

ASSEMBLY, No. 2406

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED FEBRUARY 1, 2018

Sponsored by:

Assemblyman BENJIE E. WIMBERLY
District 35 (Bergen and Passaic)

SYNOPSIS

Increases value of Economic Redevelopment and Growth Grant program residential tax credits to \$926 million; restricts \$103 million of tax credits to certain qualified residential projects and mixed use parking projects.

CURRENT VERSION OF TEXT

As introduced.



A2406 WIMBERLY

2

1 AN ACT concerning tax credits under the Economic Redevelopment
2 and Growth Grant program for qualified residential projects and
3 mixed use parking projects, and amending P.L.2009, c.90.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 3 of P.L.2009, c.90 (C.52:27D-489c) is amended to
9 read as follows:

10 3. As used in sections 3 through 18 of P.L.2009, c.90
11 (C.52:27D-489c et al.):

12 "Applicant" means a developer proposing to enter into a
13 redevelopment incentive grant agreement.

14 "Ancillary infrastructure project" means structures or
15 improvements that are located within the incentive area but outside
16 the project area of a redevelopment project, including, but not
17 limited to, docks, bulkheads, parking garages, freight rail spurs,
18 roadway overpasses, and train station platforms, provided a
19 developer or municipal redeveloper has demonstrated that the
20 redevelopment project would not be economically viable or
21 promote the use of public transportation without such
22 improvements, as approved by the State Treasurer.

23 "Authority" means the New Jersey Economic Development
24 Authority established under section 4 of P.L.1974, c.80 (C.34:1B-
25 4).

26 "Aviation district" means the area within a one-mile radius of the
27 outermost boundary of the "Atlantic City International Airport,"
28 established pursuant to section 24 of P.L.1991, c.252 (C.27:25A-
29 24).

30 "Deep poverty pocket" means a population census tract having a
31 poverty level of 20 percent or more, and which is located within the
32 incentive area and has been determined by the authority to be an
33 area appropriate for development and in need of economic
34 development incentive assistance.

35 "Developer" means any person who enters or proposes to enter
36 into a redevelopment incentive grant agreement pursuant to the
37 provisions of section 9 of P.L.2009, c.90 (C.52:27D-489i), or its
38 successors or assignees, including but not limited to a lender that
39 completes a redevelopment project, operates a redevelopment
40 project, or completes and operates a redevelopment project. A
41 developer also may be a municipal redeveloper as defined herein or
42 Rutgers, the State University of New Jersey.

43 "Director" means the Director of the Division of Taxation in the
44 Department of the Treasury.

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.

1 "Disaster recovery project" means a redevelopment project
2 located on property that has been wholly or substantially damaged
3 or destroyed as a result of a federally-declared disaster, and which
4 is located within the incentive area and has been determined by the
5 authority to be in an area appropriate for development and in need
6 of economic development incentive assistance.

7 "Distressed municipality" means a municipality that is qualified
8 to receive assistance under P.L.1978, c.14 (C.52:27D-178 et seq.), a
9 municipality under the supervision of the Local Finance Board
10 pursuant to the provisions of the "Local Government Supervision
11 Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), a municipality
12 identified by the Director of the Division of Local Government
13 Services in the Department of Community Affairs to be facing
14 serious fiscal distress, a SDA municipality, or a municipality in
15 which a major rail station is located.

16 "Eligibility period" means the period of time specified in a
17 redevelopment incentive grant agreement for the payment of
18 reimbursements to a developer, which period shall not exceed 20
19 years, with the term to be determined solely at the discretion of the
20 applicant.

21 "Eligible revenue" means the property tax increment and any
22 other incremental revenues set forth in section 11 of P.L.2009, c.90
23 (C.52:27D-489k), except in the case of a Garden State Growth
24 Zone, in which the property tax increment and any other
25 incremental revenues are calculated as those incremental revenues
26 that would have existed notwithstanding the provisions of the "New
27 Jersey Economic Opportunity Act of 2013," P.L.2013, c.161
28 (C.52:27D-489p et al.).

29 "Garden State Growth Zone" or "growth zone" means the four
30 New Jersey cities with the lowest median family income based on
31 the 2009 American Community Survey from the US Census, (Table
32 708. Household, Family, and Per Capita Income and Individuals,
33 and Families Below Poverty Level by City: 2009); or a municipality
34 which contains a Tourism District as established pursuant to section
35 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino
36 Reinvestment Development Authority.

37 "Highlands development credit receiving area or redevelopment
38 area" means an area located within an incentive area and designated
39 by the Highlands Council for the receipt of Highlands Development
40 Credits under the Highlands Transfer Development Rights Program
41 authorized under section 13 of P.L.2004, c.120 (C.13:20-13).

42 "Incentive grant" means reimbursement of all or a portion of the
43 project financing gap of a redevelopment project through the State
44 or a local Economic Redevelopment and Growth Grant program
45 pursuant to section 4 or section 5 of P.L.2009, c.90 (C.52:27D-489d
46 or C.52:27D-489e).

47 "Infrastructure improvements in the public right-of-way" mean
48 public structures or improvements located in the public right-of-

1 way that are located within a project area or that constitute an
2 ancillary infrastructure project, either of which are dedicated to or
3 owned by a governmental body or agency upon completion, or any
4 required payment in lieu of the structures, improvements or
5 projects, or any costs of remediation associated with the structures,
6 improvements or projects, and that are determined by the authority,
7 in consultation with applicable State agencies, to be consistent with
8 and in furtherance of State public infrastructure objectives and
9 initiatives.

