Sponsored by:
Senator RAYMOND J. LESNIAK
District 20 (Union)
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District 27 (Essex and Morris)

Co-Sponsored by:
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SYNOPSIS
“New Jersey Economic Opportunity Act II of 2013.”

CURRENT VERSION OF TEXT
As introduced.

(Sponsorship Updated As Of: 11/15/2013)
AN ACT fostering economic development in New Jersey, 
supplementing Title 2A of the New Jersey Statutes and Titles 34 
and 52 of the Revised Statutes, and amending various parts of the 
statutory law.

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

1. (New section) P.L. , c. (pending before the 
Legislature as this bill) shall be known and may be cited as the 
“New Jersey Economic Opportunity Act II of 2013.”

2. (New section) The Legislature finds and declares that: 
   a. As our Nation rises from the depths of near economic 
collapse, many states are adopting programs to stimulate their own 
economies, implementing strategies that may benefit their parochial 
interests, but which inure to the detriment of sister states; 
   b. Recognizing the need to remain a desirable, superior place to 
do business, New Jersey has recently improved upon its panoply of 
economic incentives; redesigning them to encourage companies to 
invest in our State through development, redevelopment, and job 
creation; 
   c. Despite these recent advances, New Jersey must remain 
ever-vigilant of the needs of our corporate residents and of the 
factors that companies consider most significant when determining 
where and whether to expand or relocate their sites of operation; 
   d. Our State must also keep constantly cognizant of initiatives 
undertaken by sister states as they compete with us for limited 
economic development opportunities; 
   e. Economic development, in and of itself, benefits the 
finances of the State and of her residents and businesses, but when 
economic development initiatives are coupled with other public 
policy initiatives, they can achieve added value for our State; 
   f. The findings declared herein will be furthered through the 
adoption of the initiatives contained in this legislation which 
include: allowing defendants to appeal verdicts without incurring 
unnecessary financial hardships; repurposing former licensed health 
care facilities as licensed health care and health services support 
centers; encouraging new residential development by allowing 
municipalities to set the percentage of affordable housing to be 
included in qualified residential developments, while 
simultaneously encouraging developers to redevelop and 
rehabilitate fully affordable residential development by authorizing 
$200 million exclusively for that purpose; and by attracting film
productions through the expansion and extension of the existing tax
credits for film and digital media production expenses.

3. (New section) a. Any supersedeas bond posted pursuant to
court order during the pendency of an appeal of a civil action in
connection with a stay of a judgment granting legal, equitable, or
other relief shall be set in accordance with the applicable laws or
Rules of Court, except that the total appeal bond or other forms of
security required of all appellants collectively shall not exceed
$50,000,000, together with trial costs.

b. Nothing in this section or in any other provision of law shall
be construed to eliminate the discretion of the court, after notice
and hearing and for good cause shown, to reduce the bond to a
lower amount.

c. Notwithstanding the provisions of this section to the
contrary, if an appellee proves by a preponderance of the evidence
that an appellant is concealing its assets, or is dissipating or
deviating assets outside the ordinary course of business to avoid
payment of a judgment, a court may enter orders that:

(1) are necessary to protect the appellee; and

(2) require the appellant to post a supersedeas bond in an
amount up to the total amount of the judgment.

As used in this subsection, “dissipating or diverting assets” does
not include expenditures, including incentive or other payments to
the owners of a business, of a kind that the appellant made in the
regular course of business prior to entry of the judgment being
appealed.

d. As used in this section:

“Civil action” means all cases involving individual, aggregated,
class action, or otherwise joined claims; and

“Legal, equitable, or other relief” means all forms of relief,
including compensatory, special, punitive, exemplary or other
damages; injunctive relief; or any other form of relief.

4. (New section) As used in section 5 of P.L. , c. (C. )
(pending before the Legislature as this bill):

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

“Developer” means a person who undertakes the repurposing of
a qualified health care facility.

“Capital investment” in a qualified health care facility means
expenses incurred after the effective date of P.L. , c. (C. )
(pending before the Legislature as this bill) for: the acquisition, site
preparation and construction, repair, renovation, improvement,
equipping, or furnishing of a building, structure, facility, or the
improvement to real property.

“Full-time employee” means a person employed for
consideration for at least 35 hours a week, or who renders any other
standard of service generally accepted by custom or practice as full-time employment and whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or who is a partner of a partnership who works for that partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and includes only a person whose employer provides employee health benefits under a group health plan as defined under section 14 of P.L.1997, c.146 (C.17B:27-54), a health benefits plan as defined under section 1 of P.L.1992, c.162 (C.17B:27A-17), or a policy or contract of health insurance covering more than one person issued pursuant to Article 2 of Title 17B of the New Jersey Statutes. “Full-time employee” shall not include a person who works as an independent contractor or on a consulting basis for the business.

"Qualified health care facility” means a building, complex of buildings, or structural components of buildings previously licensed by the Department of Health which have been granted a certificate of need to cease all or partial operation.

“Repurposing of a qualified health care facility” means the renovation and redevelopment of a qualified health care facility as a non-acute health care and health support services center.

5. (New section) a. (1) A developer, upon application to and approval from the authority, shall be allowed a credit of 50 percent of its capital investment, made after the effective date of P.L. (C. ) (pending before the Legislature as this bill) but prior to its submission of documentation pursuant to subsection b. of this section, for the repurposing of a qualified health care facility. The non-acute health care and health support services components of the repurposed facility shall comprise no less than 50 percent of the net leasable space of the repurposed facility; provided, however, that the 50 percent requirement may be waived by the authority if the requirement is not economically feasible or if the inclusion of additional non-health care and non-health support services elements would improve the utilization and development of the health care and health support services components. To be eligible for any tax credits authorized under this section, a developer shall demonstrate to the authority, at the time of application, that the State's financial support of the proposed capital investment in a qualified health care facility will not destabilize the supply and delivery of acute care health services in its market, will yield a net positive benefit to the State and local government, and, through a project pro forma analysis at the time of application, that the repurposing of the
qualified health care facility is likely to be realized with the
provision of tax credits at the level requested but is not likely to be
accomplished by private enterprise without the tax credits.
(2) A developer shall make or acquire capital investments
totaling not less than $10,000,000 in a qualified health care facility,
at which the tenant businesses shall employ not fewer than 100 full-
time employees, to be eligible for a credit under this section. A
successor to a developer that acquires a repurposed qualified health
care facility shall also be deemed to have acquired the capital
investment made or acquired by the developer.
(3) Full-time employment for a privilege period or taxable year
shall be determined as the average of the monthly full-time
employment for the period.
(4) All construction projects for the repurposing of a qualified
health care facility entered into pursuant to this section shall contain
a project labor agreement. The project labor agreement shall be
subject to the provisions of P.L.2002, c.44 (C.52:38-1 et seq.). A
general contractor, construction manager, design-build team, or
subcontractor for a construction project proposed in accordance
with this paragraph shall be registered pursuant to the provisions of
P.L.1999, c.238 (C.34:11-56.48 et seq.).

