capital improvement district" means a defined area within a municipality that is initially privately owned and that has been designated by the municipality as a capital improvement district according to the provisions of this chapter for the interrelated purposes of fairly apportioning the costs of making necessary capital improvements among the owners of property in the capital improvement district and establishing the public elements of the capital improvement district as municipally owned. [2003, c. 510, Pt. A, §29 (new).]

3. Improvement. "Improvement" means road construction, drainage system development or the installation of sewer or drinking water infrastructure. [2003, c. 510, Pt. A, §29 (new).]

4. Public elements. "Public elements" of a capital improvement district means legal interests in defined properties located within a capital improvement district. "Public elements" may include public easements or fee simple titles in specifically defined property or properties. [2003, c. 510, Pt. A, §29 (new).]

§5212. Capital improvement districts authorized

A municipality may create one or more capital improvement districts within the municipal boundaries. [2003, c. 510, Pt. A, §29 (new).]

§5213. Capital improvement districts; public hearing; notice; referendum votes

In order to establish a capital improvement district, a municipality shall adhere to the following procedures. [2003, c. 510, Pt. A, §29 (new).]

1. Initial determinations. In order to establish a capital improvement district, the municipal officers shall establish all the public elements of the proposed capital improvement district for presentation to the residents of the municipality at a public hearing held pursuant to subsection 3. The municipal officers shall: [2003, c. 510, Pt. A, §29 (new).]

A. Determine the proposed boundaries of the capital improvement district;

[2003, c. 510, Pt. A, §29 (new).]

B. Identify each separate parcel of property within the proposed capital improvement district and the parcel's owner of record;

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[2003, c. 510, Pt. A, §29 (new).]

C. Describe all improvements to the proposed capital improvement district that need to be made;

[2003, c. 510, Pt. A, §29 (new).]

D. Calculate an estimate of the costs of the proposed improvements;

[2003, c. 510, Pt. A, §29 (new).]

E. Calculate the assessed shares and the contingency fee of no more than 25% of that assessment to the property owners in the proposed capital improvement district;

[2003, c. 510, Pt. A, §29 (new).]

F. Establish the proposed duration of the payment period for the assessed shares;

[2003, c. 510, Pt. A, §29 (new).]

G. Describe specifically the public elements of the capital improvement district that may be accepted by the voters of the municipality; and

[2003, c. 510, Pt. A, §29 (new).]

H. Schedule the public hearing pursuant to subsection 3 and the referendum pursuant to subsection 4.

[2003, c. 510, Pt. A, §29 (new).]

2. Public notice. The municipal officers shall provide posted notice of the public hearing held pursuant to subsection 3 in the same place and manner as the posting of a town meeting warrant and publish notice of the public hearing in a newspaper of general circulation within the municipality at least 14 days in advance of the public hearing. The published notice must include: [2003, c. 510, Pt. A, §29 (new).]

A. A description of the proposed boundaries of the capital improvement district;

[2003, c. 510, Pt. A, §29 (new).]

B. The proposed improvements to the capital improvement district;

[2003, c. 510, Pt. A, §29 (new).]

C. The estimated costs of the proposed improvements;

[2003, c. 510, Pt. A, §29 (new).]

D. The public elements of the capital improvement district; and

[2003, c. 510, Pt. A, §29 (new).]

E. A brief narrative description and schedule of the referendum conducted pursuant to subsection 4.

[2003, c. 510, Pt. A, §29 (new).]

At least 14 days in advance of the date of the initial public hearing, the same information provided in the published notice must also be sent by certified mail to all owners of property within the proposed capital improvement district according to the municipality's assessing records. Notice for any additional public hearings must be posted and published in the same manner as notice for the initial public hearing, but mailed notice of the subsequent public hearings is not required. [2003, c. 510, Pt. A, §29 (new).]

3. Public hearing. Prior to any referendum held pursuant to subsection 4 or 5, the municipal officers shall hold an initial public hearing on the proposed capital improvement district to solicit comments from the residents of the municipality and the owners of property located in the proposed district concerning the: [2003, c. 510, Pt. A, §29 (new).]

A. Proposed boundaries of the capital improvement district;

[2003, c. 510, Pt. A, §29 (new).]