10 "Low-income housing" means housing affordable according to
11 federal Department of Housing and Urban Development or other
12 recognized standards for home ownership and rental costs and
13 occupied or reserved for occupancy by households with a gross
14 household income equal to 50 percent or less of the median gross
15 household income for households of the same size within the
16 housing region in which the housing is located.

17 "Major rail station" means a railroad station located within a
18 qualified incentive area which provides access to the public to a
19 minimum of six rail passenger service lines operated by the New
20 Jersey Transit Corporation.

21 "Mixed use parking project" means a redevelopment project, the
22 parking component of which shall constitute 51 percent or more of
23 any of the following:

- 24 a. the total square footage of the entire mixed use parking
25 project;
- 26 b. the estimated revenues of the entire mixed use parking
27 project; or
- 28 c. the total construction cost of the entire mixed use parking
29 project.

30 "Moderate-income housing" means housing affordable,
31 according to United States Department of Housing and Urban
32 Development or other recognized standards for home ownership
33 and rental costs, and occupied or reserved for occupancy by
34 households with a gross household income equal to more than 50
35 percent but less than 80 percent of the median gross household
36 income for households of the same size within the housing region in
37 which the housing is located.

38 "Municipal redeveloper" means an applicant for a redevelopment
39 incentive grant agreement, which applicant is:

- 40 a. a municipal government, a municipal parking authority, or a
41 redevelopment agency acting on behalf of a municipal government
42 as defined in section 3 of P.L.1992, c.79 (C.40A:12A-3); or
- 43 b. a developer of a mixed use parking project, provided that the
44 parking component of the mixed use parking project is operated and
45 maintained by a municipal parking authority for the term of any
46 financial assistance granted pursuant to P.L.2015, c.69.

1 "Municipal Revitalization Index" means the 2007 index by the
2 Office for Planning Advocacy within the Department of State
3 measuring or ranking municipal distress.

4 "Non-parking component" means that portion of a mixed use
5 parking project not used for parking, together with the portion of
6 the costs of the mixed use parking project, including but not limited
7 to the footings, foundations, site work, infrastructure, and soft costs
8 that are allocable to the non-parking use.

9 "Parking component" means that portion of a mixed use parking
10 project used for parking, together with the portion of the costs of
11 the mixed use parking project, including but not limited to the
12 footings, foundations, site work, infrastructure, and soft costs that
13 are allocable to the parking use. The parking component, which
14 may include pedestrian walkways or a skybridge, may be in the
15 same structure as the non-parking component or may be in an
16 adjacent or nearby structure.

17 "Project area" means land or lands located within the incentive
18 area under common ownership or control including through a
19 redevelopment agreement with a municipality, or as otherwise
20 established by a municipality or a redevelopment agreement
21 executed by a State entity to implement a redevelopment project.

22 "Project cost" means the costs incurred in connection with the
23 redevelopment project by the developer until the issuance of a
24 permanent certificate of occupancy, or until such other time
25 specified by the authority, for a specific investment or
26 improvement, including the costs relating to receiving Highlands
27 Development Credits under the Highlands Transfer Development
28 Rights Program authorized pursuant to section 13 of P.L.2004,
29 c.120 (C.13:20-13), lands, buildings, improvements, real or
30 personal property, or any interest therein, including leases
31 discounted to present value, including lands under water, riparian
32 rights, space rights and air rights acquired, owned, developed or
33 redeveloped, constructed, reconstructed, rehabilitated or improved,
34 any environmental remediation costs, plus costs not directly related
35 to construction, of an amount not to exceed 20 percent of the total
36 costs, capitalized interest paid to third parties, and the cost of
37 infrastructure improvements, including ancillary infrastructure
38 projects, and, for projects located in a Garden State Growth Zone
39 only, the cost of infrastructure improvements including any
40 ancillary infrastructure project and the amount by which total
41 project cost exceeds the cost of an alternative location for the
42 redevelopment project, but excluding any particular costs for which
43 the project has received federal, State, or local funding.

44 "Project financing gap" means:

45 a. the part of the total project cost, including return on
46 investment, that remains to be financed after all other sources of
47 capital have been accounted for, including, but not limited to,
48 developer-contributed capital, which shall not be less than 20

1 percent of the total project cost, which may include the value of any
2 existing land and improvements in the project area owned or
3 controlled by the developer, and the cost of infrastructure
4 improvements in the public right-of-way, subject to review by the
5 State Treasurer, and investor or financial entity capital or loans for
6 which the developer, after making all good faith efforts to raise
7 additional capital, certifies that additional capital cannot be raised
8 from other sources on a non-recourse basis; and

9 b. the amount by which total project cost exceeds the cost of an
10 alternative location for the out-of-State redevelopment project.

11 "Project revenue" means all rents, fees, sales, and payments
12 generated by a project, less taxes or other government payments.

13 "Property tax increment" means the amount obtained by:

14 a. multiplying the general tax rate levied each year by the
15 taxable value of all the property assessed within a project area in
16 the same year, excluding any special assessments; and

17 b. multiplying that product by a fraction having a numerator
18 equal to the taxable value of all the property assessed within the
19 project area, minus the property tax increment base, and having a
20 denominator equal to the taxable value of all property assessed
21 within the project area.

22 For the purpose of this definition, "property tax increment base"
23 means the aggregate taxable value of all property assessed which is
24 located within the redevelopment project area as of October 1st of
25 the year proceeding the year in which the redevelopment incentive
26 grant agreement is authorized.

27 "Qualified incubator facility" means a commercial building
28 located within an incentive area: which contains 100,000 or more
29 square feet of office, laboratory, or industrial space; which is
30 located near, and presents opportunities for collaboration with, a
31 research institution, teaching hospital, college, or university; and
32 within which, at least 75 percent of the gross leasable area is
33 restricted for use by one or more technology startup companies
34 during the commitment period.

