

P.L. 2020, CHAPTER 138, *approved December 23, 2020*
Senate, No. 3046 (*First Reprint*)

1 **AN ACT** extending certain document submission deadlines for
2 business tax credit programs, and amending P.L.2007, c.346 and
3 P.L.2009, c.90.

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

7
8 1. Section 3 of P.L.2007, c.346 (C.34:1B-209) is amended to
9 read as follows:

10 3. a. (1) A business, upon application to and approval from
11 the authority, shall be allowed a credit of 100 percent of its capital
12 investment, made after the effective date of P.L.2007, c.346
13 (C.34:1B-207 et seq.) but prior to its submission of documentation
14 pursuant to subsection c. of this section, in a qualified business
15 facility within an eligible municipality, pursuant to the restrictions
16 and requirements of this section. To be eligible for any tax credits
17 authorized under this section, a business shall demonstrate to the
18 authority, at the time of application, that the State's financial
19 support of the proposed capital investment in a qualified business
20 facility will yield a net positive benefit to both the State and the
21 eligible municipality. The value of all credits approved by the
22 authority pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) shall
23 not exceed \$1,750,000,000, except as may be increased by the
24 authority as set forth in paragraph (5) of subsection a. of section 35
25 of P.L.2009, c.90 (C.34:1B-209.3) and section 6 of P.L.2010, c.57
26 (C.34:1B-209.4).

27 (2) A business, other than a tenant eligible pursuant to
28 paragraph (3) of this subsection, shall make or acquire capital
29 investments totaling not less than \$50,000,000 in a qualified
30 business facility, at which the business shall employ not fewer than
31 250 full-time employees to be eligible for a credit under this
32 section. A business that acquires a qualified business facility shall
33 also be deemed to have acquired the capital investment made or
34 acquired by the seller.

35 (3) A business that is a tenant in a qualified business facility, the
36 owner of which has made or acquired capital investments in the
37 facility totaling not less than \$50,000,000, shall occupy a leased
38 area of the qualified business facility that represents at least
39 \$17,500,000 of the capital investment in the facility at which the
40 tenant business and up to two other tenants in the qualified business
41 facility shall employ not fewer than 250 full-time employees in the
42 aggregate to be eligible for a credit under this section. The amount

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:

¹Senate amendments adopted in accordance with Governor's
recommendations November 16, 2020.

1 of capital investment in a facility that a leased area represents shall
2 be equal to that percentage of the owner's total capital investment in
3 the facility that the percentage of net leasable area leased by the
4 tenant is of the total net leasable area of the qualified business
5 facility. Capital investments made by a tenant shall be deemed to
6 be included in the calculation of the capital investment made or
7 acquired by the owner, but only to the extent necessary to meet the
8 owner's minimum capital investment of \$50,000,000. Capital
9 investments made by a tenant and not allocated to meet the owner's
10 minimum capital investment threshold of \$50,000,000 shall be
11 added to the amount of capital investment represented by the
12 tenant's leased area in the qualified business facility.

13 (4) A business shall not be allowed tax credits under this section
14 if the business participates in a business employment incentive
15 agreement, pursuant to P.L.1996, c.26 (C.34:1B-124 et seq.),
16 relating to the same capital and employees that qualify the business
17 for this credit, or if the business receives assistance pursuant to
18 P.L.1996, c.25 (C.34:1B-112 et seq.). A business that is allowed a
19 tax credit under this section shall not be eligible for incentives
20 authorized pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.). A
21 business shall not qualify for a tax credit under this section, based
22 upon its capital investment and the employment of full-time
23 employees, if that capital investment or employment was the basis
24 for which a grant was provided to the business pursuant to the
25 "InvestNJ Business Grant Program Act," P.L.2008, c.112 (C.34:1B-
26 237 et seq.).

27 (5) Full-time employment for an accounting or a privilege
28 period shall be determined as the average of the monthly full-time
29 employment for the period.

