

[Second Reprint]

**ASSEMBLY, No. 4703**

**STATE OF NEW JERSEY**  
**216th LEGISLATURE**

INTRODUCED NOVEMBER 16, 2015

**Sponsored by:**

**Assemblywoman L. GRACE SPENCER**

**District 29 (Essex)**

**Assemblywoman CLEOPATRA G. TUCKER**

**District 28 (Essex)**

**Assemblywoman ELIANA PINTOR MARIN**

**District 29 (Essex)**

**Assemblyman JOSEPH V. EGAN**

**District 17 (Middlesex and Somerset)**

**Assemblywoman ELIZABETH MAHER MUOIO**

**District 15 (Hunterdon and Mercer)**

**Assemblyman REED GUSCIORA**

**District 15 (Hunterdon and Mercer)**

**Senator RONALD L. RICE**

**District 28 (Essex)**

**Senator BOB SMITH**

**District 17 (Middlesex and Somerset)**

**Co-Sponsored by:**

**Assemblymen Diegnan, Caputo and Senator Ruiz**

**SYNOPSIS**

Increases tax credit cap by \$165 million for certain qualified residential projects under Economic Redevelopment and Growth Grant program and restricts increase to certain projects.

**CURRENT VERSION OF TEXT**

As amended by the Senate on December 17, 2015.

(Sponsorship Updated As Of: 12/18/2015)

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

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

7  
8 1. Section 6 of P.L.2009, c.90 (C.52:27D-489f) is amended to  
9 read as follows:

10 6. a. Up to the limits established in subsection b. of this section  
11 and in accordance with a redevelopment incentive grant agreement,  
12 beginning upon the receipt of occupancy permits for any portion of the  
13 redevelopment project, or upon <sup>1</sup>~~such~~ any<sup>1</sup> other event evidencing  
14 project completion as set forth in the incentive grant agreement, the  
15 State Treasurer shall pay to the developer incremental State revenues  
16 directly realized from businesses operating <sup>1</sup>~~on or~~<sup>1</sup> at the site of the  
17 redevelopment project from the following taxes: the Corporation  
18 Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), the tax  
19 imposed on marine insurance companies pursuant to R.S.54:16-1 et  
20 seq., the tax imposed on insurers generally, pursuant to P.L.1945,  
21 c.132 (C.54:18A-1 et seq.), the public utility franchise tax, public  
22 utilities gross receipts tax and public utility excise tax imposed on  
23 sewerage and water corporations pursuant to P.L.1940, c.5 (C.54:30A-  
24 49 et seq.), those tariffs and charges imposed by electric, natural gas,  
25 telecommunications, water and sewage utilities, and cable television  
26 companies under the jurisdiction of the New Jersey Board of Utilities,  
27 or comparable entity, except for those tariffs, fees, or taxes related to  
28 societal benefits charges assessed pursuant to section 12 of P.L.1999,  
29 c.23 (C.48:3-60), any charges paid for compliance with the "Global  
30 Warming Response Act," P.L.2007, c.112 (C.26:2C-37 et seq.),  
31 transitional energy facility assessment unit taxes paid pursuant to  
32 section 67 of P.L.1997, c.162 (C.48:2-21.34), and the sales and use  
33 taxes on public utility and cable television services and commodities,  
34 the tax derived from net profits from business, a distributive share of  
35 partnership income, or a pro rata share of S corporation income under  
36 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., the  
37 tax derived from a business at the site of a redevelopment project that  
38 is required to collect the tax pursuant to the "Sales and Use Tax Act,"  
39 P.L.1966, c.30 (C.54:32B-1 et seq.), the tax imposed pursuant to  
40 P.L.1966, c.30 (C.54:32B-1 et seq.) from the purchase of furniture,  
41 fixtures and equipment, or materials for the remediation, the  
42 construction of new structures at the site of a redevelopment project,  
43 the hotel and motel occupancy fee imposed pursuant to section 1 of  
44 P.L.2003, c.114 (C.54:32D-1), or the portion of the fee imposed

**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

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly AAP committee amendments adopted December 10, 2015.

<sup>2</sup>Senate floor amendments adopted December 17, 2015.

1 pursuant to section 3 of P.L.1968, c.49 (C.46:15-7) derived from the  
2 sale of real property at the site of the redevelopment project and paid  
3 to the State Treasurer for use by the State, that is not credited to the  
4 "Shore Protection Fund" or the "Neighborhood Preservation  
5 Nonlapsing Revolving Fund" ("New Jersey Affordable Housing Trust  
6 Fund") pursuant to section 4 of P.L.1968, c.49 (C.46:15-8). Any  
7 developer shall be allowed to assign their ability to apply for the tax  
8 credit under this subsection to a non-profit organization with a mission  
9 dedicated to attracting investment and completing development and  
10 redevelopment projects in a Garden State Growth Zone. The non-  
11 profit organization may make an application on behalf of a developer  
12 which meets the requirements for the tax credit, or a group of non-  
13 qualifying developers, such that these will be considered a unified  
14 project for the purposes of the incentives provided under this section.