35 "Qualified residential project" means a redevelopment project
36 that is predominantly residential and includes multi-family
37 residential units for purchase or lease, or dormitory units for
38 purchase or lease, having a total project cost of at least
39 \$17,500,000, if the project is located in any municipality with a
40 population greater than 200,000 according to the latest federal
41 decennial census, or having a total project cost of at least
42 \$10,000,000 if the project is located in any municipality with a
43 population less than 200,000 according to the latest federal
44 decennial census, or is a disaster recovery project, or having a total
45 project cost of \$5,000,000 if the project is in a Garden State Growth
46 Zone.

47 "Qualifying economic redevelopment and growth grant incentive
48 area" or "incentive area" means:

- 1 a. an aviation district;
- 2 b. a port district;
- 3 c. a distressed municipality; or
- 4 d. an area (1) designated pursuant to the "State Planning Act,"
5 P.L.1985, c.398 (C.52:18A-196 et seq.), as:
 - 6 (a) Planning Area 1 (Metropolitan);
 - 7 (b) Planning Area 2 (Suburban); or
 - 8 (c) Planning Area 3 (Fringe Planning Area);
 - 9 (2) located within a smart growth area and planning area
10 designated in a master plan adopted by the New Jersey
11 Meadowlands Commission pursuant to subsection (i) of section 6 of
12 P.L.1968, c.404 (C.13:17-6) or subject to a redevelopment plan
13 adopted by the New Jersey Meadowlands Commission pursuant to
14 section 20 of P.L.1968, c.404 (C.13:17-21);
 - 15 (3) located within any land owned by the New Jersey Sports and
16 Exposition Authority, established pursuant to P.L.1971, c.137
17 (C.5:10-1 et seq.), within the boundaries of the Hackensack
18 Meadowlands District as delineated in section 4 of P.L.1968, c.404
19 (C.13:17-4);
 - 20 (4) located within a regional growth area, rural development
21 area zoned for industrial use as of the effective date of P.L.2016,
22 c.75, town, village, or a military and federal installation area
23 designated in the comprehensive management plan prepared and
24 adopted by the Pinelands Commission pursuant to the "Pinelands
25 Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.);
 - 26 (5) located within the planning area of the Highlands Region as
27 defined in section 3 of P.L.2004, c.120 (C.13:20-3) or in a
28 highlands development credit receiving area or redevelopment area;
 - 29 (6) located within a Garden State Growth Zone;
 - 30 (7) located within land approved for closure under any federal
31 Base Closure and Realignment Commission action; or
 - 32 (8) located only within the following portions of the areas
33 designated pursuant to the "State Planning Act," P.L.1985, c.398
34 (C.52:18A-196 et al.), as Planning Area 4A (Rural Planning Area),
35 Planning Area 4B (Rural/Environmentally Sensitive) or Planning
36 Area 5 (Environmentally Sensitive) if Planning Area 4A (Rural
37 Planning Area), Planning Area 4B (Rural/Environmentally
38 Sensitive) or Planning Area 5 (Environmentally Sensitive) is
39 located within:
 - 40 (a) a designated center under the State Development and
41 Redevelopment Plan;
 - 42 (b) a designated growth center in an endorsed plan until the
43 State Planning Commission revises and readopts New Jersey's State
44 Strategic Plan and adopts regulations to revise this definition as it
45 pertains to Statewide planning areas;
 - 46 (c) any area determined to be in need of redevelopment pursuant
47 to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and

1 C.40A:12A-6) or in need of rehabilitation pursuant to section 14 of
2 P.L.1992, c.79 (C.40A:12A-14);

3 (d) any area on which a structure exists or previously existed
4 including any desired expansion of the footprint of the existing or
5 previously existing structure provided the expansion otherwise
6 complies with all applicable federal, State, county, and local
7 permits and approvals;

8 (e) the planning area of the Highlands Region as defined in
9 section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands
10 development credit receiving area or redevelopment area; or

11 (f) any area on which an existing tourism destination project is
12 located.

13 "Qualifying economic redevelopment and growth grant incentive
14 area" or "incentive area" shall not include any property located
15 within the preservation area of the Highlands Region as defined in
16 the "Highlands Water Protection and Planning Act," P.L.2004,
17 c.120 (C.13:20-1 et al.).

18 "Redevelopment incentive grant agreement" means an agreement
19 between:

20 a. the State and the New Jersey Economic Development
21 Authority and a developer; or

22 b. a municipality and a developer, or a municipal ordinance
23 authorizing a project to be undertaken by a municipal redeveloper,
24 under which, in exchange for the proceeds of an incentive grant, the
25 developer agrees to perform any work or undertaking necessary for
26 a redevelopment project, including the clearance, development or
27 redevelopment, construction, or rehabilitation of any structure or
28 improvement of commercial, industrial, residential, or public
29 structures or improvements within a qualifying economic
30 redevelopment and growth grant incentive area or a transit village.