30 (6) The capital investment of the owner of a qualified business
31 facility is that percentage of the capital investment made or
32 acquired by the owner of the building that the percentage of net
33 leasable area of the qualified business facility not leased to tenants
34 is of the total net leasable area of the qualified business facility.

35 (7) A business shall be allowed a tax credit of 100 percent of its
36 capital investment, made after the effective date of P.L.2011, c.89
37 but prior to its submission of documentation pursuant to subsection
38 c. of this section, in a qualified business facility that is part of a
39 mixed use project, provided that (a) the qualified business facility
40 represents at least \$17,500,000 of the total capital investment in the
41 mixed use project, (b) the business employs not fewer than 250 full-
42 time employees in the qualified business facility, and (c) the total
43 capital investment in the mixed use project of which the qualified
44 business facility is a part is not less than \$50,000,000. The
45 allowance of credits under this paragraph shall be subject to the
46 restrictions and requirements, to the extent that those are not
47 inconsistent with the provisions of this paragraph, set forth in
48 paragraphs (1) through (6) of this subsection, including, but not

1 limited to, the requirement that the business shall demonstrate to the
2 authority, at the time of application, that the State's financial
3 support of the proposed capital investment in a qualified business
4 facility will yield a net positive benefit to both the State and the
5 eligible municipality.

6 (8) In determining whether a proposed capital investment will
7 yield a net positive benefit, the authority shall not consider the
8 transfer of an existing job from one location in the State to another
9 location in the State as the creation of a new job, unless (a) the
10 business proposes to transfer existing jobs to a municipality in the
11 State as part of a consolidation of business operations from two or
12 more other locations that are not in the same municipality whether
13 in-State or out-of-State, or (b) the business's chief executive officer,
14 or equivalent officer, submits a certification to the authority
15 indicating that the existing jobs are at risk of leaving the State and
16 that the business's chief executive officer, or equivalent officer, has
17 reviewed the information submitted to the authority and that the
18 representations contained therein are accurate, and the business
19 intends to employ not fewer than 500 full-time employees in the
20 qualified business facility. In the event that this certification by the
21 business's chief executive officer, or equivalent officer, is found to
22 be willfully false, the authority may revoke any award of tax credits
23 in their entirety, which revocation shall be in addition to any other
24 criminal or civil penalties that the business and the officer may be
25 subject to. When considering an application involving intra-State
26 job transfers, the authority shall require the company to submit the
27 following information as part of its application: a full economic
28 analysis of all locations under consideration by the company; all
29 lease agreements, ownership documents, or substantially similar
30 documentation for the business's current in-State locations; and all
31 lease agreements, ownership documents, or substantially similar
32 documentation for the potential out-of-State location alternatives, to
33 the extent they exist. Based on this information, and any other
34 information deemed relevant by the authority, the authority shall
35 independently verify and confirm, by way of making a factual
36 finding by separate vote of the authority's board, the business's
37 assertion that the jobs are actually at risk of leaving the State,
38 before a business may be awarded any tax credits under this section.

39 b. (1) If applications under this section have been received by
40 the authority prior to the effective date of the "New Jersey
41 Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-
42 489p et al.), then, to the extent that there remains sufficient
43 financial authorization for the award of a tax credit, the authority is
44 authorized to consider those applications and to make awards of tax
45 credits to eligible applicants, provided that the authority shall take
46 final action on those applications no later than December 31, 2013.

47 (2) A business shall apply for the credit under this section prior
48 to the effective date of the "New Jersey Economic Opportunity Act

1 of 2013," P.L.2013, c.161 (C.52:27D-489p et al.), and shall submit
2 its documentation for approval of its credit amount no later than
3 **【April 26, 2021】** December 31, 2023.

4 (3) If a business has submitted an application under this section
5 and that application has not been approved for any reason, the lack
6 of approval shall not serve to prejudice in any way the
7 consideration of a new application as may be submitted for the
8 qualified business facility for the provision of incentives offered
9 pursuant to the "New Jersey Economic Opportunity Act of 2013,"
10 P.L.2013, c.161 (C.52:27D-489p et al.).