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

19 (2) In the case of a qualified residential project, if the authority  
20 determines that the estimated amount of incremental revenues pledged  
21 towards the State portion of an incentive grant is inadequate to fully  
22 fund the amount of the State portion of the incentive grant, then in lieu  
23 of an incentive grant based on <sup>1</sup>**["such"]** incremental <sup>1</sup>**["revenue"]**  
24 **revenues<sup>1</sup>**, the developer shall be awarded tax credits equal to the full  
25 amount of the incentive grant.

26 (3) In the case of a mixed use parking project, if the authority  
27 determines that the estimated amount of <sup>1</sup>**["the"]** incremental revenues  
28 pledged towards the State portion of an incentive grant is inadequate to  
29 fully fund the amount of the State portion of the incentive grant, then,  
30 in lieu of an incentive grant based on <sup>1</sup>**["such"]** the<sup>1</sup> incremental  
31 <sup>1</sup>**["revenue"]** **revenues<sup>1</sup>**, <sup>1</sup>**["a"]** the<sup>1</sup> municipal redeveloper shall be  
32 awarded tax credits equal to the full amount of the incentive grant.

33 The value of all credits approved by the authority pursuant to  
34 paragraph (2) or this paragraph shall not exceed **["\$600,000,000"]**  
35 <sup>1</sup>**["\$650,000,000"]** <sup>2</sup>**["\$715,000,000"]** 765,000,000<sup>2</sup>, of which:

36 (a) \$250,000,000 shall be restricted to qualified residential projects  
37 within Atlantic, Burlington, Camden, Cape May, Cumberland,  
38 Gloucester, Ocean, and Salem counties, of which \$175,000,000 of  
39 credits shall be restricted to the following categories of projects: (i)  
40 qualified residential projects located in a Garden State Growth Zone  
41 located within the aforementioned counties <sup>1</sup>**["; and"]** (ii) mixed use  
42 parking projects located in a Garden State Growth Zone or urban  
43 transit hub located within the aforementioned counties <sup>1</sup>**[";"]** and  
44 \$75,000,000 of credits shall be restricted to qualified residential  
45 projects in municipalities with a 2007 Municipal Revitalization Index  
46 of 400 or higher as of the date of enactment of the "New Jersey  
47 Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p  
48 et al.) and located within the aforementioned counties;

1 (b) <sup>1</sup>[\$250,000,000] \$315,000,000<sup>1</sup> shall be restricted to the  
2 following categories of projects: (i) qualified residential projects  
3 located in urban transit hubs that are commuter rail in nature that  
4 otherwise do not qualify under subparagraph (a) of this  
5 paragraph<sup>1</sup> **[.]**<sup>1</sup> (ii) qualified residential projects located in Garden  
6 State Growth Zones that do not qualify under subparagraph (a) of this  
7 paragraph<sup>1</sup> **[.]**<sup>1</sup> <sup>2</sup><sub>i</sub> (iii) mixed use parking projects located in urban  
8 transit hubs or Garden State Growth Zones that do not qualify under  
9 subparagraph (a) of this paragraph, provided however, an urban transit  
10 hub shall be allocated no more than \$25,000,000 for mixed use  
11 parking projects<sup>1</sup> **[.]**<sup>1</sup> (iv) qualified residential projects which are  
12 disaster recovery projects that otherwise do not qualify under  
13 subparagraph (a) of this paragraph<sup>1</sup> **[, and]** <sup>1</sup> **[.]**<sup>1</sup> (v) qualified residential  
14 projects in SDA municipalities located in Hudson County that were  
15 awarded State Aid in State Fiscal Year 2013 through the Transitional  
16 Aid to Localities program and otherwise do not qualify under  
17 subparagraph (a) of this paragraph<sup>2</sup> **[.]**<sup>2</sup> and \$25,000,000 of credits  
18 shall be restricted to mixed use parking projects in Garden State  
19 Growth Zones which have a population in excess of 125,000 and do  
20 not qualify under subparagraph (a) of this paragraph <sup>1</sup> <sup>2</sup> **[.]**<sup>2</sup> and  
21 \$25,000,000 of credits shall be restricted to qualified residential  
22 projects located in a Garden State Growth Zone city that is the seat of  
23 State government; and <sup>2</sup> **[(vi)]**<sup>2</sup> \$40,000,000 <sup>2</sup> of credits<sup>2</sup> shall be  
24 restricted to qualified residential projects that include a theater venue  
25 for performing arts within the qualified residential project and, as of  
26 the effective date of P.L. , c. (pending before the Legislature as this  
27 bill), are located within an urban transit hub municipality that hosts a  
28 campus of a public research university as defined in section 1 of  
29 P.L.2009, c.308, (C.18A:3B-46), is a distressed municipality, and does  
30 not have a Port Authority Trans-Hudson Corporation rail station, Port  
31 Authority Transit Corporation rail station, or New Jersey Transit  
32 Corporation light rail station<sup>1</sup>;

