

Sec. 32-9p. *(See end of section for amended version and effective date.)

Definitions. As used in subdivisions (59) and (60) of section 12-81 and sections 12-217e, 32-9p to 32-9s, inclusive, and 32-23p, the following words and terms have the following meanings:

(a) "Area of high unemployment" means, as of the date of any final and official determination by the authority or the department to extend assistance under said sections, any municipality which is a distressed municipality as defined in subsection (b) of this section, and any other municipality in the state which in the calendar year preceding such determination had a rate of unemployment which exceeded one hundred ten per cent of the average rate of unemployment in the state for the same calendar year, as determined by the Labor Department, provided no such other municipality with an unemployment rate of less than six per cent shall be an area of high unemployment.

(b) "Distressed municipality" means, as of the date of the issuance of an eligibility certificate, any municipality in the state which, according to the United States Department of Housing and Urban Development meets the necessary number of quantitative physical and economic distress thresholds which are then applicable for eligibility for the urban development action grant program under the Housing and Community Development Act of 1977, as amended, or any town within which is located an unconsolidated city or borough which meets such distress thresholds. Any municipality which, at any time subsequent to July 1, 1978, has met such thresholds but which at any time thereafter fails to meet such thresholds, according to said department, shall be deemed to be a distressed municipality for a period of five years subsequent to the date of the determination that such municipality fails to meet such thresholds, unless such municipality elects to terminate its designation as a "distressed municipality", by vote of its legislative body, not later than September 1, 1985, or not later than three months after receiving notification from the commissioner that it no longer meets such thresholds, whichever is later. In the event a distressed municipality elects to terminate its designation, the municipality shall notify the commissioner and the Secretary of the Office of Policy and Management in writing within thirty days. In the event that the commissioner determines that amendatory federal legislation or administrative regulation has

materially changed the distress thresholds thereby established, "distressed municipality" shall mean any municipality in the state which meets comparable thresholds of distress which are then applicable in the areas of high unemployment and poverty, aging housing stock and low or declining rates of growth in job creation, population and per capita income as established by the commissioner, consistent with the purposes of subdivisions (59) and (60) of section 12-81 and sections 12-217e, 32-9p to 32-9s, inclusive, and 32-23p, in regulations adopted in accordance with chapter 54. For purposes of sections 32-9p to 32-9s, inclusive, "distressed municipality" shall also mean any municipality adversely impacted by a major plant closing, relocation or layoff, provided the eligibility of a municipality shall not exceed two years from the date of such closing, relocation or layoff. The Commissioner of Economic and Community Development shall adopt regulations, in accordance with the provisions of chapter 54, which define what constitutes a "major plant closing, relocation or layoff" for purposes of sections 32-9p to 32-9s, inclusive. "Distressed municipality" shall also mean the portion of any municipality which is eligible for designation as an enterprise zone pursuant to subdivision (2) of subsection (b) of section 32-70.

(c) "Eligibility certificate" means a certificate issued by the department pursuant to section 32-9r evidencing its determination that a facility for which an application for assistance has been submitted qualifies as a manufacturing facility and is eligible for assistance under section 12-217e and subdivisions (59) and (60) of section 12-81.

(d) "Manufacturing facility" means any plant, building, other real property improvement, or part thereof, (1) which (A) is constructed or substantially renovated or expanded on or after July 1, 1978, in a distressed municipality, a targeted investment community as defined in section 32-222, or an enterprise zone designated pursuant to section 32-70, or (B) is acquired on or after July 1, 1978, in a distressed municipality, a targeted investment community as defined in section 32-222, or an enterprise zone designated pursuant to said section 32-70, by a business organization which is unrelated to and unaffiliated with the seller, after having been idle for at least one year prior to its acquisition and regardless of its previous use; (2) which is to be used for the manufacturing, processing or assembling of raw materials, parts or manufactured products, for research and development facilities