11 (4) Tax credits awarded pursuant to P.L.2007, c.346 (C.34:1B-
12 207 et seq.) for applications submitted to and approved by the
13 authority prior to the effective date of the "New Jersey Economic
14 Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.),
15 shall be administered by the authority in the manner established
16 prior to that date.

17 (5) With respect to an application received by the authority prior
18 to the effective date of the "New Jersey Economic Opportunity Act
19 of 2013," P.L.2013, c.161 (C.52:27D-489p et al.) for a qualified
20 business facility that is located on or adjacent to the campus of an
21 acute care medical facility, (a) the minimum number of full-time
22 employees required for eligibility under the program may be
23 employed by any number of tenants or other occupants of the
24 facility, in the aggregate, and the initial satisfaction of the
25 requirement following completion of the project shall be deemed to
26 satisfy the employment requirements of the program in all respects,
27 and (b) if the capital investment in the facility exceeds
28 \$100,000,000, the determination of the net positive benefit yield
29 shall be based on the benefits generated during a period of up to 30
30 years following the completion of the project, as determined by the
31 authority.

32 c. (1) The amount of credit allowed shall, except as otherwise
33 provided, be equal to the capital investment made by the business,
34 or the capital investment represented by the business's leased area,
35 or area owned by the business as a condominium, and shall be taken
36 over a 10-year period, at the rate of one-tenth of the total amount of
37 the business's credit for each tax accounting or privilege period of
38 the business, beginning with the tax period in which the business is
39 first certified by the authority as having met the investment capital
40 and employment qualifications, subject to any reduction or
41 disqualification as provided by subsection d. of this section as
42 determined by annual review by the authority. In conducting its
43 annual review, the authority may require a business to submit any
44 information determined by the authority to be necessary and
45 relevant to its review.

46 The credit amount for any tax period ending after **【July 28,**
47 **2021】** December 31, 2023 during which the documentation of a
48 business's credit amount remains uncertified shall be forfeited,

1 although credit amounts for the remainder of the years of the 10-
2 year credit period shall remain available to it.

3 The credit amount that may be taken for a tax period of the
4 business that exceeds the final liabilities of the business for the tax
5 period may be carried forward for use by the business in the next 20
6 successive tax periods, and shall expire thereafter, provided that the
7 value of all credits approved by the authority against tax liabilities
8 pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) in any fiscal year
9 shall not exceed \$260,000,000.

10 The amount of credit allowed for a tax period to a business that
11 is a tenant in a qualified business facility shall not exceed the
12 business's total lease payments for occupancy of the qualified
13 business facility for the tax period.

14 (2) A business that is a partnership shall not be allowed a credit
15 under this section directly, but the amount of credit of an owner of a
16 business shall be determined by allocating to each owner of the
17 partnership that proportion of the credit of the business that is equal
18 to the owner of the partnership's share, whether or not distributed,
19 of the total distributive income or gain of the partnership for its tax
20 period ending within or at the end of the owner's tax period, or that
21 proportion that is allocated by an agreement, if any, among the
22 owners of the partnership that has been provided to the Director of
23 the Division of Taxation in the Department of the Treasury by the
24 time and accompanied by the additional information as the director
25 may require.

26 (3) The amount of credit allowed may be applied against the tax
27 liability otherwise due pursuant to section 5 of P.L.1945, c.162
28 (C.54:10A-5), pursuant to sections 2 and 3 of P.L.1945, c.132
29 (C.54:18A-2 and C.54:18A-3), pursuant to section 1 of P.L.1950,
30 c.231 (C.17:32-15), or pursuant to N.J.S.17B:23-5.