33 (c) \$75,000,000 shall be restricted to the following categories of  
34 projects: (i) qualified residential projects located in distressed  
35 municipalities, deep poverty pockets, highlands development credit  
36 receiving areas or redevelopment areas, otherwise not qualifying  
37 pursuant to subparagraph (a) or (b) of this paragraph <sup>1</sup> **[.]**<sup>1</sup> and (ii)  
38 mixed use parking projects that do not qualify under subparagraph (a)  
39 or (b) of this paragraph, which include a vacant commercial building  
40 located wholly or partially within a distressed municipality, and which  
41 are used by an independent institution of higher education, a school of  
42 medicine, a nonprofit hospital system, or any combination thereof; and

43 (d) (i) \$25,000,000 shall be restricted to qualified residential  
44 projects that are located within a qualifying economic redevelopment  
45 and growth grant incentive area otherwise not qualifying under  
46 subparagraph (a), (b), or (c) of this paragraph, <sup>2</sup> **[and]**<sup>2</sup> (ii) an  
47 additional \$50,000,000 shall be restricted to qualified residential

1 projects which, as of the effective date of P.L. \_\_\_\_\_,  
 2 c. (pending before the Legislature as this bill), are located in a city of  
 3 the first class with a population in excess of 270,000, are subject to a  
 4 Renewal Contract for a Section 8 Mark-Up-To-Market Project from  
 5 the United States Department of Housing and Urban Development,  
 6 and for which an application for the award of tax credits has <sup>2</sup>already<sup>2</sup>  
 7 been submitted under this subsection <sup>2</sup>; and (iii) an additional  
 8 \$50,000,000 shall be restricted to qualified residential projects which,  
 9 as of the effective date of P.L. \_\_\_\_\_, c. (pending before the  
 10 Legislature as this bill), are located in a city of the second class with a  
 11 population greater than 120,000 and less than 130,000, according to  
 12 the latest federal decennial census, and are located in a distressed  
 13 municipality within a port district, as defined in R.S.32:2-1<sup>2</sup>.

14 (e) For subparagraphs (a) through (d) of this paragraph, not more  
 15 than \$40,000,000 of credits shall be awarded to any qualified  
 16 residential project in a deep poverty pocket or distressed municipality  
 17 and not more than \$20,000,000 of credits shall be awarded to any other  
 18 qualified residential project. The developer of a qualified residential  
 19 project seeking an award of credits towards the funding of its incentive  
 20 grant shall submit an incentive grant application prior to July 1, 2016  
 21 and if approved after the effective date of P.L.2013, c.161<sup>1</sup>(C.52:27D-  
 22 489p et al.)<sup>1</sup> shall submit a temporary certificate of occupancy for  
 23 <sup>1</sup>["such] the<sup>1</sup> project no later than July 28, 2018 <sup>2,2</sup> <sup>1</sup>except that for an  
 24 incentive grant application approved after the effective date of  
 25 P.L. \_\_\_\_\_, c. \_\_\_\_\_ (pending before the Legislature as this bill), a  
 26 temporary certificate of occupancy shall be submitted no later than  
 27 July 28, 2019<sup>1</sup>. Applications for tax credits pursuant to this subsection  
 28 relating to an ancillary infrastructure project or infrastructure  
 29 improvement in the public right of way, or both, shall be accompanied  
 30 with a letter of support relating to the project or improvement by the  
 31 governing body or agency in which the project is located. Credits  
 32 awarded to a developer pursuant to this subsection shall be subject to  
 33 the same financial and related analysis by the authority, the same term  
 34 of the grant, and the same mechanism for administering the credits,  
 35 and shall be utilized or transferred by the developer as if <sup>1</sup>["such] the<sup>1</sup>  
 36 credits had been awarded to the developer pursuant to section 35 of  
 37 P.L.2009, c.90 (C.34:1B-209.3) for qualified residential projects  
 38 thereunder. No portion of the revenues pledged pursuant to the "New  
 39 Jersey Economic Opportunity Act of 2013," P.L.2013,  
 40 c.161 (C.52:27D-489p et al.) shall be subject to withholding or  
 41 retainage for adjustment, in the event the developer or taxpayer waives  
 42 its rights to claim a refund thereof.

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

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

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

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

27 e. The municipality is authorized to collect any <sup>1</sup>~~and all~~<sup>1</sup>  
28 information necessary to facilitate grants under this program and remit  
29 that information <sup>1</sup>~~], as may be required from time to time,~~<sup>1</sup> in order  
30 to assist in the calculation of incremental revenue.

31 (cf: P.L.2015, c.69, s.2)

32

33 2. This act shall take effect immediately.