b. A developer shall apply for the credit and submit its
documentation for approval of its credit amount prior to July 1,
2019. The authority shall not approve an application for tax credits
unless the application was submitted to the authority prior to July 1,
2019.
c. (1) The amount of credit allowed shall, except as otherwise
provided, be equal to the capital investment made by the developer,
and shall be taken over a 10-year period, at the rate of one-tenth of
the total amount of the developer’s credit for each privilege period
or taxable year of the developer, beginning with the privilege period
or taxable year in which the developer is first approved by the
authority as having met the investment capital and employment
qualifications, subject to any reduction or disqualification as
provided by subsection d. of this section as determined by annual
review by the authority. In conducting its annual review, the
authority may require a developer to submit any information
determined by the authority to be necessary and relevant to its
review.
(2) The amount of credit allowed may be applied against the
corporation business tax liability otherwise due pursuant to section
5 of P.L.1945, c.162 (C.54:10A-5) or the tax liability otherwise due
et seq.
(3) A business entity that is classified as a partnership for
federal income tax purposes shall not be allowed a credit directly,
but the amount of credit of a taxpayer in respect of a distributive
share of partnership income shall be determined by allocating to the
taxpayer that proportion of the credit acquired by the partnership
that is equal to the taxpayer’s share, whether or not distributed, of
the total distributive income or gain of the partnership for its
taxable year ending within or with the taxpayer’s taxable year.

A New Jersey S Corporation shall not be allowed a credit
directly under the gross income tax, but the amount of credit of a
taxpayer in respect of a pro rata share of S Corporation income shall
be determined by allocating to the taxpayer that proportion of the
credit acquired by the New Jersey S Corporation that is equal to the
taxpayer’s share, whether or not distributed, of the total pro rata
share of S Corporation income of the New Jersey S Corporation for
its privilege period ending within or with the taxpayer's taxable
year.

d. If, in any privilege period or taxable year, the number of
full-time employees employed at the repurposed qualified health
care facility is fewer than 80, then the amount of credit otherwise
allowed to the developer for the privilege period or taxable year
shall be reduced by the percentage determined by dividing 100
minus the number of employees employed at the facility for that tax
period by 100, and similarly for each subsequent tax period until the
first tax period for which documentation demonstrating the
restoration of the number of full-time employees employed at the
repurposed qualified health care facility to 100 has been reviewed
and approved by the authority, for which tax period and each
subsequent tax period the full amount of the credit shall be allowed.

e. The authority, in consultation with the Director of the
Division of Taxation in the Department of the Treasury, shall adopt
rules in accordance with the "Administrative Procedure Act,"
P.L.1968, c.410 (C.52:14B-1 et seq.) as are necessary to implement
the provisions of this section, including but not limited to: examples
of and the determination of capital investment; the promulgation of
procedures and forms necessary to apply for a credit; and provisions
for credit applicants to be charged an initial application fee, and
ongoing service fees, to cover the administrative costs related to the
credit.

6. Section 18 of P.L.2008, c.46 (C.52:27D-329.9) is amended
to read as follows:

18. a. Notwithstanding any rules of the council to the contrary,
for developments consisting of newly-constructed residential units
located, or to be located, within the jurisdiction of any regional
planning entity required to adopt a master plan or comprehensive
management plan pursuant to statutory law, including the New
Jersey Meadowlands Commission pursuant to subsection (i) of
section 6 of P.L.1968, c.404 (C.13:17-6), the Pinelands Commission
pursuant to section 7 of the "Pinelands Protection Act," P.L.1979,
c.111 (C.13:18A-8), the Fort Monmouth Economic Revitalization
Planning Authority pursuant to section 5 of P.L.2006, c.16
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(C.52:271-5), or its Successor, and the Highlands Water Protection and Planning Council Pursuant to Section 11 of P.L. 2004, c.120 (C.13:20-11), but excluding joint planning boards formed pursuant to Section 64 of P.L. 1975, c.291 (C.40:55D-77), there shall be required to be reserved for occupancy by low or moderate income households at least 20 percent of the residential units constructed, to the extent this is economically feasible.

b. Subject to the provisions of subsection d. of this section, a developer of a project consisting of newly-constructed residential units being financed in whole or in part with State funds, including, but not limited to, transit villages designated by the Department of Transportation and units constructed on State-owned property, shall be required to reserve at least 20 percent of the residential units constructed for occupancy by low or moderate income households, as those terms are defined in section 4 of P.L. 1985, c.222 (C.52:27D-304), with affordability controls as required under the rules of the council, unless the municipality in which the property is located has received substantive certification from the council and such a reservation is not required under the approved affordable housing plan, or the municipality has been given a judgment of repose or a judgment of compliance by the court, and such a reservation is not required under the approved affordable housing plan.

c. (1) The Legislature recognizes that regional planning entities are appropriately positioned to take a broader role in the planning and provision of affordable housing based on regional planning considerations. In recognition of the value of sound regional planning, including the desire to foster economic growth, create a variety and choice of housing near public transportation, protect critical environmental resources, including farmland and open space preservation, and maximize the use of existing infrastructure, there is created a new program to foster regional planning entities.