31 d. (1) If, in any tax period, fewer than 200 full-time employees
32 of the business at the qualified business facility are employed in
33 new full-time positions, the amount of the credit otherwise
34 determined pursuant to final calculation of the award of tax credits
35 pursuant to subsection c. of this section shall be reduced by 20
36 percent for that tax period and each subsequent tax period until the
37 first period for which documentation demonstrating the restoration
38 of the 200 full-time employees employed in new full-time positions
39 at the qualified business facility has been reviewed and approved by
40 the authority, for which tax period and each subsequent tax period
41 the full amount of the credit shall be allowed; provided, however,
42 that for businesses applying before January 1, 2010, there shall be
43 no reduction if a business relocates to an urban transit hub from
44 another location or other locations in the same municipality. For
45 the purposes of this paragraph, a "new full-time position" means a
46 position created by the business at the qualified business facility
47 that did not previously exist in this State.

1 (2) If, in any tax period, the business reduces the total number
2 of full-time employees in its Statewide workforce by more than 20
3 percent from the number of full-time employees in its Statewide
4 workforce in the last tax accounting or privilege period prior to the
5 credit amount approval under subsection a. of this section, then the
6 business shall forfeit its credit amount for that tax period and each
7 subsequent tax period, until the first tax period for which
8 documentation demonstrating the restoration of the business's
9 Statewide workforce to the threshold levels required by this
10 paragraph has been reviewed and approved by the authority, for
11 which tax period and each subsequent tax period the full amount of
12 the credit shall be allowed.

13 (3) If, in any tax period, (a) the number of full-time employees
14 employed by the business at the qualified business facility located
15 in an urban transit hub within an eligible municipality drops below
16 250, or (b) the number of full-time employees, who are not the
17 subject of intra-State job transfers, pursuant to paragraph (8) of
18 subsection a. of this section, employed by the business at any other
19 business facility in the State, whether or not located in an urban
20 transit hub within an eligible municipality, drops by more than 20
21 percent from the number of full-time employees in its workforce in
22 the last tax accounting or privilege period prior to the credit amount
23 approval under this section, then the business shall forfeit its credit
24 amount for that tax period and each subsequent tax period, until the
25 first tax period for which documentation demonstrating the
26 restoration of the number of full-time employees employed by the
27 business at the qualified business facility to 250 or an increase
28 above the 20 percent reduction has been reviewed and approved by
29 the authority, for which tax period and each subsequent tax period
30 the full amount of the credit shall be allowed.

31 (4) (i) If the qualified business facility is sold in whole or in
32 part during the 10-year eligibility period, the new owner shall not
33 acquire the capital investment of the seller and the seller shall
34 forfeit all credits for the tax period in which the sale occurs and all
35 subsequent tax periods; provided, however, that any credits of
36 tenants shall remain unaffected.

37 (ii) If a tenant subleases its tenancy in whole or in part during
38 the 10-year eligibility period, the new tenant shall not acquire the
39 credit of the sublessor, and the sublessor tenant shall forfeit all
40 credits for the tax period of its sublease and all subsequent tax
41 periods.

42 e. (1) The Executive Director of the New Jersey Economic
43 Development Authority, in consultation with the Director of the
44 Division of Taxation in the Department of the Treasury, shall adopt
45 rules in accordance with the "Administrative Procedure Act,"
46 P.L.1968, c.410 (C.52:14B-1 et seq.) as are necessary to implement
47 P.L.2007, c.346 (C.34:1B-207 et seq.), including, but not limited to:
48 examples of and the determination of capital investment; the

1 enumeration of eligible municipalities; specific delineation of urban
2 transit hubs; the determination of the limits, if any, on the expense
3 or type of furnishings that may constitute capital improvements; the
4 promulgation of procedures and forms necessary to apply for a
5 credit, including the enumeration of the certification procedures and
6 allocation of tax credits for different phases of a qualified business
7 facility or mixed use project; and provisions for credit applicants to
8 be charged an initial application fee, and ongoing service fees, to
9 cover the administrative costs related to the credit.

10 (2) Through regulation, the authority shall establish standards
11 based on the green building manual prepared by the Commissioner
12 of Community Affairs, pursuant to section 1 of P.L.2007, c.132
13 (C.52:27D-130.6), regarding the use of renewable energy, energy-
14 efficient technology, and non-renewable resources in order to
15 reduce environmental degradation and encourage long-term cost
16 reduction.