directly related to manufacturing, for the significant servicing, overhauling or rebuilding of machinery and equipment for industrial use, or, except as provided in this subsection, for warehousing and distribution or, (A) if located in an enterprise zone designated pursuant to said section 32-70, which is to be used by an establishment, an auxiliary or an operating unit of an establishment as such terms are defined in the Standard Industrial Classification Manual, in the categories of depository institutions, nondepository credit institutions, insurance carriers, holding or other investment offices, business services, health services, fishing, hunting and trapping, motor freight transportation and warehousing, water transportation, transportation by air, transportation services, security and commodity brokers, dealers, exchanges and services, telemarketing or engineering, accounting, research, management and related services including, but not limited to, management consulting services from the Standard Industrial Classification Manual or in Sector 48, 49, 52, 54, 55, or 62, Subsector 114 or 561, or industry group 5621 in the North American Industrial Classification System, United States Manual, United States Office of Management and Budget, 1997 edition, which establishment, auxiliary or operating unit shows a strong performance in exporting goods and services, and as further defined by the commissioner through regulations adopted under chapter 54, or (B) if located in an enterprise zone designated pursuant to said section 32-70, which is to be used by an establishment primarily engaged in supplying goods or services in the fields of computer hardware or software, computer networking, telecommunications or communications, or (C) if located in a municipality with an entertainment district designated under section 32-76 or established under section 2 of public act 93-311**, is to be used in the production of entertainment products, including multimedia products, or as part of the airing, display or provision of live entertainment for stage or broadcast, including support services such as set manufacturers, scenery makers, sound and video equipment providers and manufacturers, stage and screen writers, providers of capital for the entertainment industry and agents for talent, writers, producers and music properties and technological infrastructure support including, but not limited to, fiber optics, necessary to support multimedia and other entertainment formats, except entertainment provided by or shown at a gambling or gaming facility or a facility whose primary business is the sale or serving of alcoholic beverages; and (3) for which the department has issued an eligibility certificate in accordance with section

32-9r. In the case of facilities which are acquired, the department may waive the requirement of one year of idleness if it determines that, absent qualification as a manufacturing facility under subdivisions (59) and (60) of section 12-81, and sections 12-217e, 32-9p to 32-9s, inclusive, and 32-23p, there is a high likelihood that the facility will remain idle for one year. In the case of facilities located in an enterprise zone designated pursuant to said section 32-70, (A) the idleness requirement in subparagraph (B) of subdivision (1) of this subsection, for business organizations which over the six months preceding such acquisition have had an average total employment of between six and nineteen employees, inclusive, shall be reduced to a minimum of six months, and (B) the idleness requirement shall not apply to business organizations with an average total employment of five or fewer employees, provided no more than one eligibility certificate shall be issued under this subparagraph for the same facility within a three-year period. Of those facilities which are for warehousing and distribution, only those which are newly constructed or which represent an expansion of an existing facility qualify as manufacturing facilities. In the event that only a portion of a plant is acquired, constructed, renovated or expanded, only the portion acquired, constructed, renovated or expanded constitutes the manufacturing facility. A manufacturing facility which is leased may for the purposes of subdivisions (59) and (60) of section 12-81 and sections 12-217e, 32-9p to 32-9s, inclusive, and 32-23p, be treated in the same manner as a facility which is acquired if the provisions of the lease serve to further the purposes of subdivisions (59) and (60) of section 12-81, and sections 12-217e, 32-9p to 32-9s, inclusive, and 32-23p and demonstrate a substantial, long-term commitment by the occupant to use the manufacturing facility, including a contract for lease for an initial minimum term of five years with provisions for the extension of the lease at the request of the lessee for an aggregate term which shall not be less than ten years, or the right of the lessee to purchase the facility at any time after the initial five-year term, or both. For a facility located in an enterprise zone designated pursuant to said section 32-70, and occupied by a business organization with an average total employment of ten or fewer employees over the six-month period preceding acquisition, such contract for lease may be for an initial minimum term of three years with provisions for the extension of the lease at the request of the lessee for an aggregate term which shall not be less than six years, or the right of the lessee to purchase the facility at any time after the initial three-year term, or both, and may

also include the right for the lessee to relocate to other space within the same enterprise zone, provided such space is under the same ownership or control as the originally leased space or if such space is not under such same ownership or control as the originally leased space, permission to relocate is granted by the lessor of such originally leased space, and such relocation shall not extend the duration of benefits granted under the original eligibility certificate. Except as provided in subparagraph (B) of subdivision (1) of this subsection, a manufacturing facility does not include any plant, building, other real property improvement or part thereof used or usable for such purposes which existed before July 1, 1978.