(2) The regional planning entities identified in subsection a. of this section shall identify and coordinate regional affordable housing opportunities in cooperation with municipalities in areas with convenient access to infrastructure, employment opportunities, and public transportation. Coordination of affordable housing opportunities may include methods to regionally provide housing in line with regional concerns, such as transit needs or opportunities, environmental concerns, or such other factors as the council may permit; provided, however, that such provision by such a regional entity may not result in more than a 50 percent change in the fair share obligation of any municipality; provided that this limitation shall not apply to affordable housing units directly attributable to development by the New Jersey Sports and Exposition Authority within the New Jersey Meadowlands District.

(3) In addition to the entities identified in subsection a. of this section, the Casino Reinvestment Development Authority, in
conjunction with the Atlantic County Planning Board, shall identify
and coordinate regional affordable housing opportunities directly
attributable to Atlantic City casino development, which may be
provided anywhere within Atlantic County, subject to the
restrictions of paragraph (4) of this subsection.

(4) The coordination of affordable housing opportunities by
regional entities as identified in this section shall not include
activities which would provide housing units to be located in those
municipalities that are eligible to receive aid under the "Special
Municipal Aid Act," P.L.1987, c.75 (C.52:27D-118.24 et seq.), or
are coextensive with a school district which qualified for
designation as a "special needs district" pursuant to the "Quality
any time in the last 10 years have been qualified to receive
assistance under P.L.1978, c.14 (C.52:27D-178 et seq.) and that fall
within the jurisdiction of any of the regional entities specified in
subsection a. of this section.

d. (1) Notwithstanding the provisions of subsection b. of this
section, or any other law or regulation to the contrary, for purposes
of mixed use projects or qualified residential projects in which a
business receives a tax credit pursuant to P.L.2007, c.346 (C.34:1B-
207 et seq.) or section 35 of P.L.2009, c.90 (C.34:1B-209.3), or
both, an "eligible municipality," as defined in section 2 of P.L.2007,
c.346 (C.34:1B-208), shall have the option of deciding the
percentage of newly-constructed residential units within the project,
up to 20 percent of the total, required to be reserved for occupancy
by low or moderate income households. For a mixed use project or
a qualified residential project that has received preliminary or final
site plan approval prior to the effective date of P.L.2011, c.89, the
percentage shall be deemed to be the percentage, if any, of units
required to be reserved for low or moderate income households in
accordance with the terms and conditions of such approval.

(2) (a) Notwithstanding the provisions of subsection b. of this
section, or any other law or regulation to the contrary, for purposes
of qualified residential projects in which a business receives a tax
credit pursuant to section 6 of P.L.2009, c.90 (C.52:27D-489f), an
eligible municipality in which a qualified residential project is
located shall have the option of deciding the percentage of newly-
constructed residential units within the project, up to 20 percent of
the total, required to be reserved for occupancy by low or moderate
income households.

(b) For the purposes of this paragraph (2):
"Eligible 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 severe fiscal distress, an SDA municipality, or a municipality in which a major rail station 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;

"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 situate.

(cf: P.L.2011, c.89, s.5)

7. 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.):

"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).


"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 assigns, 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 government or a redevelopment agency as defined in section 3 of P.L.1992, c.79 (C.40A:12A-3).
"Director" means the Director of the Division of Taxation in the Department of the Treasury.

"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.

"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 such 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).

"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).

"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 such structures, improvements or projects or any costs of remediation associated with such 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 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.

"Moderate-income housing" means housing affordable, according to [United States] 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 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 a municipal government 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) that is an applicant for a redevelopment incentive grant agreement.

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

"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:
(1) 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
(2) 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 preceding 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. 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, a 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
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 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 such 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, (1) the State and the New Jersey Economic Development Authority and a developer, or (2) 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, 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.) 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 40A:12A-6) but shall also include 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-489j) 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 preceding 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 situate.

"Special needs housing" means a housing development, or such portion of a housing development, that is supportive housing or a community residence that is primarily for occupancy by individuals with special needs who shall occupy such housing as their usual and permanent residence, together with any structures or facilities, appurtenant or ancillary thereto.

"Supportive housing" means permanent affordable housing for participants and their immediate families combined with certain services as determined by individual needs, which may change over time.
"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.

"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.
"Very 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 30% or less of the median gross household income for households of the same size within the housing region in which the housing is located.

(cf: P.L.2013, c.161, s.14)

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

6. a. Up to the limits established in subsection b. of this section and in accordance with a redevelopment incentive grant agreement, beginning upon the receipt of occupancy permits for any portion of the redevelopment project, or upon such other event evidencing project completion as set forth in the incentive grant agreement, the State Treasurer shall pay to the developer incremental State revenues directly realized from businesses operating on or at the site of the redevelopment project from the following taxes: the Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), the tax imposed on marine insurance companies pursuant to R.S.54:16-1 et seq., the tax imposed on insurers generally, pursuant to P.L.1945, c.132 (C.54:18A-1 et seq.), the public utility franchise tax, public utilities gross receipts tax and public utility excise tax imposed on sewerage and water corporations pursuant to P.L.1940, c.5 (C.54:30A-49 et seq.), those tariffs and charges imposed by electric, natural gas, telecommunications, water and sewage utilities, and cable television companies under the jurisdiction of the New Jersey Board of Utilities, or comparable entity, except for those tariffs, fees, or taxes related to societal benefits charges assessed pursuant to section 12 of P.L.1999, c.23 (C.48:3-60), any charges paid for compliance with the "Global Warming Response Act," P.L.2007, c.112 (C.26:2C-37 et seq.), transitional energy facility assessment unit taxes paid pursuant to section 67 of P.L.1997, c.162 (C.48:2-21.34), and the sales and use taxes on public utility and cable television services and commodities, the tax derived from net profits from business, a distributive share of partnership income, or a pro rata share of S corporation income under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., the tax derived from a business at the site of a redevelopment project that is required to collect the tax pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), the tax imposed pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.) from the purchase of furniture, fixtures and equipment, or materials for the remediation, the construction of new structures at the site of a redevelopment project, the hotel and motel occupancy fee imposed pursuant to section 1 of P.L.2003, c.114 (C.54:32D-1), or the portion of the fee imposed pursuant to section 3 of P.L.1968,
c.49 (C.46:15-7) derived from the sale of real property at the site of
the redevelopment project and paid to the State Treasurer for use by
the State, that is not credited to the "Shore Protection Fund" or the
"Neighborhood Preservation Nonlasing Revolving Fund" ("New
Jersey Affordable Housing Trust Fund") pursuant to section 4 of
P.L.1968, c.49 (C.46:15-8). Any developer shall be allowed to
assign their ability to apply for the tax credit under this subsection
to a non-profit organization with a mission dedicated to attracting
investment and completing development and redevelopment
projects in a Garden State Growth Zone. The non-profit
organization may make an application on behalf of a developer
which meets the requirements for the tax credit, or a group of non-
qualifying developers, such that these will be considered a unified
project for the purposes of the incentives provided under this
section.