17 (cf: P.L.2017, c.314, s.1)

18
19 2. Section 35 of P.L.2009, c.90 (C.34:1B-209.3) is amended to
20 read as follows:

21 35. a. (1) A developer, upon application to and approval from
22 the authority, shall be allowed a credit of up to 35 percent of its
23 capital investment, or up to 40 percent for a project located in a
24 Garden State Growth Zone, made after the effective date of
25 P.L.2009, c.90 (C.52:27D-489a et al.) but prior to its submission of
26 documentation pursuant to subsection c. of this section, in a
27 qualified residential project, pursuant to the restrictions and
28 requirements of this section. To be eligible for any tax credits
29 authorized under this section, a developer shall demonstrate to the
30 authority, through a project pro forma analysis at the time of
31 application, that the qualified residential project is likely to be
32 realized with the provision of tax credits at the level requested, but
33 is not likely to be accomplished by private enterprise without the
34 tax credits. The value of all credits approved by the authority
35 pursuant to this section for qualified residential projects may be up
36 to \$150,000,000, except as may be increased by the authority as set
37 forth below and as set forth in paragraph (5) of this subsection;
38 provided; however, that the combined value of all credits approved
39 by the authority pursuant to section 3 of P.L.2007, c.346 [(C.34:1B-
40 207)] (C.34:1B-209) and this section shall not exceed
41 \$1,750,000,000, except as may be increased by the authority as set
42 forth in paragraph (5) of this subsection. The authority shall
43 monitor application and allocation activity under P.L.2007, c.346
44 (C.34:1B-207 et seq.), and if sufficient credits are available after
45 taking into account allocation under P.L.2007, c.346 (C.34:1B-207
46 et seq.) to those qualified business facilities for which applications
47 have been filed or for which applications are reasonably anticipated,
48 and if the executive director judges certain qualified residential

1 projects to be meritorious, the aforementioned \$150,000,000 cap
2 may, in the discretion of the executive director, from time to time,
3 be exceeded for allocation to qualified residential projects in
4 amounts as the executive director deems reasonable, justified, and
5 appropriate. In allocating all credits to qualified residential projects
6 under this section, the executive director shall take into account,
7 together with other factors deemed relevant by the executive
8 director: input from the municipality in which the project is to be
9 located; whether the project contributes to the recovery of areas
10 affected by Hurricane Sandy; whether the project furthers specific
11 State or municipal planning and development objectives, or both;
12 and whether the project furthers a public purpose, such as
13 catalyzing urban development or maximizing the value of vacant,
14 dilapidated, outmoded, government-owned, or underutilized
15 property, or both.

16 (2) A developer shall make or acquire capital investments
17 totaling not less than \$50,000,000 in a qualified residential project
18 to be eligible for a credit under this section. A developer that
19 acquires a qualified residential project shall also be deemed to have
20 acquired the capital investment made or acquired by the seller.

21 (3) The capital investment requirement may be met by the
22 developer or by one or more of its affiliates.

23 (4) A developer of a mixed use project shall be allowed a credit
24 pursuant to subparagraph (a) or (b) of this paragraph, but not both.

25 (a) A developer shall be allowed a credit in accordance with this
26 section for a qualified residential project that includes a mixed use
27 project.

28 (b) A developer shall be allowed a credit of up to 35 percent of
29 its capital investment, or up to 40 percent for a project located in a
30 Garden State Growth Zone, made after the effective date of
31 P.L.2011, c.89, but prior to its submission of documentation
32 pursuant to subsection c. of this section, in a qualified residential
33 project that is part of a mixed use project, provided that:

34 (i) the capital investment in the qualified residential project
35 represents at least \$17,500,000 of the total capital investment in the
36 mixed use project; and

37 (ii) the total capital investment in the mixed use project of which
38 the qualified residential project is a part is not less than
39 \$50,000,000.