(e) "Service facility" means a manufacturing facility described in subparagraph (A) or (B) of subdivision (2) of subsection (d) of this section, provided such facility is located outside of an enterprise zone in a targeted investment community.

(f) "Authority", "capital reserve fund bond", "commissioner", "department", "industrial project" and "insurance fund" shall have the meaning such words and terms are given in section 32-23d.

(g) "Municipality" means any town, city or borough in the state.

(P.A. 78-357, S. 2, 16; P.A. 79-492, S. 1, 4; 79-508, S. 4, 5; P.A. 81-109, S. 1, 3; 81-333, S. 1, 3; P.A. 83-246; 83-451, S. 3, 4; P.A. 85-578, S. 1, 5; P.A. 86-153, S. 2, 5; 86-258, S. 2, 8; P.A. 89-235, S. 3, 5; P.A. 90-270, S. 17, 38; P.A. 93-311, S. 3, 8; P.A. 94-247, S. 2, 8; P.A. 95-250, S. 1; P.A. 96-211, S. 1, 5, 6; 96-222, S. 23; 96-239, S. 10, 17; June Sp. Sess. P.A. 98-1, S. 67, 121; June Sp. Sess. P.A. 99-1, S. 16, 51; P.A. 00-174, S. 48, 83; June Sp. Sess. P.A. 01-6, S. 62, 85.)

***Note:** On and after October 1, 2011, this section, as amended by section 5 of public act 10-98, is to read as follows:

"Sec. 32-9p. Definitions. As used in subdivisions (59) and (60) of section 12-81 and sections 12-217e, 32-9p to 32-9s, inclusive, and 32-23p, the following words and terms have the following meanings:

(a) "Area of high unemployment" means, as of the date of any final and official determination by the authority or the department to extend assistance under said sections, any municipality which is a distressed municipality as defined in subsection (b) of this section, and any other municipality in the state which in the calendar year preceding such determination had a rate of unemployment which exceeded one hundred ten per cent of the average rate of unemployment in the state for the same calendar year, as determined by the Labor Department, provided no such other municipality with an unemployment rate of less than six per cent shall be an area of high unemployment.

(b) "Distressed municipality" means, as of the date of the issuance of an eligibility certificate, any municipality in the state which, according to the United States Department of Housing and Urban Development meets the necessary number of quantitative physical and economic distress thresholds which are then applicable for eligibility for the urban development action grant program under the Housing and Community Development Act of 1977, as amended, or any town within which is located an unconsolidated city or borough which meets such distress thresholds. Any municipality which, at any time subsequent to July 1, 1978, has met such thresholds but which at any time thereafter fails to meet such thresholds, according to said department, shall be deemed to be a distressed municipality for a period of five years subsequent to the date of the determination that such municipality fails to meet such thresholds, unless such municipality elects to terminate its designation as a "distressed municipality", by vote of its legislative body, not later than September 1, 1985, or not later than three months after receiving notification from the commissioner that it no longer meets such thresholds, whichever is later. In the event a distressed municipality elects to terminate its designation, the municipality shall notify the commissioner and the Secretary of the Office of Policy and Management in writing within thirty days. In the event that the commissioner determines that amendatory federal legislation or administrative regulation has materially changed the distress thresholds thereby established, "distressed municipality" shall mean any municipality in the state which meets comparable thresholds of distress which are then applicable in the areas of high unemployment and poverty, aging housing stock and low or declining rates of growth in job creation, population and per capita income as established by the commissioner, consistent

with the purposes of subdivisions (59) and (60) of section 12-81 and sections 12-217e, 32-9p to 32-9s, inclusive, and 32-23p, in regulations adopted in accordance with chapter 54. For purposes of sections 32-9p to 32-9s, inclusive, "distressed municipality" shall also mean any municipality adversely impacted by a major plant closing, relocation or layoff, provided the eligibility of a municipality shall not exceed two years from the date of such closing, relocation or layoff. The Commissioner of Economic and Community Development shall adopt regulations, in accordance with the provisions of chapter 54, which define what constitutes a "major plant closing, relocation or layoff" for purposes of sections 32-9p to 32-9s, inclusive. "Distressed municipality" shall also mean the portion of any municipality which is eligible for designation as an enterprise zone pursuant to subdivision (2) of subsection (b) of section 32-70 and the portion of any municipality that contains the airport development zone established pursuant to section 32-75d.