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

(2) In the case of a qualified residential project, if the authority
determines that the estimated amount of incremental revenues
pledged towards the State portion of an incentive grant is
inadequate to fully fund the amount of the State portion of the
incentive grant, then in lieu of an incentive grant based on such
incremental revenue, the developer shall be awarded tax credits
equal to the full amount of the incentive grant. The value of all
credits approved by the authority pursuant to this paragraph shall
not exceed \[\$600,000,000\] \$800,000,000, of which:

(a) $250,000,000 shall be restricted to qualified residential
projects within Atlantic, Burlington, Camden, Cape May,
Cumberland, Gloucester, Ocean, and Salem counties, of which
$175,000,000 of credits shall be restricted to qualified residential
projects in a Garden State Growth Zone located within the
aforementioned counties, and $75,000,000 of credits shall be
restricted to qualified residential projects in municipalities with a
2007 Municipal Revitalization Index of 400 or higher as of the date
of enactment of the "New Jersey Economic Opportunity Act of
the aforementioned counties;

(b) $250,000,000 shall be restricted to qualified residential
projects located in: (i) urban transit hubs that are commuter rail in
nature that otherwise do not qualify under subparagraph (a) of this
paragraph, (ii) a Garden State Growth Zone not located in a county
mentioned in subparagraph (a) of this paragraph, (iii) disaster
recovery projects that otherwise do not qualify under subparagraph
(a) of this paragraph, or (iv) SDA municipalities located in Hudson
County that were awarded State Aid in State Fiscal Year 2013
through the Transitional Aid to Localities program and otherwise do not qualify under subparagraph (a) of this paragraph;

(c) $75,000,000 shall be restricted to qualified residential projects in distressed municipalities, deep poverty pockets, highlands development credit receiving areas or redevelopment areas, otherwise not qualifying pursuant to subparagraph (a) or (b) of this paragraph; [and]

(d) $25,000,000 shall be restricted to qualified residential projects that are located within a qualifying economic redevelopment and growth grant incentive area otherwise not qualifying under subparagraph (a), (b), or (c) of this paragraph[;]

and

(e) $200,000,000 shall be restricted to qualified residential projects that are located within a qualifying economic redevelopment and growth grant incentive area to be used exclusively for the redevelopment or rehabilitation of supportive housing, special needs housing, very low-income housing, low-income housing, or moderate-income housing in any combination; provided, however, that 100 percent of the housing units redeveloped or rehabilitated shall be reserved with affordability controls as required under the rules of the Council on Affordable Housing. In awarding tax credits pursuant to this subparagraph, the authority shall give priority consideration to qualified residential projects within Atlantic, Bergen, Cape May, Essex, Hudson, Middlesex, Monmouth, Ocean, and Union Counties. Every resident displaced as a result of a qualified residential project for which a tax credit is granted pursuant to this subparagraph shall have a limited right of first refusal to purchase or lease a dwelling unit subsequently constructed within that qualified residential project.

(f) For subparagraphs (a) through [(d)] (e) of this paragraph, not more than $40,000,000 of credits shall be awarded to any qualified residential project in a deep poverty pocket or distressed municipality and not more than $20,000,000 of credits shall be awarded to any other qualified residential project. The developer of a qualified residential project seeking an award of credits towards the funding of its incentive grant shall submit an incentive grant application prior to July 1, 2015 and if approved shall submit a temporary certificate of occupancy for such project no later than July 28, 2015. Applications for tax credits pursuant to this subsection relating to an ancillary infrastructure project or infrastructure improvement in the public right of way, or both, shall be accompanied with a letter of support relating to the project or improvement by the governing body or agency in which the project is located. Credits awarded to a developer pursuant to this subsection shall be subject to the same financial and related analysis by the authority and shall be utilized or transferred by the developer as if such credits had been awarded to the developer pursuant to section 35 of P.L.2009, c.90 (C.34:1B-209.3) for qualified
residential projects thereunder. No portion of the revenues pledged pursuant to the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.) shall be subject to withholding or retainage for adjustment, in the event the developer or taxpayer waives its rights to claim a refund thereof.

(3) A developer may apply to the Director of the Division of Taxation in the Department of the Treasury and the chief executive officer of the authority for a tax credit transfer certificate, if the developer is awarded a tax credit pursuant to paragraph (2) of this subsection, covering one or more years, in lieu of the developer being allowed any amount of the credit against the tax liability of the developer. The tax credit transfer certificate, upon receipt thereof by the developer from the director and the chief executive officer of the authority, may be sold or assigned, in full or in part, to any other person that may have a tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The certificate provided to the developer shall include a statement waiving the developer's right to claim that amount of the credit against the taxes that the developer has elected to sell or assign. The sale or assignment of any amount of a tax credit transfer certificate allowed under this paragraph shall not be exchanged for consideration received by the developer of less than 75 percent of the transferred credit amount. Any amount of a tax credit transfer certificate used by a purchaser or assignee against a tax liability shall be subject to the same limitations and conditions that apply to the use of the credit by the developer who originally applied for and was allowed the credit.

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

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

e. The municipality is authorized to collect any and all information necessary to facilitate grants under this program and remit that information, as may be required from time to time, in order to assist in the calculation of incremental revenue.