40 The allowance of credits under this paragraph shall be subject to
41 the restrictions and requirements, to the extent that those are not
42 inconsistent with the provisions of this paragraph, set forth in
43 paragraphs (1) through (3) of this subsection, including, but not
44 limited to, the requirement prescribed in paragraph (1) of this
45 subsection that the developer shall demonstrate to the authority,
46 through a project pro forma analysis at the time of application, that
47 the qualified residential project is likely to be realized with the

1 provision of tax credits at the level requested but is not likely to be
2 accomplished by private enterprise without the tax credits.

3 As used in this subparagraph:

4 "Mixed use project" means a project comprising both a qualified
5 residential project and a qualified business facility.

6 (5) The authority may approve and allocate credits for qualified
7 residential projects in a value sufficient to meet the requirements of
8 all applications that were received by the authority between October
9 24, 2012 and December 21, 2012, without regard to the terms of
10 any competitive solicitation, except for the \$33,000,000 per project
11 cap, and without need for reapplication by any applicant. The
12 authority shall take final action on those applications prior to the
13 120th day after the date of enactment of the "New Jersey Economic
14 Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.).

15 b. (1) A developer shall apply for the credit under this section
16 on or prior to December 21, 2012 but may thereafter supplement an
17 application as may be requested by the authority. A developer shall
18 submit its documentation for approval of its credit amount no later
19 than **April 26, 2021** December 31, 2023.

20 (2) If a developer has submitted an application under this
21 section and the application has not been approved for any reason,
22 the lack of approval shall not serve to prejudice in any way the
23 consideration of a new application as may be submitted for the
24 project for the provision of incentives offered pursuant to the "New
25 Jersey Economic Opportunity Act of 2013," P.L.2013, c.161
26 (C.52:27D-489p et al.).

27 c. The credit shall be administered in accordance with the
28 provisions of subsections c. and e. of section 3 of P.L.2007, c.346
29 (C.34:1B-209), as amended by section 32 of P.L.2009, c.90, and
30 section 33 of P.L.2009, c.90 (C.34:1B-209.1), except that:

31 (1) all references therein to "business" and "qualified business
32 facility" shall be deemed to refer respectively to "developer" and
33 "qualified residential project," as those terms are defined in section
34 34 of P.L.2009, c.90 (C.34:1B-209.2); and

35 (2) all references therein to credits claimed by tenants and to
36 reductions or disqualifications in credits as determined by annual
37 review of the authority shall be disregarded.

38 For purposes of a "mixed use project" as that term is used and
39 defined pursuant to subparagraph (b) of paragraph (4) of subsection
40 a. of this section, "qualified business facility" means that term as
41 defined pursuant to section 2 of P.L.2007, c.346 (C.34:1B-208).

42 (cf: P.L.2017, c.314, s.2)

43
44 ¹³. Section 5 of P.L.2009, c.90 (C.52:27D-489e) is amended to
45 read as follows:

46 5. a. The New Jersey Economic Development Authority, in
47 consultation with the State Treasurer, shall establish an Economic
48 Redevelopment and Growth Grant program for the purpose of

1 encouraging redevelopment projects in qualifying economic
2 redevelopment and growth grant incentive areas that do not qualify
3 as such areas solely by virtue of being a transit village, through the
4 provision of incentive grants to reimburse developers for certain
5 project financing gap costs.

6 b. (1) A developer shall submit an application for a State
7 incentive grant prior to July 1, 2019; provided, however, a
8 developer of a qualified residential project or a mixed use parking
9 project seeking an award of credits toward the funding of its
10 incentive grant for a project restricted under part (viii) of
11 subparagraph (b) of paragraph (3) of subsection b. of section 6 of
12 P.L.2009, c.90 (C.52:27D-489f) shall submit an incentive grant
13 application prior to December 31, 2021. A developer that submits
14 an application for a State incentive grant shall indicate on the
15 application whether it is also applying for a local incentive grant.

16 (2) When an applicant indicates it is also applying for a local
17 incentive grant, the authority shall forward a copy of the application
18 to the municipality wherein the redevelopment project is to be
19 located for approval by municipal ordinance.

