SENATE, No. 1473

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 13, 2020

Sponsored by:
Senator NILSA CRUZ-PEREZ
District 5 (Camden and Gloucester)

SYNOPSIS

Provides tax credit to developers for affordable housing projects in certain neighborhoods.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning tax credit for affordable housing projects located in certain neighborhoods, and amending and supplementing P.L.2009, c.90.

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

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

3. As used in sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.) and section 4 of P.L. , c. (C.) (pending before the Legislature as this bill):

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

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

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

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

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

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

"Director" means the Director of the Division of Taxation in the 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.

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

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

"Distressed neighborhood" means a census tract, located within a distressed municipality, in which the median family income does not exceed 80 percent of the Statewide or applicable metropolitan median family income, as reported in the most recently completed decennial census published by the United States Census Bureau.

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

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

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

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

"Incentive grant" means reimbursement of all or a portion of the project financing gap of a redevelopment project through the State

or a local Economic Redevelopment and Growth Grant program pursuant to section 4 or section 5 of P.L.2009, c.90 (C.52:27D-489d or C.52:27D-489e) , or an award of tax credit pursuant to section 4 of P.L. , c. (C.) (pending before the Legislature as this bill).

"Infrastructure improvements in the public right-of-way" mean public structures or improvements located in the public right-of-way that are located within a project area or that constitute an ancillary infrastructure project, either of which are dedicated to or owned by a governmental body or agency upon completion, or any required payment in lieu of the structures, improvements or projects, or any costs of remediation associated with the structures, improvements or projects, and that are determined by the authority, in consultation with applicable State agencies, to be consistent with and in furtherance of State public infrastructure objectives and initiatives.

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

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

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

a. the total square footage of the entire mixed use parking project;

b. the estimated revenues of the entire mixed use parking project; or

c. the total construction cost of the entire mixed use parking project.

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

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

a. a municipal government, a municipal parking authority, or a redevelopment agency acting on behalf of a municipal government as defined in section 3 of P.L.1992, c.79 (C.40A:12A-3); or

b. a developer of a mixed use parking project, provided that the parking component of the mixed use parking project is operated and maintained by a municipal parking authority for the term of any financial assistance granted pursuant to P.L.2015, c.69.

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

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

"Parking component" means that portion of a mixed use parking project used for parking, together with the portion of the costs of the mixed use parking project, including but not limited to the footings, foundations, site work, infrastructure, and soft costs that are allocable to the parking use.

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

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

"Project financing gap" means:

a. the part of the total project cost, including return on investment, that remains to be financed after all other sources of capital have been accounted for, including, but not limited to,

developer-contributed capital, which shall not be less than 20 percent of the total project cost, which may include the value of any existing land and improvements in the project area owned or controlled by the developer, and the cost of infrastructure improvements in the public right-of-way, subject to review by the State Treasurer, and investor or financial entity capital or loans for which the developer, after making all good faith efforts to raise additional capital, certifies that additional capital cannot be raised from other sources on a non-recourse basis; and

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

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

"Property tax increment" means the amount obtained by:

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

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

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

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

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

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

a. an aviation district;

b. a port district;

c. a distressed municipality; [or]

d. a distressed neighborhood; or

e. an area (1) designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as:

(a) Planning Area 1 (Metropolitan);

(b) Planning Area 2 (Suburban); or

(c) Planning Area 3 (Fringe Planning Area);

(2) located within a smart growth area and planning area designated in a master plan adopted by the New Jersey Meadowlands Commission pursuant to subsection (i) of section 6 of P.L.1968, c.404 (C.13:17-6) or subject to a redevelopment plan adopted by the New Jersey Meadowlands Commission pursuant to section 20 of P.L.1968, c.404 (C.13:17-21);

(3) located within any land owned by the New Jersey Sports and Exposition Authority, established pursuant to P.L.1971, c.137 (C.5:10-1 et seq.), within the boundaries of the Hackensack Meadowlands District as delineated in section 4 of P.L.1968, c.404 (C.13:17-4);