(cf: P.L.2013, c.161, s.17)

9. Section 1 of P.L.2005, c.345 (C.54:10A-5.39) is amended to read as follows:

1. a. A taxpayer, upon application to the Director of the Division of Taxation in the Department of the Treasury and the New Jersey Economic Development Authority, shall be allowed a
credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), in an amount equal to 20 percent of the qualified film production expenses of the taxpayer during a privilege period commencing after the effective date of P.L.2005, c.345, provided that (1) at least 60 percent of the total film production expenses, exclusive of post-production costs, of the taxpayer will be incurred for services performed and goods used or consumed in New Jersey, and (2) principal photography of the film commences within the earlier of 180 days from the date of the original application for the tax credit, or 150 days after the date of approval by the New Jersey Economic Development Authority of the application for the credit.

The credit allowed against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount equal to 22 percent for the qualified film production expenses of the taxpayer during a privilege period that represent purchases of goods from a qualified business located within an Urban Enterprise Zone, as defined under P.L.1983, c.303 (C.52:27H-60 et seq.), or that represent the purchase of services performed by a resident of an Urban Enterprise Zone.

b. A taxpayer, upon application to the Director of the Division of Taxation in the Department of the Treasury and the New Jersey Economic Development Authority, shall be allowed a credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), in an amount up to 20 percent, as determined by the authority of the qualified digital media content production expenses of the taxpayer during a privilege period commencing after the effective date of P.L.2007, c.257, provided that at least $2,000,000 of the total digital media content production expenses of the taxpayer will be incurred for services performed and goods used or consumed in New Jersey and at least a significant percentage, as determined by the authority, of the qualified digital media content production expenses of the taxpayer will include wages and salaries paid to one or more new full-time or full-time equivalent employees in New Jersey. For purposes of this subsection, "[new] full-time or full-time equivalent employee" means a person employed by the taxpayer for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time or full-time equivalent employment, whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or who is a partner of a taxpayer that is an eligible partnership, who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time or full-time equivalent employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the "New Jersey
Gross Income Tax Act,” N.J.S.54A:1-1 et seq. [i, and who is
determined by the authority to work in a newly created permanent
position according to criteria it develops.] “[New full-time] Full-
time or full-time equivalent employee” shall not include any person
who works as an independent contractor or on a consulting basis for
the taxpayer. [In determining the amount of any grant of tax credits
made pursuant to this subsection, the authority shall consider the
number of new full-time positions created by the taxpayer as well as
the quality of the full-time positions created, including but not
limited to the salaries and benefits provided to new full-time
employees. The authority, in consultation with the Division of
Taxation, shall establish rules for the recapture of all, or a portion
of, the grant of tax credits pursuant to this subsection in the event
the taxpayer fails to maintain the new full-time positions that were
included in calculating the qualified digital media content
production expenses of the taxpayer.]
The credit allowed against the tax imposed pursuant to section 5
of P.L.1945, c.162 (C.54:10A-5) shall be in an amount equal to 22
percent for the qualified digital media content production expenses
of the taxpayer during a privilege period that represent purchases of
goods from a qualified business located within an Urban Enterprise
Zone, as defined under P.L.1983, c.303 (C.52:27H-60 et seq.), or
that represent the purchase of services performed by a resident of an
Urban Enterprise Zone.
c. The amount of the credit [applied] allowed under this
section against the tax imposed pursuant to section 5 of P.L.1945,
c.162, for a privilege period, when taken together with any other
credits allowed against the tax imposed pursuant to section 5 of
P.L.1945, c.162, shall not exceed 50 percent of the tax liability
otherwise due and shall not reduce the tax liability to an amount
less than the statutory minimum provided in subsection (e) of
section 5 of P.L.1945, c.162. The priority in which credits allowed
pursuant to this section and any other credits shall be taken shall be
as determined by the Director of the Division of Taxation. The
amount of the credit otherwise allowable under this section which
cannot be applied for the privilege period due to the limitations of
this subsection or under other provisions of P.L.1945, c.162 may be
carried over, if necessary, to the seven privilege periods following
the privilege period for which the credit was allowed.
d. A taxpayer may, with an application for a credit provided for
in subsection a. or subsection b. of this section, apply to the director
and the executive director of the authority for a tax credit transfer
certificate in lieu of the taxpayer being allowed any amount of the
credit against the tax liability of the taxpayer. The director and the
executive director of the authority may consult with the New Jersey
Motion Picture and Television Development Commission in
consideration of any application for approval of a tax credit or tax
credit transfer certificate under this section. The tax credit transfer
certificate, upon receipt thereof by the taxpayer from the director and the authority, may be sold or assigned, in full or in part, to any other taxpayer that may have a tax liability under P.L.1945, c.162 or N.J.S.54A:1-1 et seq., in exchange for private financial assistance to be provided by the purchaser or assignee to the taxpayer that has applied for and been granted the credit. The certificate provided to the taxpayer shall include a statement waiving the taxpayer's right to claim that amount of the credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) that the taxpayer has elected to sell or assign. The sale or assignment of any amount of a tax credit transfer certificate allowed under this section shall not be exchanged for consideration received by the taxpayer of less than 75% of the transferred credit amount. Any amount of a tax credit transfer certificate used by a purchaser or assignee against a tax liability under P.L.1945, c.162 shall be subject to the same limitations and conditions that apply to the use of a credit pursuant to subsection c. of this section. Any amount of a tax credit transfer certificate obtained by a purchaser or assignee under subsection a. of this section may be applied against the purchaser's or assignee's tax liability under N.J.S.54A:1-1 et seq. and shall be subject to the same limitations and conditions that apply to the use of a credit pursuant to section 2 of P.L.2005, c.345 (C.54A:4-12).

e. As used in this section:
"Digital media content" means any data or information that is produced in digital form, including data or information created in analog form but reformatted in digital form, text, graphics, photographs, animation, sound and video content. "Digital media content" does not mean content offerings generated by the end user (including postings on electronic bulletin boards and chat rooms); content offerings comprised primarily of local news, events, weather or local market reports; public service content; electronic commerce platforms (such as retail and wholesale websites); websites or content offerings that contain obscene material as defined pursuant to N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or content that are produced or maintained primarily for private, industrial, corporate or institutional purposes; or digital media content acquired or licensed by the taxpayer for distribution or incorporation into the taxpayer's digital media content.
"Film" means a feature film, a television series or a television show of 22 minutes or more in length, intended for a national audience. "Film" shall not include a production featuring news, current events, weather and market reports or public programming, talk show, game show, sports event, award show or other gala event, a production that solicits funds, a production containing obscene material as defined under N.J.S.2C:34-2 and N.J.S.2C:34-3, or a production primarily for private, industrial, corporate or institutional purposes.
"Loan out company" means a personal service corporation that employs an actor or actress who is hired by a film or digital media production company.