20 c. An application for a State incentive grant shall be reviewed
21 and approved by the authority. The authority shall not approve an
22 application for a State incentive grant unless the application was
23 submitted prior to July 1, 2019; provided, however, the authority
24 shall not approve an application for a State incentive grant by a
25 developer of a qualified residential project or a mixed use parking
26 project seeking an award of credits toward the funding of its
27 incentive grant for a project restricted under part (viii) of
28 subparagraph (b) of paragraph (3) of subsection b. of section 6 of
29 P.L.2009, c.90 (C.52:27D-489f) unless the application was
30 submitted prior to December 31, 2021.

31 d. A developer shall not be required to purchase pinelands
32 development credits under the "Pinelands Protection Act,"
33 P.L.1979, c.111 (C.13:18A-1 et seq.), the pinelands comprehensive
34 management plan, or any other rule or regulation adopted pursuant
35 to that act in connection with any approval or relief obtained related
36 to a redevelopment project located in an aviation district on or after
37 the effective date of P.L.2018, c.120, except if seeking to develop in
38 permanently protected open space pursuant to the Pinelands
39 Protection Act. The provisions of this subsection shall not apply to
40 a developer of a qualified residential project.¹

41 (cf: 2018, c.120, s.6)

42
43 ¹**[3.] 4.** Section 6 of P.L.2009, c.90 (C.52:27D-489f) is
44 amended to read as follows:

45 6. a. Up to the limits established in subsection b. of this section
46 and in accordance with a redevelopment incentive grant agreement,
47 beginning upon the receipt of occupancy permits for any portion of the
48 redevelopment project, or upon any other event evidencing project

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

46 b. (1) Up to an average of 75 percent of the projected annual
47 incremental revenues or 85 percent of the projected annual incremental

1 revenues in a Garden State Growth Zone may be pledged towards the
2 State portion of an incentive grant.

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

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

17 The value of all credits approved by the authority pursuant to
18 paragraphs (2) and (3) of this subsection shall not exceed
19 ¹~~[\$823,000,000]~~ \$843,000,000¹, of which:

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

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

1 mixed use parking projects in Garden State Growth Zones which have
2 a population in excess of 125,000 and do not qualify under
3 subparagraph (a) of this paragraph; (vii) \$40,000,000 of credits shall
4 be restricted to qualified residential projects that include a theater
5 venue for the performing arts and do not qualify under subparagraph
6 (a) of this paragraph, which projects are located in a municipality with
7 a population of less than 100,000 according to the latest federal
8 decennial census, and within which municipality is located an urban
9 transit hub and a campus of a public research university, as defined in
10 section 1 of P.L.2009, c.308 (C.18A:3B-46); and (viii)
11 ¹~~[\$105,000,000]~~ \$125,000,000¹ of credits shall be restricted to
12 qualified residential projects and mixed use parking projects in Garden
13 State Growth Zones having a population in excess of 125,000 and do
14 not qualify under subparagraph (a) of this paragraph;

15 (c) \$87,000,000 shall be restricted to the following categories of
16 projects: (i) qualified residential projects located in distressed
17 municipalities, deep poverty pockets, highlands development credit
18 receiving areas or redevelopment areas, otherwise not qualifying
19 pursuant to subparagraph (a) or (b) of this paragraph; and (ii) mixed
20 use parking projects that do not qualify under subparagraph (a) or (b)
21 of this paragraph, and which are used by an independent institution of
22 higher education, a school of medicine, a nonprofit hospital system, or
23 any combination thereof; provided, however, that \$20,000,000 of the
24 \$87,000,000 shall be allocated to mixed use parking projects that do
25 not qualify under subparagraph (a) or (b) of this paragraph;

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

30 (ii) an additional \$50,000,000 shall be restricted to qualified
31 residential projects which, as of the effective date of P.L.2016, c.51,
32 are located in a city of the first class with a population in excess of
33 270,000, are subject to a Renewal Contract for a Section 8 Mark-Up-
34 To-Market Project from the United States Department of Housing and
35 Urban Development, and for which an application for the award of tax
36 credits under this subsection was submitted prior to January 1, 2016;
37 and