31 "Redevelopment project" means a specific construction project
32 or improvement, including lands, buildings, improvements, real and
33 personal property or any interest therein, including lands under
34 water, riparian rights, space rights and air rights, acquired, owned,
35 leased, developed or redeveloped, constructed, reconstructed,
36 rehabilitated or improved, undertaken by a developer, owner or
37 tenant, or both, within a project area and any ancillary infrastructure
38 project including infrastructure improvements in the public right of
39 way, as set forth in an application to be made to the authority. The
40 use of the term "redevelopment project" in sections 3 through 18 of
41 P.L.2009, c.90 (C.52:27D-489c et al.) shall not be limited to only
42 redevelopment projects located in areas determined to be in need of
43 redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79
44 (C.40A:12A-5 and C.40A:12A-6) but shall also include, but not be
45 limited to, any work or undertaking in accordance with the
46 "Redevelopment Area Bond Financing Law," sections 1 through 10
47 of P.L.2001, c.310 (C.40A:12A-64 et seq.) or other applicable law,
48 pursuant to a redevelopment plan adopted by a State entity, or as

1 described in the resolution adopted by a public entity created by
2 State law with the power to adopt a redevelopment plan or
3 otherwise determine the location, type and character of a
4 redevelopment project or part of a redevelopment project on land
5 owned or controlled by it or within its jurisdiction, including but
6 not limited to, the New Jersey Meadowlands Commission
7 established pursuant to P.L.1968, c.404 (C.13:17-1 et seq.), the
8 New Jersey Sports and Exposition Authority established pursuant to
9 P.L.1971 c.137 (C.5:10-1 et seq.) and the Fort Monmouth
10 Economic Revitalization Authority created pursuant to P.L.2010,
11 c.51 (C.52:27I-18 et seq.).

12 "Redevelopment utility" means a self-liquidating fund created by
13 a municipality pursuant to section 12 of P.L.2009, c.90 (C.52:27D-
14 489l) to account for revenues collected and incentive grants paid
15 pursuant to section 11 of P.L.2009, c.90 (C.52:27D-489k), or other
16 revenues dedicated to a redevelopment project.

17 "Revenue increment base" means the amounts of all eligible
18 revenues from sources within the redevelopment project area in the
19 calendar year proceeding the year in which the redevelopment
20 incentive grant agreement is executed, as certified by the State
21 Treasurer for State revenues, and the chief financial officer of the
22 municipality for municipal revenues.

23 "SDA district" means an SDA district as defined in section 3 of
24 P.L.2000, c.72 (C.18A:7G-3).

25 "SDA municipality" means a municipality in which an SDA
26 district is situated.

27 "Technology startup company" means a for profit business that
28 has been in operation fewer than five years and is developing or
29 possesses a proprietary technology or business method of a high-
30 technology or life science-related product, process, or service which
31 the business intends to move to commercialization.

32 "Tourism destination project" means a redevelopment project
33 that will be among the most visited privately owned or operated
34 tourism or recreation sites in the State, and which is located within
35 the incentive area and has been determined by the authority to be in
36 an area appropriate for development and in need of economic
37 development incentive assistance.

38 "Transit project" means a redevelopment project located within a
39 1/2-mile radius, or one-mile radius for projects located in a Garden
40 State Growth Zone, surrounding the mid-point of a New Jersey
41 Transit Corporation, Port Authority Transit Corporation, or Port
42 Authority Trans-Hudson Corporation rail, bus, or ferry station
43 platform area, including all light rail stations.

44 "Transit village" means a community with a bus, train, light rail,
45 or ferry station that has developed a plan to achieve its economic
46 development and revitalization goals and has been designated by
47 the New Jersey Department of Transportation as a transit village.

1 "University infrastructure" means any of the following located
2 on the campus of Rutgers, the State University of New Jersey:

3 a. buildings and structures, such as academic buildings,
4 recreation centers, indoor athletic facilities, public works garages,
5 and water and sewer treatment and pumping facilities;

6 b. open space with improvements, such as athletic fields and
7 other outdoor athletic facilities, planned commons, and parks; and

8 c. transportation facilities, such as bus shelters and parking
9 facilities.

10 "Urban transit hub" means an urban transit hub, as defined in
11 section 10 of P.L.2007, c.346 (C.34:1B-208), that is located within
12 an eligible municipality, as defined in section 10 of P.L.2007, c.346
13 (C.34:1B-208), or all light rail stations and property located within
14 a one-mile radius of the mid-point of the platform area of such a
15 rail, bus, or ferry station if the property is in a qualified
16 municipality under the "Municipal Rehabilitation and Economic
17 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.).

18 "Vacant commercial building" means any commercial building
19 or complex of commercial buildings having over 400,000 square
20 feet of office, laboratory, or industrial space that is more than 70
21 percent unoccupied at the time of application to the authority or is
22 negatively impacted by the approval of a "qualified business
23 facility," as defined pursuant to section 2 of P.L.2007, c.346
24 (C.34:1B-208), or any vacant commercial building in a Garden
25 State Growth Zone having over 35,000 square feet of office,
26 laboratory, or industrial space, or over 200,000 square feet of
27 office, laboratory, or industrial space in Atlantic, Burlington,
28 Camden, Cape May, Cumberland, Gloucester, Ocean, or Salem
29 counties available for occupancy for a period of over one year.

30 "Vacant health facility project" means a redevelopment project
31 where a health facility, as defined by section 2 of P.L.1971, c.136
32 (C.26:2H-2), currently exists and is considered vacant. A health
33 facility shall be considered vacant if at least 70 percent of that
34 facility has not been open to the public or utilized to serve any
35 patients at the time of application to the authority.