(4) located within a regional growth area, rural development area zoned for industrial use as of the effective date of P.L.2016, c.75, town, village, or a military and federal installation area designated in the comprehensive management plan prepared and adopted by the Pinelands Commission pursuant to the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.);

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

(6) located within a Garden State Growth Zone;

(7) located within land approved for closure under any federal Base Closure and Realignment Commission action; or

(8) located only within the following portions of the areas designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et al.), as Planning Area 4A (Rural Planning Area), Planning Area 4B (Rural/Environmentally Sensitive) or Planning Area 5 (Environmentally Sensitive) if Planning Area 4A (Rural Planning Area), Planning Area 4B (Rural/Environmentally Sensitive) or Planning Area 5 (Environmentally Sensitive) is located within:

(a) a designated center under the State Development and Redevelopment Plan;

(b) a designated growth center in an endorsed plan until the State Planning Commission revises and readopts New Jersey's State Strategic Plan and adopts regulations to revise this definition as it pertains to Statewide planning areas;

(c) any area determined to be in need of redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and C.40A:12A-6) or in need of rehabilitation pursuant to section 14 of P.L.1992, c.79 (C.40A:12A-14);

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

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

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

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

"Redevelopment incentive grant agreement" means an agreement between:

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

b. a municipality and a developer, or a municipal ordinance authorizing a project to be undertaken by a municipal redeveloper, under which, in exchange for the proceeds of an incentive grant or tax credit under section 4 of P.L. , c. (C.) (pending before the Legislature as this bill), the developer agrees to perform any work or undertaking necessary for a redevelopment project, including the clearance, development or redevelopment, construction, or rehabilitation of any structure or improvement of commercial, industrial, residential, or public structures or improvements within a qualifying economic redevelopment and growth grant incentive area or a transit village.

"Redevelopment project" means a specific construction project or improvement, including lands, buildings, improvements, real and personal property or any interest therein, including lands under water, riparian rights, space rights and air rights, acquired, owned, leased, developed or redeveloped, constructed, reconstructed, rehabilitated or improved, undertaken by a developer, owner or tenant, or both, within a project area and any ancillary infrastructure project including infrastructure improvements in the public right of way, as set forth in an application to be made to the authority. The use of the term "redevelopment project" in sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.) and section 4 of P.L. , c. (C.) (pending before the Legislature as this bill) shall not be limited to only redevelopment projects located in areas determined to be in need of redevelopment pursuant to sections 5

and 6 of P.L.1992, c.79 (C.40A:12A-5 and C.40A:12A-6) but shall also include, but not be limited to, any work or undertaking in accordance with the "Redevelopment Area Bond Financing Law," sections 1 through 10 of P.L.2001, c.310 (C.40A:12A-64 et seq.) or other applicable law, pursuant to a redevelopment plan adopted by a State entity, or as described in the resolution adopted by a public entity created by State law with the power to adopt a redevelopment plan or otherwise determine the location, type and character of a redevelopment project or part of a redevelopment project on land owned or controlled by it or within its jurisdiction, including but not limited to, the New Jersey Meadowlands Commission established pursuant to P.L.1968, c.404 (C.13:17-1 et seq.), the New Jersey Sports and Exposition Authority established pursuant to P.L.1971 c.137 (C.5:10-1 et seq.) and the Fort Monmouth Economic Revitalization Authority created pursuant to P.L.2010, c.51 (C.52:27I-18 et seq.).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Workforce housing" means housing developed as part of a qualified residential project, as defined in section 4 of P.L. , c. (C.) (pending before the Legislature as this bill), and affordable to, according to federal Department of Housing and Urban Development or other recognized standards for home ownership and rental costs, and occupied by, or reserved for occupancy by, households with a gross household income equal to more than 80 percent but less than 120 percent of the median gross household income for households of the same size within the

housing region in which the qualified residential project is located. Workforce housing may be reserved for occupancy by households with at least one member working in the municipality in which the qualified residential project is located.