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

40 (f) For subparagraphs (a) through (d) of this paragraph, not more
41 than \$40,000,000 of credits shall be awarded to any qualified
42 residential project in a deep poverty pocket or distressed municipality
43 and not more than \$20,000,000 of credits shall be awarded to any other
44 qualified residential project. The developer of a qualified residential
45 project seeking an award of credits towards the funding of its incentive
46 grant shall submit an incentive grant application prior to July 1, 2016
47 and if approved after September 18, 2013, the effective date of
48 P.L.2013, c.161 (C.52:27D-489p et al.) shall submit a temporary

1 certificate of occupancy for the project no later than **July 28, 2021**
2 December 31, 2023. The developer of a mixed use parking project
3 seeking an award of credits towards the funding of its incentive grant
4 pursuant to subparagraph (c) of this paragraph and if approved after
5 the effective date of P.L.2015, c.217, shall submit a temporary
6 certificate of occupancy for the project no later than **July 28, 2021**
7 December 31, 2023. The developer of a qualified residential project or
8 a mixed use parking project seeking an award of credits toward the
9 funding of its incentive grant for a project restricted under categories
10 (vi) and (viii) of subparagraph (b) of this paragraph shall submit an
11 incentive grant application prior to July 1, 2019 ¹or, in the case of a
12 project restricted under part (viii) of subparagraph (b) of this
13 paragraph, December 31, 2021¹, and if approved after the effective
14 date of P.L.2017, c.59, shall submit a temporary certificate of
15 occupancy for the project no later than **July 28, 2022** December 31,
16 2023 provided that the municipality in which the project is located
17 shall have submitted to the chief executive officer of the authority a
18 letter of support identifying up to six projects prior to July 1, 2018.
19 The letter of support is to contain a project scope for each of the
20 projects and may be supplemented ¹or amended¹ from time to time
21 until July 1, 2019 ¹or, in the case of a project restricted under part
22 (viii) of subparagraph (b) of this paragraph, December 31, 2021¹.
23 Applications for tax credits pursuant to this subsection relating to an
24 ancillary infrastructure project or infrastructure improvement in the
25 public right-of-way, or both, shall be accompanied with a letter of
26 support relating to the project or improvement by the governing body
27 or agency in which the project is located. Credits awarded to a
28 developer pursuant to this subsection shall be subject to the same
29 financial and related analysis by the authority, the same term of the
30 grant, and the same mechanism for administering the credits, and shall
31 be utilized or transferred by the developer as if the credits had been
32 awarded to the developer pursuant to section 35 of P.L.2009, c.90
33 (C.34:1B-209.3) for qualified residential projects thereunder. No
34 portion of the revenues pledged pursuant to the "New Jersey Economic
35 Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.)
36 shall be subject to withholding or retainage for adjustment, in the event
37 the developer or taxpayer waives its rights to claim a refund thereof.
38 (4) A developer may apply to the Director of the Division of
39 Taxation in the Department of the Treasury and the chief executive
40 officer of the authority for a tax credit transfer certificate, if the
41 developer is awarded a tax credit pursuant to paragraph (2) or
42 paragraph (3) of this subsection, covering one or more years, in lieu of
43 the developer being allowed any amount of the credit against the tax
44 liability of the developer. The tax credit transfer certificate, upon
45 receipt thereof by the developer from the director and the chief
46 executive officer of the authority, may be sold or assigned, in full or in
47 part, to any other person who may have a tax liability pursuant to

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

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

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

23 e. The municipality is authorized to collect any information
24 necessary to facilitate grants under this program and remit that
25 information in order to assist in the calculation of incremental revenue.
26 (cf: P.L.2018, c.44, s.2)

27
28 ¹**[4.] 5.**¹ This act shall take effect immediately.

29
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31
32
33 Extends certain document submission deadlines for Urban
34 Transit Hub Tax Credit program and Economic Redevelopment and
35 Growth Grant Program.