(c) "Eligibility certificate" means a certificate issued by the department pursuant to section 32-9r evidencing its determination that a facility for which an application for assistance has been submitted qualifies as a manufacturing facility and is eligible for assistance under section 12-217e and subdivisions (59) and (60) of section 12-81.

(d) "Manufacturing facility" means any plant, building, other real property improvement, or part thereof, (1) which (A) is constructed or substantially renovated or expanded on or after July 1, 1978, in a distressed municipality, a targeted investment community as defined in section 32-222, an enterprise zone designated pursuant to section 32-70 or the airport development zone established pursuant to section 32-75d, or (B) is acquired on or after July 1, 1978, in a distressed municipality, a targeted investment community as defined in section 32-222, an enterprise zone designated pursuant to said section 32-70 or the airport development zone established pursuant to section 32-75d, by a business organization which is unrelated to and unaffiliated with the seller, after having been idle for at least one year prior to its acquisition and regardless of its previous use; (2) which is to be used for the manufacturing, processing or assembling of raw materials, parts or manufactured products, for research and development facilities directly related to manufacturing, for the significant servicing, overhauling or rebuilding of machinery and equipment for industrial use, or, except as provided in

this subsection, for warehousing and distribution or, (A) if located in an enterprise zone designated pursuant to said section 32-70, which is to be used by an establishment, an auxiliary or an operating unit of an establishment as such terms are defined in the Standard Industrial Classification Manual, in the categories of depository institutions, nondepository credit institutions, insurance carriers, holding or other investment offices, business services, health services, fishing, hunting and trapping, motor freight transportation and warehousing, water transportation, transportation by air, transportation services, security and commodity brokers, dealers, exchanges and services, telemarketing or engineering, accounting, research, management and related services including, but not limited to, management consulting services from the Standard Industrial Classification Manual or in Sector 48, 49, 52, 54, 55, or 62, Subsector 114 or 561, or industry group 5621 in the North American Industrial Classification System, United States Manual, United States Office of Management and Budget, 1997 edition, which establishment, auxiliary or operating unit shows a strong performance in exporting goods and services, and as further defined by the commissioner through regulations adopted under chapter 54, or (B) if located in an enterprise zone designated pursuant to said section 32-70, which is to be used by an establishment primarily engaged in supplying goods or services in the fields of computer hardware or software, computer networking, telecommunications or communications, or (C) if located in a municipality with an entertainment district designated under section 32-76 or established under section 2 of public act 93-311**, is to be used in the production of entertainment products, including multimedia products, or as part of the airing, display or provision of live entertainment for stage or broadcast, including support services such as set manufacturers, scenery makers, sound and video equipment providers and manufacturers, stage and screen writers, providers of capital for the entertainment industry and agents for talent, writers, producers and music properties and technological infrastructure support including, but not limited to, fiber optics, necessary to support multimedia and other entertainment formats, except entertainment provided by or shown at a gambling or gaming facility or a facility whose primary business is the sale or serving of alcoholic beverages, or (D) if located in the airport development zone established pursuant to section 32-75d, (i) which is to be used for the warehousing or motor freight distribution of goods transported by aircraft to or from an airport located in such zone, or (ii) in the opinion of the