36 (cf: P.L.2016, c.75, s.2)

37

38 2. Section 6 of P.L.2009, c.90 (C.52:27D-489f) is amended to
39 read as follows:

40 6. a. Up to the limits established in subsection b. of this
41 section and in accordance with a redevelopment incentive grant
42 agreement, beginning upon the receipt of occupancy permits for any
43 portion of the redevelopment project, or upon any other event
44 evidencing project completion as set forth in the incentive grant
45 agreement, the State Treasurer shall pay to the developer
46 incremental State revenues directly realized from businesses
47 operating at the site of the redevelopment project from the
48 following taxes: the Corporation Business Tax Act (1945),

1 P.L.1945, c.162 (C.54:10A-1 et seq.), the tax imposed on marine
2 insurance companies pursuant to R.S.54:16-1 et seq., the tax
3 imposed on insurers generally, pursuant to P.L.1945, c.132
4 (C.54:18A-1 et seq.), the public utility franchise tax, public utilities
5 gross receipts tax and public utility excise tax imposed on sewerage
6 and water corporations pursuant to P.L.1940, c.5 (C.54:30A-49 et
7 seq.), those tariffs and charges imposed by electric, natural gas,
8 telecommunications, water and sewage utilities, and cable television
9 companies under the jurisdiction of the New Jersey Board of Public
10 Utilities, or comparable entity, except for those tariffs, fees, or taxes
11 related to societal benefits charges assessed pursuant to section 12
12 of P.L.1999, c.23 (C.48:3-60), any charges paid for compliance
13 with the "Global Warming Response Act," P.L.2007, c.112
14 (C.26:2C-37 et **[seq.]** al.), transitional energy facility assessment
15 unit taxes paid pursuant to section 67 of P.L.1997, c.162 (C.48:2-
16 21.34), and the sales and use taxes on public utility and cable
17 television services and commodities, the tax derived from net
18 profits from business, a distributive share of partnership income, or
19 a pro rata share of S corporation income under the "New Jersey
20 Gross Income Tax Act," N.J.S.54A:1-1 et seq., the tax derived from
21 a business at the site of a redevelopment project that is required to
22 collect the tax pursuant to the "Sales and Use Tax Act," P.L.1966,
23 c.30 (C.54:32B-1 et seq.), the tax imposed pursuant to P.L.1966,
24 c.30 (C.54:32B-1 et seq.) from the purchase of furniture, fixtures
25 and equipment, or materials for the remediation, the construction of
26 new structures at the site of a redevelopment project, the hotel and
27 motel occupancy fee imposed pursuant to section 1 of P.L.2003,
28 c.114 (C.54:32D-1), or the portion of the fee imposed pursuant to
29 section 3 of P.L.1968, c.49 (C.46:15-7) derived from the sale of real
30 property at the site of the redevelopment project and paid to the
31 State Treasurer for use by the State, that is not credited to the
32 "Shore Protection Fund" or the "Neighborhood Preservation
33 Nonlapsing Revolving Fund" ("New Jersey Affordable Housing
34 Trust Fund") pursuant to section 4 of P.L.1968, c.49 (C.46:15-8).
35 Any developer shall be allowed to assign their ability to apply for
36 the tax credit under this subsection to a non-profit organization with
37 a mission dedicated to attracting investment and completing
38 development and redevelopment projects in a Garden State Growth
39 Zone. The non-profit organization may make an application on
40 behalf of a developer which meets the requirements for the tax
41 credit, or a group of non-qualifying developers, such that these will
42 be considered a unified project for the purposes of the incentives
43 provided under this section.

44 b. (1) Up to an average of 75 percent of the projected annual
45 incremental revenues or 85 percent of the projected annual
46 incremental revenues in a Garden State Growth Zone may be
47 pledged towards the State portion of an incentive grant.

1 (2) In the case of a qualified residential project or a project
2 involving university infrastructure, if the authority determines that
3 the estimated amount of incremental revenues pledged towards the
4 State portion of an incentive grant is inadequate to fully fund the
5 amount of the State portion of the incentive grant, then in lieu of an
6 incentive grant based on the incremental revenues, the developer
7 shall be awarded tax credits equal to the full amount of the
8 incentive grant.

9 (3) In the case of a mixed use parking project, if the authority
10 determines that the estimated amount of incremental revenues
11 pledged towards the State portion of an incentive grant is
12 inadequate to fully fund the amount of the State portion of the
13 incentive grant, then, in lieu of an incentive grant based on the
14 incremental revenues, the developer shall be awarded tax credits
15 equal to the full amount of the incentive grant.

16 The value of all credits approved by the authority pursuant to
17 paragraphs (2) and (3) of this subsection shall not exceed
18 ~~【\$823,000,000】~~ \$926,000,000, of which:

19 (a) \$250,000,000 shall be restricted to qualified residential
20 projects within Atlantic, Burlington, Camden, Cape May,
21 Cumberland, Gloucester, Ocean, and Salem counties, of which
22 \$175,000,000 of the credits shall be restricted to the following
23 categories of projects: (i) qualified residential projects located in a
24 Garden State Growth Zone located within the aforementioned
25 counties; and (ii) mixed use parking projects located in a Garden
26 State Growth Zone or urban transit hub located within the
27 aforementioned counties; (iii) and \$75,000,000 of the credits shall
28 be restricted to qualified residential projects in municipalities with a
29 2007 Municipal Revitalization Index of 400 or higher as of the date
30 of enactment of the "New Jersey Economic Opportunity Act of
31 2013," P.L.2013, c.161 (C.52:27D-489p et al.) and located within
32 the aforementioned counties;

33 (b) ~~【\$395,000,000】~~ \$498,000,000 shall be restricted to the
34 following categories of projects: (i) qualified residential projects
35 located in urban transit hubs that are commuter rail in nature that
36 otherwise do not qualify under subparagraph (a) of this paragraph;
37 (ii) qualified residential projects located in Garden State Growth
38 Zones that do not qualify under subparagraph (a) of this paragraph;
39 (iii) mixed use parking projects located in urban transit hubs or
40 Garden State Growth Zones that do not qualify under subparagraph
41 (a) of this paragraph, provided however, an urban transit hub shall
42 be allocated no more than \$25,000,000 for mixed use parking
43 projects; (iv) qualified residential projects which are disaster
44 recovery projects that otherwise do not qualify under subparagraph
45 (a) of this paragraph; (v) qualified residential projects in SDA
46 municipalities located in Hudson County that were awarded State
47 Aid in State Fiscal Year 2013 through the Transitional Aid to
48 Localities program and otherwise do not qualify under