"Qualified digital media content production expenses" means an expense incurred in New Jersey for the production of digital media content. Qualified digital media content production expenses shall include but shall not be limited to wages and salaries of individuals employed in the production of digital media content on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due; the costs of computer software and hardware, data processing, visualization technologies, sound synchronization, editing, and the rental of facilities and equipment. Qualified digital media content production expenses shall not include expenses incurred in marketing, promotion or advertising digital media or other costs not directly related to the production of digital media content. Costs related to the acquisition or licensing of digital media content by the taxpayer for distribution or incorporation into the taxpayer's digital media content shall not be qualified digital media content production expenses.

"Qualified film production expenses" means an expense incurred in New Jersey for the production of a film including post-production costs incurred in New Jersey. Qualified film production expenses shall include but shall not be limited to wages and salaries of individuals employed in the production of a film on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due; the costs of construction, operations, editing, photography, sound synchronization, lighting, wardrobe and accessories and the cost of rental of facilities and equipment. Qualified film production expenses shall not include expenses incurred in marketing or advertising a film.

"Total digital media content production expenses" means costs for services performed and property used or consumed in the production of digital media content.

"Total film production expenses" means costs for services performed and tangible personal property used or consumed in the production of a film.

"Post-production costs" means the costs of the phase of production that follows principal photography, in which raw footage is cut and assembled into a finished film with sound synchronization and visual effects.

f. The Director of the Division of Taxation in the Department of the Treasury, in consultation with the New Jersey Motion Picture and Television Development Commission and the New Jersey Economic Development Authority, shall adopt rules in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as are necessary to implement this act including examples of qualified film production and digital media...
content production expenses, a requirement that an applicant submit
an agreed-upon procedures report prepared by an independent
certified public accountant to verify the tax credit claim, and the
procedures and forms to apply for a credit and for a tax credit
transfer certificate necessary for a taxpayer to sell or assign an
amount of tax credit under this section. The value of credits,
including tax credits allowed through the granting of tax credit
transfer certificates, approved by the director and the authority
pursuant to subsection a. of this section and pursuant to section 2 of
P.L.2005, c.345 (C.54A:4-12) shall not exceed a cumulative total of
[$10,000,000] $50,000,000 in any fiscal year 2014 and in every
fiscal year thereafter, to apply against the tax imposed pursuant to
section 5 of P.L.1945, c.162 (C.54:10A-5), and the tax imposed
et seq. If the cumulative total amount of credits and tax credit
transfer certificates allowed to taxpayers for privilege periods or
taxable years commencing during a single fiscal year under
subsection a. of this section and section 2 of P.L.2005, c.345
(C.54A:4-12) exceeds the amount of credits available in that year,
than taxpayers who have first applied for and have not been allowed
a credit or tax credit transfer certificate amount for that reason shall
be allowed, in the order in which they have submitted an
application, the amount of tax credit or certificate on the first day of
the next succeeding fiscal year in which tax credits and tax credit
transfer certificates under subsection a. of this section and section 2
of P.L.2005, c.345 (C.54A:4-12) are not in excess of the amount of
credits available. The value of credits, including tax credits allowed
through the granting of tax credit transfer certificates, approved by
the director and the authority pursuant to subsection b. of this
section shall not exceed a cumulative total of [$5,000,000]
$10,000,000 in any fiscal year 2014 and in every fiscal year
thereafter, to apply against the tax imposed pursuant to section 5 of
P.L.1945, c.162 (C.54:10A-5). If the total amount of credits and
tax credit transfer certificates allowed to taxpayers for privilege
periods or taxable years commencing during a single fiscal year
under subsection b. of this section exceeds the amount of credits
available in that year, then taxpayers who have first applied for and
have not been allowed a credit or tax credit transfer certificate
amount for that reason shall be allowed, in the order in which they
have submitted an application, the amount of tax credit or
certificate on the first day of the next succeeding fiscal year in
which tax credits and tax credit transfer certificates under
subsection b. of this section are not in excess of the amount of
credits available. The Executive Director of the New Jersey
Economic Development Authority, in conjunction with the Director
of the Division of Taxation shall prepare and submit a report to the
Governor and the Legislature on the effectiveness of the credit as an
incentive for encouraging film productions and digital media
content productions to locate in New Jersey which shall be completed before the third taxable year or privilege period in which a credit may be claimed.

g. For the purpose of determining eligibility for or the amount of any grant of tax credits pursuant to this section, the authority shall not include any job that is included in the calculation of a business employment incentive grant pursuant to the provisions of P.L.1996, c.26 (C.34:1B-124 et al.) or a business retention and relocation grant pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.).

h. Amounts of tax credits approved to a loan out company not registered to do business in New Jersey shall be subject to New Jersey gross income tax withholding at the applicable rate under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. (cf: P.L.2007, c.257, s.1)

10. Section 2 of P.L.2005, c.345 (C.54A:4-12) is amended to read as follows:

2. a. A taxpayer, upon application to the Director of the Division of Taxation in the Department of the Treasury and the New Jersey Economic Development Authority, shall be allowed a credit against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to 20 percent of the qualified film production expenses of the taxpayer during a taxable year commencing after the effective date of P.L.2005, c.345, provided that (1) at least 60 percent of the total production expenses, exclusive of post-production costs, of the taxpayer will be incurred for services performed and goods used or consumed in New Jersey, and (2) principal photography of the film commences within 180 days from the date of the original application for the tax credit, or 150 days after the date of approval by the New Jersey Economic Development Authority of the application for the credit. The credit allowed against the tax otherwise due under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be in an amount equal to 22 percent for the qualified film production expenses of the taxpayer during a privilege period that represent purchases of goods from a qualified business located within an Urban Enterprise Zone, as defined under P.L.1983, c.303 (C.52:27H-60 et seq.), or that represent the purchase of services performed by a resident of an Urban Enterprise Zone.