Commissioner of Economic and Community Development, is dependent upon or directly related to such airport and which, except as provided in this subparagraph, is to be used for any other business service, including, but not limited to, information technology but excluding any service provided by an organization that has a North American Industrial Classification Code of 441110 to 454390, inclusive, 532111, 532112 or 812930; and (3) for which the department has issued an eligibility certificate in accordance with section 32-9r. In the case of facilities which are acquired, the department may waive the requirement of one year of idleness if it determines that, absent qualification as a manufacturing facility under subdivisions (59) and (60) of section 12-81, and sections 12-217e, 32-9p to 32-9s, inclusive, and 32-23p, there is a high likelihood that the facility will remain idle for one year. In the case of facilities located in an enterprise zone designated pursuant to said section 32-70, (A) the idleness requirement in subparagraph (B) of subdivision (1) of this subsection, for business organizations which over the six months preceding such acquisition have had an average total employment of between six and nineteen employees, inclusive, shall be reduced to a minimum of six months, and (B) the idleness requirement shall not apply to business organizations with an average total employment of five or fewer employees, provided no more than one eligibility certificate shall be issued under this subparagraph for the same facility within a three-year period. Of those facilities which are for warehousing and distribution, only those which are newly constructed or which represent an expansion of an existing facility qualify as manufacturing facilities. In the event that only a portion of a plant is acquired, constructed, renovated or expanded, only the portion acquired, constructed, renovated or expanded constitutes the manufacturing facility. A manufacturing facility which is leased may for the purposes of subdivisions (59) and (60) of section 12-81 and sections 12-217e, 32-9p to 32-9s, inclusive, and 32-23p, be treated in the same manner as a facility which is acquired if the provisions of the lease serve to further the purposes of subdivisions (59) and (60) of section 12-81, and sections 12-217e, 32-9p to 32-9s, inclusive, and 32-23p and demonstrate a substantial, long-term commitment by the occupant to use the manufacturing facility, including a contract for lease for an initial minimum term of five years with provisions for the extension of the lease at the request of the lessee for an aggregate term which shall not be less than ten years, or the right of the lessee to purchase the facility at any time after the initial five-year term, or both. For a facility located in an

enterprise zone designated pursuant to said section 32-70, and occupied by a business organization with an average total employment of ten or fewer employees over the six-month period preceding acquisition, such contract for lease may be for an initial minimum term of three years with provisions for the extension of the lease at the request of the lessee for an aggregate term which shall not be less than six years, or the right of the lessee to purchase the facility at any time after the initial three-year term, or both, and may also include the right for the lessee to relocate to other space within the same enterprise zone, provided such space is under the same ownership or control as the originally leased space or if such space is not under such same ownership or control as the originally leased space, permission to relocate is granted by the lessor of such originally leased space, and such relocation shall not extend the duration of benefits granted under the original eligibility certificate. Except as provided in subparagraph (B) of subdivision (1) of this subsection, a manufacturing facility does not include any plant, building, other real property improvement or part thereof used or usable for such purposes which existed before July 1, 1978.

(e) "Service facility" means a manufacturing facility described in subparagraph (A) or (B) of subdivision (2) of subsection (d) of this section, provided such facility is located outside of an enterprise zone in a targeted investment community.

(f) "Authority", "capital reserve fund bond", "commissioner", "department", "industrial project" and "insurance fund" shall have the meaning such words and terms are given in section 32-23d.

(g) "Municipality" means any town, city or borough in the state."

(P.A. 78-357, S. 2, 16; P.A. 79-492, S. 1, 4; 79-508, S. 4, 5; P.A. 81-109, S. 1, 3; 81-333, S. 1, 3; P.A. 83-246; 83-451, S. 3, 4; P.A. 85-578, S. 1, 5; P.A. 86-153, S. 2, 5; 86-258, S. 2, 8; P.A. 89-235, S. 3, 5; P.A. 90-270, S. 17, 38; P.A. 93-311, S. 3, 8; P.A. 94-247, S. 2, 8; P.A. 95-250, S. 1; P.A. 96-211, S. 1, 5, 6; 96-222, S. 23; 96-239, S. 10, 17; June Sp. Sess. P.A. 98-1, S. 67, 121; June Sp. Sess. P.A. 99-1, S. 16, 51; P.A. 00-174, S. 48, 83; June Sp. Sess. P.A. 01-6, S. 62, 85; P.A. 10-98, S. 5.)