B. Type of improvements to the proposed capital improvement district being considered;

[2003, c. 510, Pt. A, §29 (new).]

C. Need for the proposed improvements;

[2003, c. 510, Pt. A, §29 (new).]

D. Costs of the proposed improvements;

[2003, c. 510, Pt. A, §29 (new).]

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E. Projected assessed shares and the contingency fee of no more than 25% of that assessment to the owners of property located in the proposed capital improvement district to pay for the improvements being considered;

[2003, c. 510, Pt. A, §29 (new).]

F. Proposed duration of the payment period for those special assessments;

[2003, c. 510, Pt. A, §29 (new).]

G. Proposed public elements of the capital improvement district; and

[2003, c. 510, Pt. A, §29 (new).]

H. Scheduled dates of referenda conducted pursuant to subsection 4 or 5.

[2003, c. 510, Pt. A, §29 (new).]

The municipal officers may hold additional public hearings as necessary. [2003, c. 510, Pt. A, §29 (new).]

4. Referendum of owners of property in proposed capital improvement district. The municipal officers shall call and conduct a referendum among the owners of property within the proposed capital improvement district to determine the property owners' willingness to undertake the costs of the proposed improvements to the capital improvement district. [2003, c. 510, Pt. A, §29 (new).]

A. The method of calling and voting on the referendum question is as provided in section 2528 except as otherwise provided in this subsection.

[2003, c. 510, Pt. A, §29 (new).]

B. The registered voters of the municipality who own property within the proposed capital improvement district and the owner or owners of record for each parcel of property located in the proposed capital improvement district reflected on the deed for the property recorded in the registry of deeds within the county as of the preceding April 1st, if the owner or owners are of legal voting age and citizens of the United States, are eligible to vote in the referendum. A person may not cast more than one vote. The municipal officers shall determine who are the legal voters of the proposed capital improvement district and shall prepare or cause to be prepared a list of voters at least 24 hours before the referendum is conducted.

[2003, c. 510, Pt. A, §29 (new).]

C. The referendum must be scheduled to occur no sooner than 45 days after the date of the initial public hearing held pursuant to subsection 3.

[2003, c. 510, Pt. A, §29 (new).]

D. A public hearing must be held pursuant to section 2528, subsection 5, only if any of the information presented to the voters at the most recent public hearing called pursuant to subsection 3 is changed prior to inclusion on the ballot.

[2003, c. 510, Pt. A, §29 (new).]

E. The referendum to be voted on must be worded substantially as follows: "As an owner of property in the proposed capital improvement district described on the reverse side of this ballot or in the attachment to this ballot, are you in favor of authorizing the municipality of to apply a special assessment against the property you own in the proposed capital improvement district for a period of years, for the purpose of (description of improvements), with the total assessment to all property owners within the capital improvement district not to exceed \$, plus a contingency of no more than 25% of that assessment, all of which are subject to the property tax collection and lien procedures established by state law, and with said authorization contingent on the voters of the municipality of accepting the public costs for the capital improvement district improvements before any work is done, specifically described as (description of public elements)?"

The voters shall indicate by a cross or check mark placed against the word "Yes" or "No" their opinion of the same.

[2003, c. 510, Pt. A, §29 (new).]

The municipal officers may proceed with conducting the municipal referendum in accordance with subsection 5 only if 2/3 of those casting ballots pursuant to this subsection vote to approve creating the capital improvement district. [2003, c. 510, Pt. A, §29 (new).]

5. Referendum of municipal voters. The referendum of the municipal voters may not be called and conducted for the purposes of this chapter unless the referendum held pursuant to subsection 4 resulted in a 2/3 majority vote supporting the ballot question. If the referendum held pursuant to subsection 4 received a 2/3 majority vote, the municipal officers shall call and conduct a referendum for the voters of the municipality to determine if the public elements of the proposed capital improvement district authorized pursuant to subsection 4 are authorized by the voters of the municipality. [2003, c. 510, Pt. A, §29 (new).]

Pt. A, @29 (new)

A. The method of calling and voting on the referendum question is as provided in section 2528 except as otherwise provided in this subsection.

[2003, c. 510, Pt. A, §29 (new).]

B. The referendum of the municipal voters must be scheduled to occur within 45 to 90 days after the date of the referendum held pursuant to subsection 4.