b. The amount of the credit allowed pursuant to this section shall be applied against the tax otherwise due under N.J.S.54A:1-1 et seq. after all other credits and payments. If the credit exceeds the amount of tax otherwise due, that amount of excess shall be an overpayment for the purposes of N.J.S.54A:9-7.

c. A taxpayer may, with an application for a credit provided for in subsection a. of this section, apply to the director and the
executive director of the authority for a tax credit transfer certificate in lieu of the taxpayer being allowed any amount of the credit against the tax liability of the taxpayer. The director and the executive director of the authority may consult with the New Jersey Motion Picture and Television Development Commission in consideration of any application for approval of a tax credit or tax credit transfer certificate under this section. The tax credit transfer certificate, upon receipt thereof by the taxpayer from the director and the authority, may be sold or assigned, in full or in part, to any other taxpayer that may have a tax liability under N.J.S.54A:1-1 et seq. or P.L.1945, c.162 (C.54:10A-1 et seq.), in exchange for private financial assistance to be provided by the purchaser or assignee to the taxpayer that has applied for and been granted the credit. The certificate provided to the taxpayer shall include a statement waiving the taxpayer's right to claim that amount of the credit against the tax imposed pursuant to N.J.S.54A:1-1 et seq., that the taxpayer has elected to sell or assign. The sale or assignment of any amount of a tax credit transfer certificate allowed under this section shall not be exchanged for consideration received by the taxpayer of less than 75% of the transferred credit amount. Any amount of a tax credit transfer certificate used by a purchaser or assignee against a tax liability under N.J.S.54A:1-1 et seq., shall be subject to the same limitations and conditions that apply to the use of a credit pursuant to subsection b. of this section. Any amount of a tax credit transfer certificate obtained by a purchaser or assignee under this section may be applied against the purchaser's or assignee's tax liability under P.L.1945, c.162 and shall be subject to the same limitations and conditions that apply to the use of a credit pursuant to section 1 of P.L.2005, c.345 (C.54:10A-5.39).

d. A partnership shall not be allowed a credit under this section directly, but the amount of credit or tax credit transfer certificate of a taxpayer in respect of a distributive share of partnership income under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be determined by allocating to the taxpayer that proportion of the credit or certificate acquired by the partnership that is equal to the taxpayer's share, whether or not distributed, of the total distributive income or gain of the partnership for its taxable year ending within or with the taxpayer's taxable year. For the purposes of subsection b. of this section, the amount of tax liability that would be otherwise due of a taxpayer is that proportion of the total liability of the taxpayer that the taxpayer's share of the partnership income or gain included in gross income bears to the total gross income of the taxpayer. The provisions of subsection c. of this section shall apply to the amount of any credit or certificate of a taxpayer in respect of a distributive share of partnership income.

e. As used in this section:
"Film" means a feature film, a television series or a television show of 15 to 22 minutes or more in length, intended for a national audience. "Film" shall not include a production featuring news, current events, weather and market reports or public programming, talk show, game show, sports event, award show or other gala event, a production that solicits funds, a production containing obscene material as defined under N.J.S.2C:34-2 and N.J.S.2C:34-3, or a production primarily for private, industrial, corporate or institutional purposes.

"Loan out company" means a personal service corporation that employs an actor or actress who is hired by a film or digital media production company.

"Qualified film production expenses" means an expense incurred in New Jersey for the production of a film including post-production costs incurred in New Jersey. Qualified film production expenses shall include but shall not be limited to wages and salaries of individuals employed in the production of a film on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due; the costs of construction, operations, editing, photography, sound synchronization, lighting, wardrobe and accessories and the cost of rental of facilities and equipment. Qualified film production expenses shall not include expenses incurred in marketing or advertising a film.

"Total film production expenses" means costs for services performed and tangible personal property used or consumed in the production of a film.

"Post production costs" means the costs of the phase of production that follows principal photography, in which raw footage is cut and assembled into a finished film with sound synchronization and visual effects.

f. The Director of the Division of Taxation in the Department of the Treasury, in consultation with the New Jersey Motion Picture and Television Development Commission and the New Jersey Economic Development Authority, shall adopt rules in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as are necessary to implement this act including examples of qualified film production expenses—a requirement that an applicant submit an agreed-upon procedures report prepared by an independent certified public accountant to verify the tax credit claim, and the procedures and forms to apply for a credit and for a tax credit transfer certificate necessary for a taxpayer to sell or assign an amount of tax credit under this section. The amount of credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to section 1 of P.L.2005, c.345 (C.54:10A-5.39) shall not exceed a cumulative total of [$10,000,000] $50,000,000 in [any]
fiscal year 2014 and in every fiscal year thereafter, to apply against
the tax imposed under N.J.S.54A:1-1 et seq., and the tax imposed
pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5). If the
cumulative total amount of credits and tax credit transfer
certificates allowed to taxpayers for taxable years or privilege
periods commencing during a single fiscal year under this section
and subsection a. of section 1 of P.L.2005, c.345 (C.54:10A-5.39)
exceeds the amount of credits available in that year, then taxpayers
who have first applied for and have not been allowed a credit or tax
credit transfer certificate amount for that reason shall be allowed, in
the order in which they have submitted an application, the amount
tax credit or certificate on the first day of the next succeeding fiscal year in which tax credits and tax transfer certificates under
this section and subsection a. of section 1 are not in excess of the
amount of credits available. The Executive Director of the New Jersey Economic Development Authority, in conjunction with the
Director of the Division of Taxation shall prepare and submit a
to the Governor and the Legislature on the effectiveness of
the credit as an incentive for encouraging film productions to locate
in New Jersey which shall be completed before the third taxable
year or privilege period in which a credit may be claimed.