****Note: Section 2 of public act 93-311 is special in nature and therefore has not been codified but remains in full force and effect according to its terms.**

History: P.A. 79-492 expanded definition of "manufacturing facility" to include warehouse facilities, to allow waiver of one year of idleness requirement and to clarify applicability to newly constructed or expanded facilities; P.A. 79-508 redefined "area of high unemployment" to specifically include distressed municipalities and to specifically exclude other municipalities with unemployment rate of less than 6%; P.A. 81-109 deleted Subdiv. (g) which had defined "commissioner of commerce" to mean commissioner of economic development in certain sections; P.A. 81-333 amended Subsec. (b) to provide for five-year extension of distressed municipality status for municipalities previously so designated but subsequently failing to meet federal thresholds; P.A. 83-246 included research and development facilities within the definition of "manufacturing facility" in Subsec. (d); P.A. 83-451 amended Subsec. (b) to include within "distressed municipality" any municipality adversely affected by a major plant closing, relocation or layoff, as defined in regulations to be adopted by the commissioner of economic development; P.A. 85-578 amended Subsec. (b) to authorize a municipality to elect to terminate its designation as a "distressed municipality"; P.A. 86-153 amended Subdiv. (b) to require notification to the commissioner and the secretary of the office of policy and management in the event a distressed municipality elects to terminate its designation, effective April 28, 1986, and applicable in any municipality for purposes of the assessment year commencing October 1, 1986, and each assessment year thereafter; P.A. 86-258 added to definition of "distressed municipality" the portion of a municipality eligible for enterprise zone designation pursuant to Sec. 32-70(b)(2), amended definition of "manufacturing facility" to include certain service facilities located in an enterprise zone, to modify the idleness requirement for facilities located in an enterprise zone and to modify lease requirements for facilities generally; P.A. 89-235 amended the definition of "manufacturing facility" in Subsec. (d) to make technical changes to the categories of eligible facilities located in an enterprise zone which are defined in the Standard Industrial Classification Manual, deleted the requirement for the creation of ten or more new employment positions for such facilities, made technical changes to manufacturing facility leasing requirements and deleted provisions disqualifying business facilities that transfer personnel or employment positions from within a

distressed municipality and which does not represent a net expansion of business operations and employment in such municipality; P.A. 90-270 amended Subsec. (d) to redefine "manufacturing facility" to include a facility located in a targeted investment community or an enterprise zone and expanded the categories of activities to include health services, fishing, hunting and trapping, motor freight transportation and warehousing, water transportation, transportation by air, transportation services, security and commodity brokers, dealers, exchanges and services; P.A. 93-311 amended the definition of "manufacturing facility" to include facilities located in an entertainment district, effective July 1, 1993; P.A. 94-247 redefined "manufacturing facility" to include facilities used in the production of multimedia products and technological infrastructure support, effective June 9, 1994; P.A. 95-250 and P.A. 96-211 replaced Commissioner and Department of Economic Development with Commissioner and Department of Economic and Community Development; P.A. 96-222 amended Subsec. (d)(2) by deleting the phrase "in bulk of manufactured products on other than a retail basis" after the phrase "warehousing and distribution" and Subsec. (d)(3) by deleting the phrase "of manufactured products on other than a retail basis," after the phrase "warehousing and distribution"; P.A. 96-239 redefined "manufacturing facility" in Subsec. (d)(2)(i) by adding "telemarketing" to list of SIC categories, inserted a new Subsec. (e) defining "service facility" and relettered former Subsecs. (e) and (f) as Subsecs. (f) and (g), effective July 1, 1996; June Sp. Sess. P.A. 98-1 made technical corrections and included management consulting services within the scope of part of the definition of "manufacturing facility", effective June 24, 1998; June Sp. Sess. P.A. 99-1 amended Subsec. (d)(2) by adding Subpara. (B) re establishments primarily engaged in supplying goods or services in the fields of computer hardware or software, computer networking, telecommunications or communications, amended Subsec. (e) to include facility described in Subsec. (d)(2)(B) as a service facility, and made technical changes, effective July 1, 1999; P.A. 00-174 amended Subsec. (d)(2)(A) to include references to facilities within certain categories in the North American Industrial Classification System, effective May 26, 2000; June Sp. Sess. P.A. 01-6 amended Subsec. (d) to move provision re the North American Industrial Classification System and make technical changes, effective July 1, 2001; P.A. 10-98 amended Subsec. (b) to include portions of municipalities within airport development zone and amended Subsec. (d) to include airport development zone in

Subdiv. (1) and add Subdiv. (2)(D) re location in airport development zone, effective October 1, 2011.