(cf: P.L.2018, c.120, s.4)

2. Section 8 of P.L.2009, c.90 (52:27D-489h) is amended to read as follows:

8. a. (1) The authority, in consultation with the State Treasurer, shall promulgate an incentive grant application form and procedure for the Economic Redevelopment and Growth Grant program. Within 30 days of the effective date of P.L. , c. (pending before the Legislature as this bill), the authority shall promulgate an alternate incentive grant application form to be used by developers seeking tax credit pursuant to section 4 of P.L. , c. (C.) (pending before the Legislature as this bill).

(2) (a) The Local Finance Board, in consultation with the authority, shall develop a minimum standard incentive grant application form for municipal Economic Redevelopment and Growth Grant programs.

(b) Through regulation, the authority shall establish standards for redevelopment projects seeking State or local incentive grants based on the green building manual prepared by the Commissioner of Community Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6), regarding the use of renewable energy, energy-efficient technology, and non-renewable resources in order to reduce environmental degradation and encourage long-term cost reduction.

b. Within each incentive grant application, a developer shall certify information concerning:

(1) the status of control of the entire redevelopment project site;

(2) all required State and federal government permits that have been issued for the redevelopment project, or will be issued pending resolution of financing issues;

(3) local planning and zoning board approvals, as required, for the redevelopment project;

(4) estimates of the revenue increment base, the eligible revenues for the project, and the assumptions upon which those estimates are made.

c. (1) With regard to State tax revenues proposed to be pledged or tax credit to be awarded for an incentive grant, the authority and the State Treasurer shall review the project costs, evaluate and validate the project financing gap estimated by the developer, and conduct a State fiscal impact analysis to ensure that the overall public assistance provided to the project, except with regards to a qualified residential project, a mixed use parking project, or a project involving university infrastructure, will result in net benefits to the State including, without limitation, both direct

and indirect economic benefits and non-financial community revitalization objectives, including but not limited to, the promotion of the use of public transportation in the case of the ancillary infrastructure project portion of any transit project.

(2) With regard to local incremental revenues proposed to be pledged for an incentive grant the authority and the Local Finance Board shall review the project costs, and except with respect to an application by a municipal redeveloper, evaluate and validate the project financing gap projected by the developer, and conduct a local fiscal impact analysis to ensure that the overall public assistance provided to the project, except with regards to a qualified residential project, a mixed use parking project, or a project involving university infrastructure, will result in net benefits to the municipality wherein the redevelopment project is located including, without limitation, both direct and indirect economic benefits and non-financial community revitalization objectives, including but not limited to, the promotion of the use of public transportation in the case of the ancillary infrastructure project portion of any transit project.

(3) The authority, State Treasurer, and Local Finance Board may act cooperatively to administer and review applications, and shall consult with the Office of State Planning on matters concerning State, regional, and local development and planning strategies.

(4) The costs of the aforementioned reviews shall be assessed to the applicant as an application fee.

(5) A developer who has already applied for an incentive grant award prior to the effective date of the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.), but who has not yet been approved for the grant, or has not executed an agreement with the authority, may proceed under that application or seek to amend the application or reapply for an incentive grant award for the same project or any part thereof for the purpose of availing himself or herself of any more favorable provisions of the Economic Redevelopment and Growth Grant program established pursuant to the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.), except that projects with costs exceeding $200,000,000 shall not be eligible for revised percentage caps under subsection d. of section 19 of P.L.2013, c.161 (C.52:27D-489i).

(cf: P.L.2015, c.242, s.3)

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

9. a. The authority is authorized to enter into a redevelopment incentive grant agreement with a developer for any redevelopment project located within a qualifying economic redevelopment and

growth grant incentive area that does not qualify as such an area solely by virtue of being a transit village.