[2003, c. 510, Pt. A, §29 (new).]

C. The referendum to be voted on must be worded substantially as follows: "Are you in favor of establishing a capital improvement district described on the reverse side of this ballot or in the attachment to this ballot and authorizing a special assessment against the several properties in the capital improvement district, with the special assessment running for a period of years, for the purpose of (describe improvements), with the total assessment to all owners of property within the capital improvement district not to exceed \$, plus a contingency of no more than 25% of that assessment, all of which are subject to the property tax collection and lien procedures established by state law, and are you also in favor of the municipality of accepting the public costs for the capital improvement district improvements, specifically described as (describe the public elements), with all associated and ongoing rights, privileges and responsibilities of public ownership?"

The voters shall indicate by a cross or check mark placed against the word "Yes" or "No" their opinion of the same.

[2003, c. 510, Pt. A, §29 (new).]

D. If a majority of those voting approve of the ballot question, the capital improvement district is created. Upon the creation of a capital improvement district, the municipality is authorized to raise revenues pursuant to chapter 223 and expend those revenues for the improvements authorized at referendum.

[2003, c. 510, Pt. A, §29 (new).]

E. If the owners of property within the proposed capital improvement district or the voters of the municipality fail to establish the capital improvement district, the municipal officers may not act upon a proposal to create the same capital improvement district for a period of 3 years from the date that capital improvement district was rejected by voters.

[2003, c. 510, Pt. A, §29 (new).]

§5214. Implementation of improvements to capital improvement district

1. Advisory committee. The municipal officers are responsible for implementing improvements to the capital improvement district. For the purposes of overseeing the authorized improvements to the capital improvement district, the municipal officers shall appoint an advisory committee consisting of no fewer than 3 and no more than 7 owners of property within the capital improvement district for the purposes of receiving comments and recommendations on the proposed improvement or improvements within the capital improvement district. Advisory committee members serve at the pleasure of the municipal officers. [2003, c. 510, Pt. A, §29 (new).]

2. Cost of improvement. The initial cost of an authorized improvement in a capital improvement district is borne by the municipality until the improvement is complete, as determined by the municipal officers. Commencing with the first tax year that begins after the determination by the municipal officers that the improvement is complete, the municipality shall levy a special assessment against each property in the capital improvement district representing that property's annual share of the cost of the improvement as determined by the municipal officers and projected in the referenda ballots that created the capital improvement district, unless the actual total cost of the improvement is determined to be less than projected during the referenda, in which case the special assessments are reduced proportionally to reflect the actual cost. [2003, c. 510, Pt. A, §29 (new).]

3. Method of assessment. The special assessments must be included in the next annual warrant to the tax collector of the municipality for collection and must be collected in the same manner as state, county and municipal taxes are collected. [2003, c. 510, Pt. A, §29 (new).]

4. Annual report. The municipality's annual report must record the progress of implementing the improvements to the capital improvement district. At a minimum, the annual report must include: [2003, c. 510, Pt. A, §29 (new).]

A. The boundaries of the capital improvement district;

[2003, c. 510, Pt. A, §29 (new).]

B. The public elements of the capital improvement district;

[2003, c. 510, Pt. A, §29 (new).]

C. The improvements to the capital improvement district made by the municipality; and

[2003, c. 510, Pt. A, §29 (new).]

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D. The total cost of those improvements, the schedule of the assessed shares and contingency fees against the property located within the district to pay for the improvements and the degree to which those assessed shares and contingency fees have been collected.

[2003, c. 510, Pt. A, §29 (new).]

§5215. Dissolution of capital improvement district

A capital improvement district created under this chapter may not be dissolved until the debt created by the improvements is finally discharged and the special assessments levied for the purpose of providing for those improvements have been paid or otherwise satisfied. The municipal officers shall dissolve a capital improvement district upon certification of the discharge of debt. The certification of the discharge of debt must be presented to the municipal officers by the municipal treasurer. At a minimum, the certification must include an attestation by the municipal treasurer that all assessed shares levied for the improvements in a capital improvement district have been paid in full or a property tax lien has been recorded in the registry of deeds. [2003, c. 510, Pt. A, §29 (new).]