1 subparagraph (a) of this paragraph; (vi) \$25,000,000 of credits shall
2 be restricted to mixed use parking projects in Garden State Growth
3 Zones which have a population in excess of 125,000 and do not
4 qualify under subparagraph (a) of this paragraph; (vii) \$40,000,000
5 of credits shall be restricted to qualified residential projects that
6 include a theater venue for the performing arts and do not qualify
7 under subparagraph (a) of this paragraph, which projects are located
8 in a municipality with a population of less than 100,000 according
9 to the latest federal decennial census, and within which
10 municipality is located an urban transit hub and a campus of a
11 public research university, as defined in section 1 of P.L.2009,
12 c.308 (C.18A:3B-46); **[and]** (viii) \$158,000,000 of credits shall be
13 restricted to qualified residential projects and mixed use parking
14 projects in Garden State Growth Zones having a population in
15 excess of 125,000 and do not qualify under subparagraph (a) of this
16 paragraph; and (ix) \$50,000,000 of credits shall be restricted to
17 qualified residential projects and mixed use parking projects within
18 a 1/4-mile radius surrounding the mid-point of a Port Authority
19 Transit Corporation or Port Authority Trans-Hudson Corporation
20 rail station platform area, located in a municipality having a
21 population of less than 40,000 according to the latest federal
22 decennial census, that is not an eligible municipality under the
23 “Urban Transit Hub Tax Credit Act,” P.L.2007, c.346 (C.34:1B-207
24 et seq.), and that does not qualify under subparagraph (a) of this
25 paragraph;

26 (c) \$87,000,000 shall be restricted to the following categories of
27 projects: (i) qualified residential projects located in distressed
28 municipalities, deep poverty pockets, highlands development credit
29 receiving areas or redevelopment areas, otherwise not qualifying
30 pursuant to subparagraph (a) or (b) of this paragraph; and (ii) mixed
31 use parking projects that do not qualify under subparagraph (a) or
32 (b) of this paragraph, and which are used by an independent
33 institution of higher education, a school of medicine, a nonprofit
34 hospital system, or any combination thereof; provided, however,
35 that \$20,000,000 of the \$87,000,000 shall be allocated to mixed use
36 parking projects that do not qualify under subparagraph (a) or (b) of
37 this paragraph;

38 (d) (i) \$16,000,000 shall be restricted to qualified residential
39 projects that are located within a qualifying economic
40 redevelopment and growth grant incentive area otherwise not
41 qualifying under subparagraph (a), (b), or (c) of this paragraph; and

42 (ii) an additional \$50,000,000 shall be restricted to qualified
43 residential projects which, as of the effective date of P.L.2016, c.51,
44 are located in a city of the first class with a population in excess of
45 270,000, are subject to a Renewal Contract for a Section 8 Mark-
46 Up-To-Market Project from the United States Department of
47 Housing and Urban Development, and for which an application for

1 the award of tax credits under this subsection was submitted prior to
2 January 1, 2016; and

3 (e) \$25,000,000 shall be restricted to projects involving
4 university infrastructure.

5 (f) For subparagraphs (a) through (d) of this paragraph, not
6 more than \$40,000,000 of credits shall be awarded to any qualified
7 residential project in a deep poverty pocket or distressed
8 municipality and not more than \$20,000,000 of credits shall be
9 awarded to any other qualified residential project. The developer of
10 a qualified residential project seeking an award of credits towards
11 the funding of its incentive grant shall submit an incentive grant
12 application prior to July 1, 2016 and if approved after September
13 18, 2013, the effective date of P.L.2013, c.161 (C.52:27D-489p et
14 al.) shall submit a temporary certificate of occupancy for the project
15 no later than July 28, 2019. The developer of a mixed use parking
16 project seeking an award of credits towards the funding of its
17 incentive grant pursuant to subparagraph (c) of this paragraph and if
18 approved after the effective date of P.L.2015, c.217, shall submit a
19 temporary certificate of occupancy for the project no later than July
20 28, 2021. The developer of a qualified residential project or a
21 mixed use parking project seeking an award of credits toward the
22 funding of its incentive grant for a project restricted under
23 **【category】** categories (vi), (viii), or 【category】 (ix) of
24 subparagraph (b) of this paragraph shall submit an incentive grant
25 application prior to July 1, **【2018】 2019**, and if approved after the
26 effective date of P.L.2017, c.59, shall submit a temporary certificate
27 of occupancy for the project no later than July 28, 2021.
28 Applications for tax credits pursuant to this subsection relating to
29 an ancillary infrastructure project or infrastructure improvement in
30 the public right-of-way, or both, shall be accompanied with a letter
31 of support relating to the project or improvement by the governing
32 body or agency in which the project is located. Credits awarded to
33 a developer pursuant to this subsection shall be subject to the same
34 financial and related analysis by the authority, the same term of the
35 grant, and the same mechanism for administering the credits, and
36 shall be utilized or transferred by the developer as if the credits had
37 been awarded to the developer pursuant to section 35 of P.L.2009,
38 c.90 (C.34:1B-209.3) for qualified residential projects thereunder.
39 No portion of the revenues pledged pursuant to the "New Jersey
40 Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-
41 489p et al.) shall be subject to withholding or retainage for
42 adjustment, in the event the developer or taxpayer waives its rights
43 to claim a refund thereof.