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

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

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

(2) 【The】 Except in the case of a qualified residential project receiving tax credit pursuant to section 4 of P.L. , c. (C.) (pending before the Legislature as this bill), the authority shall be permitted to increase the amount of the reimbursement under the redevelopment incentive grant agreement with the State by up to 10 percent of the total project cost if the project is:

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

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

(c) located in a distressed municipality which has a business located therein that is required to respond to a request for proposal

to fulfill a contract with the federal government as set forth in subsection d. of section 3 of P.L.2011, c.149 (C.34:1B-244);

(d) a transit project;

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

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

(g) located in a Garden State Growth Zone;

(h) a disaster recovery project;

(i) an aviation project;

(j) a tourism destination project; or

(k) substantial rehabilitation or renovation of an existing structure or structures.

(3) The maximum amount of any redevelopment incentive grant shall be equal to up to 30 percent of the total project costs, except for projects located in a Garden State Growth Zone, in which case the maximum amount of any redevelopment incentive grant shall be equal to up to 40 percent of the total project costs. Notwithstanding anything to the contrary contained within this section, the maximum amount of any redevelopment incentive grant with respect to a mixed use parking project shall be up to 100 percent of the total project costs allocable to the parking component of the project, and shall be up to 40 percent of the total project costs allocable to the non-parking component of the project.

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

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

(1) the economic feasibility of the redevelopment project;

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

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

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

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

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

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

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

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

(cf: P.L.2018, c.44, s.3)

4. (New section) a. As used in this section:

"Qualified residential project" means a redevelopment project having no less than 25 dwelling units, which is predominantly residential and includes multi-family residential units for purchase or lease, or dormitory units for purchase or lease. The use of the

term "qualified residential project" in this section shall not be limited by the total project cost.

b. Up to the limits established in sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.) and subsection c. of this section, and in accordance with a redevelopment incentive grant agreement, beginning upon the receipt of occupancy permits for a qualified residential project, or upon such other event evidencing project completion as set forth in the incentive grant agreement, the State Treasurer shall award tax credit for a qualified residential projects located in distressed neighborhoods. A qualified residential project shall be eligible for tax credit if:

(1) at least 20 percent of the residential units are constructed and reserved for low- to moderate-income housing; and

(2) at least 20 percent of the residential units are constructed and reserved for workforce housing.

c. The value of all tax credit approved by the authority pursuant to this section shall not exceed $600 million.

d. (1) A developer shall submit an application for tax credit in accordance with section 8 of P.L.2009, c.90 (C.52:27D-489h). The authority shall accept applications for tax credit until the value of all credits approved by the authority reaches the limit set forth in subsection c. of this section.

(2) If the authority approves an application for tax credit, then the developer shall execute a redevelopment incentive grant agreement pursuant to section 9 of P.L.2009, c.90 (C.52:27D-489i). The State Treasurer shall award tax credit to the developer equal to the amount set forth in the incentive grant agreement.

5. This act shall take effect immediately.

STATEMENT

This bill would provide up to $600 million in tax credit available to developers to construct affordable housing projects in distressed neighborhoods. A distressed neighborhood is a neighborhood located within a distressed municipality, in which the median family income does not exceed 80 percent of the Statewide or metropolitan median family income, as reported in the most recently completed decennial census published by the United States Census Bureau. Distressed municipalities include certain municipalities that receive assistance from the State, municipalities under the supervision of the Local Finance Board pursuant to the provisions of the "Local Government Supervision Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), municipalities identified by the Director of the Division of Local Government Services in the Department of Community Affairs to be facing serious fiscal

distress, SDA municipalities, and municipalities in which a major rail station is located.

In order to qualify for tax credit, a developer must construct a residential project in which (1) at least 20 percent of the residential units are constructed and reserved for low- to moderate-income housing; and (2) at least 20 percent of the residential units are constructed and reserved for workforce housing. Developers would apply for tax credit in the same manner in which developers applied for grants under the Economic Redevelopment Growth Program.

This bill will incentivize development of affordable and market-rate housing in distressed neighborhoods around the State. The bill is expected to create balanced redevelopment in municipalities experiencing financial trouble and a more comprehensive urban development strategy. The bill is designed to transform the State's urban centers from areas with just offices, to 24-hours per day, seven-days per week communities with robust residential populations.