11. Section 3 of P.L.2005, c.345 is amended to read as follows:

3. This act P.L.2005, c.345 shall take effect immediately on and apply to qualified film production expenses incurred on or after the date of enactment, and sections 1 and 2 of P.L.2005, c.345 shall apply respectively to privilege periods and taxable years beginning on and after July 1, 2005 and shall expire with privilege periods and taxable years first commencing after July 1, 2020.

12. This act shall take effect immediately, and section 3 shall apply to all judgments entered on or after the date of enactment, regardless of the date the action was filed.

STATEMENT

This bill, the “New Jersey Economic Opportunity Act II of 2013,” would enhance the “New Jersey Economic Opportunity Act of 2013,” P.L.2013, c.161 (C:52:27D-489p, et al.), by modifying and correcting provisions of that law, based upon review and consideration of that law since its enactment, and would also
supplement that law by implementing additional economic development initiatives.

Appeal Bonds

Under current law and the Rules of Court, a losing party may appeal a judgment, and receive a temporary stay of the obligation to pay to the prevailing party, if the losing party posts an appeal bond, also known as a supersedeas bond. Generally, New Jersey law requires a defendant to post an appeal bond at least equal to the full amount of the judgment. However, in 2003 the Legislature approved a $50 million cap on appeal bonds for tobacco companies that participated in the Master Settlement Agreement.

Section 3 of this bill extends that $50 million limit on the total amount of an appeal bond to all appellants in a civil action, but allows a court to reduce or increase the amount of an appeal bond under certain circumstances. Under the bill, a court would have discretion, after notice and hearing and for good cause shown, to reduce the appeal bond to an amount lower than the judgment. The bill also provides that if an appellee proves by a preponderance of the evidence that an appellant is concealing its assets, or is dissipating or diverting assets outside the ordinary course of business to avoid payment of a judgment, a court may enter orders that are necessary to protect the appellee; and require the appellant to post an appeal bond in an amount up to the total amount of the judgment.

This part of the bill will take effect immediately upon enactment and apply to all judgments entered on or after that date, regardless of the date the action was filed.

Repurposing of Former Health Care Facilities

Sections 4 and 5 of the bill allow a developer to receive a credit against its corporation business tax or gross income tax liability for capital investments made to repurpose a qualified health care facility as a non-acute health care and health services support center. Current law does not provide a tax credit for this specific purpose. The bill provides that a developer, upon application to and approval from the EDA, is allowed a tax credit of 50 percent of its capital investment made for the purpose of renovating and redeveloping a former licensed health care facility as a non-acute health care and health support services center. Annually for 10 years, the developer may apply 10 percent of its capital investment as a credit against its corporation business tax liability or gross income tax liability, so that the total value of the tax credit is equal to 50 percent of the capital investment.

Relaxation of 20% Affordable Housing Set-aside

Section 6 of the bill allows the municipality in which a qualified residential project, under the Economic Redevelopment and Growth
Grant (ERGG) program, is located to determine the percentage of newly-constructed residential units within the project that must be reserved for occupancy by low or moderate income households. Current law generally requires the developer of a project, consisting of newly-constructed residential units, that receives State financing to reserve at least 20 percent of the new residential units for low or moderate income households, unless the municipality in which the property is located has satisfied its affordable housing obligations. Current law contains an exception for qualified residential projects in which a business receives a tax credit pursuant to the "Urban Transit Hub Tax Credit Act," which afforded "Urban Transit Hub" municipalities the option of deciding the percentage of newly-constructed residential units within the project to reserve for low or moderate income households. The “New Jersey Economic Opportunity Act of 2013” merged the “qualified residential project” component of the "Urban Transit Hub Tax Credit Act" into the ERGG program, but did not authorize an exception to the 20 percent affordable housing set-aside requirement for qualified residential projects under the ERGG program. This section amends the law to address that omission.

Authorization of $200 Million of Tax Credits for Certain Qualified Residential Projects Resulting in 100% affordable units.

Sections 7 and 8 of the bill amend the ERGG program to authorize an additional $200 million of tax credits for certain qualified residential projects. These credits will be used exclusively for the redevelopment or rehabilitation of supportive housing, special needs housing, very low-income housing, low-income housing, or moderate-income housing so long as 100 percent of the housing units redeveloped or rehabilitated are reserved for affordable housing. The bill directs EDA to give priority consideration to qualified residential projects within Atlantic, Bergen, Cape May, Essex, Hudson, Middlesex, Monmouth, Ocean, and Union Counties when awarding tax credits. The bill provides residents who are displaced as a result of a qualified residential project that is granted this tax credit with a limited right of first refusal to purchase or lease a dwelling unit constructed within that qualified residential project.

The “Garden State Film and Digital Media Jobs Act”

Sections 9 through 11 of the bill, commonly known as the “Garden State Film and Digital Media Jobs Act,” upgrades New Jersey’s toolkit for attracting film productions by expanding the existing tax credits for film and digital media production expenses. First, the bill increases the annual program cap for the film production tax credit from $10 million to $50 million and for the digital media production tax credit from $5 million to $10 million.
Second, the bill provides for a tax credit equal to 22 percent, instead of the current 20 percent, of eligible production expenses if the expenses represent purchases of goods from businesses located in Urban Enterprise Zones (UEZ) or purchases of services performed by residents of a UEZ. The bill also extends the digital media tax credit to salaries and wages paid to full-time employees who are not new employees and eliminates the recapture of tax credit amounts if new full-time positions are not maintained.

This part of the bill recognizes the film production tax credit as an important economic development tool. An Ernst & Young study of the economic and fiscal impacts of the New Mexico film production tax credit concluded that 2007 film productions generated 9,209 jobs in New Mexico, $487.5 million in additional income, and $891.8 million in additional economic activity. New Mexico almost broke even on its investment, as $49.4 million in tax credits were almost completely offset by $44.1 million in additional tax collections produced by the credits. A June 2009 study of Pennsylvania’s Film Production Tax Credit conducted by Economic Research Associates yielded similar positive results. By strengthening New Jersey’s film production tax credit, these parts of the bill back a proven tool to grow the State’s movie industry and economy as a whole.

Section 11 of the bill extends the expiration date of this program from 2015 to 2020.