44 (4) A developer may apply to the Director of the Division of
45 Taxation in the Department of the Treasury and the chief executive
46 officer of the authority for a tax credit transfer certificate, if the
47 developer is awarded a tax credit pursuant to paragraph (2) or
48 paragraph (3) of this subsection, covering one or more years, in lieu

1 of the developer being allowed any amount of the credit against the
2 tax liability of the developer. The tax credit transfer certificate,
3 upon receipt thereof by the developer from the director and the
4 chief executive officer of the authority, may be sold or assigned, in
5 full or in part, to any other person who may have a tax liability
6 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2
7 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1
8 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The certificate
9 provided to the developer shall include a statement waiving the
10 developer's right to claim that amount of the credit against the taxes
11 that the developer has elected to sell or assign. The sale or
12 assignment of any amount of a tax credit transfer certificate allowed
13 under this paragraph shall not be exchanged for consideration
14 received by the developer of less than 75 percent of the transferred
15 credit amount before considering any further discounting to present
16 value that may be permitted. Any amount of a tax credit transfer
17 certificate used by a purchaser or assignee against a tax liability
18 shall be subject to the same limitations and conditions that apply to
19 the use of the credit by the developer who originally applied for and
20 was allowed the credit.

21 c. All administrative costs associated with the incentive grant
22 shall be assessed to the applicant and be retained by the State
23 Treasurer from the annual incentive grant payments.

24 d. The incremental revenue for the revenues listed in
25 subsection a. of this section shall be calculated as the difference
26 between the amount collected in any fiscal year from any eligible
27 revenue source included in the State redevelopment incentive grant
28 agreement, less the revenue increment base for that eligible
29 revenue.

30 e. The municipality is authorized to collect any information
31 necessary to facilitate grants under this program and remit that
32 information in order to assist in the calculation of incremental
33 revenue.

34 (cf: P.L.2017, c.59, s.1)

35

36 3. Section 9 of P.L.2009, c.90 (C.52:27D-489i) is amended to
37 read as follows:

38 9. a. The authority is authorized to enter into a redevelopment
39 incentive grant agreement with a developer for any redevelopment
40 project located within a qualifying economic redevelopment and
41 growth grant incentive area that does not qualify as such an area
42 solely by virtue of being a transit village.

43 b. The decision of whether to enter into a redevelopment
44 incentive grant agreement is solely within the discretion of the
45 authority and the State Treasurer, provided that they both agree to
46 enter into an agreement.

1 c. The Chief Executive Officer of the authority, in consultation
2 with the State Treasurer shall negotiate the terms and conditions of
3 any redevelopment incentive grant agreement on behalf of the State.

4 d. (1) The redevelopment incentive grant agreement shall
5 specify the maximum amount of project costs, the amount of the
6 incentive grant to be awarded the developer, the frequency of
7 payments, and the eligibility period, which shall not exceed 20
8 years, during which reimbursement will be granted, and for a
9 project receiving an incentive grant in excess of \$50 million, the
10 amount of the negotiated repayment amount to the State, which may
11 include, but not be limited to, cash, equity, and warrants. Except
12 for redevelopment incentive grant agreements with a municipal
13 redeveloper, or with the developer of a redevelopment project
14 solely with respect to the cost of infrastructure improvements in the
15 public right-of-way including any ancillary infrastructure project in
16 the public right-of-way, in no event shall the base amount of the
17 combined reimbursements under redevelopment incentive grant
18 agreements with the State or municipality exceed 20 percent of the
19 total project cost, except in a Garden State Growth Zone, which
20 shall not exceed 30 percent.

21 (2) The authority shall be permitted to increase the amount of
22 the reimbursement under the redevelopment incentive grant
23 agreement with the State by up to 10 percent of the total project
24 cost if the project is:

25 (a) located in a distressed municipality which lacks adequate
26 access to nutritious food in the judgment of the Chief Executive
27 Officer of the authority and will include either a supermarket or
28 grocery store with a minimum of 15,000 square feet of selling space
29 devoted to the sale of consumable products or a prepared food
30 establishment selling only nutritious ready to serve meals;

31 (b) located in a distressed municipality which lacks adequate
32 access to health care and health services in the judgment of the
33 Chief Executive Officer of the authority and will include a health
34 care and health services center with a minimum of 10,000 square
35 feet of space devoted to the provision of health care and health
36 services;

37 (c) located in a distressed municipality which has a business
38 located therein that is required to respond to a request for proposal
39 to fulfill a contract with the federal government as set forth in
40 subsection **[d.] f.** of section 3 of P.L.2011, c.149 (C.34:1B-244);

41 (d) a transit project;

42 (e) a qualified residential project in which at least 10 percent of
43 the residential units are constructed as and reserved for moderate
44 income housing;

45 (f) located in a highlands development credit receiving area or
46 redevelopment area;

47 (g) located in a Garden State Growth Zone;

48 (h) a disaster recovery project;

- 1 (i) an aviation project;
2 (j) a tourism destination project; or
3 (k) substantial rehabilitation or renovation of an existing
4 structure or structures.

5 (3) The maximum amount of any redevelopment incentive grant
6 shall be equal to up to 30 percent of the total project costs, except
7 for projects located in a Garden State Growth Zone, in which case
8 the maximum amount of any redevelopment incentive grant shall be
9 equal to up to 40 percent of the total project costs. Notwithstanding
10 anything to the contrary contained within this section, the maximum
11 amount of any redevelopment incentive grant with respect to a
12 mixed use parking project shall be up to 100 percent of the total
13 project costs allocable to the parking component of the project, and
14 shall be up to 40 percent of the total project costs allocable to the
15 non-parking component of the project. In addition, notwithstanding
16 anything to the contrary contained in this section, the maximum
17 amount of any redevelopment incentive grant for a qualified
18 residential project described in (i) below shall be up to 80 percent
19 of the total project costs, and for a mixed use parking project
20 described in (i) through (iv) below shall be up to 100 percent of the
21 total project costs allocable to the parking component and up to 80
22 percent of the total project costs allocable to the non-parking
23 component: (i) with respect to a mixed use parking project or
24 qualified residential project constructed upon all or a portion of a
25 project site which project site was previously the subject of an
26 award of tax credits pursuant to the "Urban Transit Hub Tax Credit
27 Act," P.L.2007, c.346 (C.34:1B-207 et seq.), as amended by
28 P.L.2009, c.90 (C.52:27D-489a et al.), but such tax credits were not
29 issued, (ii) for entertainment venues with seating capacity in excess
30 of 5,000, (iii) a visitor center within or adjacent to a national
31 historic park, or (iv) a youth center in or adjacent to a national
32 historic park.

33 e. Except in the case of a qualified residential project, a mixed
34 use parking project, or a project involving university infrastructure,
35 the authority and the State Treasurer may enter into a
36 redevelopment incentive grant agreement only if they make a
37 finding that the State revenues to be realized from the
38 redevelopment project will be in excess of the amount necessary to
39 reimburse the developer for its project financing gap. This finding
40 may be made by an estimation based upon the professional
41 judgment of the Chief Executive Officer of the authority and the
42 State Treasurer.

43 f. In deciding whether to recommend entering into a
44 redevelopment incentive grant agreement and in negotiating a
45 redevelopment agreement with a developer, the Chief Executive
46 Officer of the authority shall consider the following factors:

- 47 (1) the economic feasibility of the redevelopment project;

1 (2) the extent of economic and related social distress in the
2 municipality and the area to be affected by the redevelopment
3 project or the level of site specific distress to include dilapidated
4 conditions, brownfields designation, environmental contamination,
5 pattern of vacancy, abandonment, or **【under utilization】** under-
6 utilization of the property, rate of foreclosures, or other site
7 conditions as determined by the authority;

8 (3) the degree to which the redevelopment project will advance
9 State, regional, and local development and planning strategies;

10 (4) the likelihood that the redevelopment project shall, upon
11 completion, be capable of generating new tax revenue in an amount
12 in excess of the amount necessary to reimburse the developer for
13 project costs incurred as provided in the redevelopment incentive
14 grant agreement, provided, however, that any tax revenue generated
15 by a redevelopment project that is a disaster recovery project shall
16 be considered new tax revenue even if the same or more tax revenue
17 was generated at or on the site prior to the disaster;

18 (5) the relationship of the redevelopment project to a
19 comprehensive local development strategy, including other major
20 projects undertaken within the municipality;

21 (6) the need of the redevelopment incentive grant agreement to
22 the viability of the redevelopment project or the promotion of the
23 use of public transportation; and

24 (7) the degree to which the redevelopment project enhances and
25 promotes job creation and economic development or the promotion
26 of the use of public transportation.

27 g. (1) A developer who has entered into a redevelopment
28 incentive grant agreement with the authority and the State Treasurer
29 pursuant to this section may, upon notice to and consent of the
30 authority and the State Treasurer, pledge, assign, transfer, or sell
31 any or all of its right, title and interest in and to the agreements and
32 in the incentive grants payable thereunder, and the right to receive
33 same, along with the rights and remedies provided to the developer
34 under the agreement. Any such assignment shall be an absolute
35 assignment for all purposes, including the federal bankruptcy code.

36 (2) Any pledge of incentive grants made by the developer shall
37 be valid and binding from the time the pledge is made and filed in
38 the records of the authority. The incentive grants pledged and
39 thereafter received by the developer shall immediately be subject to
40 the lien of the pledge without any physical delivery thereof or
41 further act, and the lien of any pledge shall be valid and binding
42 against all parties having claims of any kind in tort, contract, or
43 otherwise against the developer irrespective of whether the parties
44 have notice thereof. Neither the redevelopment incentive grant
45 agreement nor any other instrument by which a pledge under this
46 section is created need be filed or recorded except with the
47 authority.

48 (cf: P.L.2015, c.242, s.4)

1 4. This act shall take effect immediately.

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3

4

STATEMENT

5

6 This bill increases the value of the Economic Redevelopment and
7 Growth Grant Program (ERG Program) residential tax credits
8 issued by the New Jersey Economic Development Authority (EDA)
9 from \$823 million to \$926 million, an increase of \$103 million.
10 The bill restricts \$53 million of the increase for certain qualified
11 residential projects and mixed use parking projects located in the
12 city of Paterson. The remaining \$50 million is restricted for
13 qualified residential projects and mixed use parking projects located
14 within a 1/4-mile radius surrounding the mid-point of a Port
15 Authority Transit Corporation or Port Authority Trans-Hudson
16 Corporation rail station platform area and within a municipality
17 with a population of less than 40,000 in a northern county of the
18 State that is not an eligible municipality under the Urban Transit
19 Hub Tax Credit Program (UTHTC Program). The town of Harrison
20 meets these criteria.

21 The bill provides that the developer of a qualified residential
22 project or a mixed use parking project seeking an award of
23 residential tax credits toward the funding of its incentive grant for
24 certain qualifying projects is to submit an incentive grant
25 application to the EDA prior to July 1, 2019.

26 The bill provides that (1) the maximum amount of a
27 redevelopment incentive grant for a qualified residential project that
28 was previously the subject of an award of residential tax credits
29 under the UTHTC Program, but those tax credits were not issued, is
30 equal to 80 percent of the total project costs; and (2) for certain
31 mixed use parking projects, the maximum amount is to be up to 100
32 percent of the total project costs allocable to the parking component
33 and up to 80 percent of the total project costs allocable to the non-
34 parking component.