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*** This section is current through New Jersey 217th First Annual Session, L. 2016, c. 55, and J.R. 6 ***

Title 52. State Government, Departments and Officers
Subtitle 3. Executive and Administrative Departments
Chapter 27D. Department of Community Affairs
Article 9. Department of Community Affairs Act

GO TO THE NEW JERSEY ANNOTATED STATUTES ARCHIVE DIRECTORY

N.J. Stat. § 52:27D-489a (2016)

§ 52:27D-489a. Short title [New Jersey Economic Stimulus Act of 2009]

This act shall be known and may be cited as the "New Jersey Economic Stimulus Act of 2009."

HISTORY: L. 2009, c. 90, § 1, eff. July 28, 2009.

NOTES:

Editor's Note:

See Editor's Note under 52:27D-489b for provisions enacted by the New Jersey Economic Stimulus Act of 2009.

Cross References:

Definitions, see 34:1B-209.2.

Developer allowed certain tax credits, see 34:1B-209.3.

Tax proceeds anticipated as dedicated revenues; appropriation, see 40:48H-3.

Findings, declarations relative to Statewide non-residential development fees, see 40:55D-8.2.

Return of non-residential development fees, see 40:55D-8.8.

Reduction, elimination of affordable housing obligation of municipality, see 52:27D-311.3.

Findings, declarations relative to economic stimulus, see 52:27D-489b.

Establishment of local Economic Redevelopment and Growth Grant program, see 52:27D-489d.

Exemption of certain receipts to, by postconsumer manufacturing facility from certain taxes, see 54:32B-8.60.



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N.J. Stat. § 52:27D-489b (2016)

§ 52:27D-489b. Findings, declarations relative to economic stimulus

The Legislature finds and declares:

a. The State of New Jersey is confronting a fiscal and economic crisis more severe than any experienced since the Great Depression. Counties and municipalities are likewise witnessing dramatic reductions in local revenues as a consequence of the global economic recession. As part of an ongoing, coordinated attempt to spur economic improvement and reverse this deflationary cycle, the Legislature and the Governor recently enacted a number of laws designed to minimize the impact of current conditions on New Jersey businesses and residents, including legislation providing incentives to create jobs and make business investments in this State.

b. America has seen two economic changes since the birth of our nation over two hundred years ago. The initial change from an agrarian based economy to an industrial based economy in the revolution of the mid to late 1800s caused a realignment of our culture and population and brought prosperity to millions of our hardworking citizens. Much more recently, during those years culminating in the end of the 20th century, the rise of technology and financial services was our second change and increased that prosperity manifold.

c. As a consequence of the current world-wide financial crisis, opportunities for New Jersey residents to achieve prosperity have now shrunk. Many of our citizens are facing economic hardships not seen since the Great Depression. The financial crisis has diminished the ability of the private sector to create economic development on its own. The worldwide drop in available capital along with a self-fulfilling drop in consumer confidence has created a downward spiral that can be overcome with the assistance of a partnership a public-private partnership that targets tax cuts to drive economic development and job creation.

d. The poor economic climate continues to pose particular challenges for private sector entities desiring to engage in job creation and economic development activities. In order to spur economic growth and improve the quality of life for all New Jersey residents, it is appropriate for the Legislature to revisit, modify, and supplement several of the current statutes governing economic development and related activities in this State, including but not limited to job creation, economic growth, tax credits, state and local taxation of manufacturing and other activities, higher education, redevelopment, and affordable housing. Each of the facets of P.L.2009, c.90 (C.52:27D-489a et al.) represents a direct response to the unique economic development challenges currently facing the State and local units. It is the belief of the Legislature that each of the individual components of P.L.2009, c.90 (C.52:27D-489a et al.) will serve to combat one or more aspects of the current economic crisis and that these complementary components will promote economic development and job creation activities immediately upon enactment.

e. Current economic conditions compel bold and timely action to create a third economic change that will enhance our prosperity and build confidence in our future. That prosperity must be extended to all areas of New Jersey, urban, suburban, and rural, and include all sectors of the State's economy.

f. Through the use of tax increment financing, tax credits, development fee suspensions, and dedicated economic development revenues, along with a more efficient redevelopment process, New Jersey will be able to restore its economy to economic health and create good-paying jobs for its residents; assist the private development of affordable housing; assist institutions of higher education to develop needed classrooms, laboratories, dormitory rooms, and other educational facilities; and generate revenues for necessary State and local governmental services.

HISTORY: L. 2009, c. 90, § 2, eff. July 28, 2009.

NOTES:

Editor's Note:

Provisions enacted by the "New Jersey Economic Stimulus Act of 2009," L. 2009, c. 90, which enacted this section, include the following:

Economic Redevelopment and Growth Grant programs, local and State, see 52:27D-489c through 52:27D-489n.

Municipal Motor Vehicle Rental Tax, to finance redevelopment activities, 40:48H-1 et seq.

Surcharge on admission charges and parking at major places of admission, certain cities of the second class, 40:48G-2.

Amendments to sections pertaining to transferability of tax credits under the New Jersey Emerging Technology and Biotechnology Financial Assistance Program, see 34:1B-7.42a and 34:1B-7.42b, as amended.

Revisions to the Urban Transit Hub Tax Credit Act, see 34:1B-208, 34:1B-209, as amended, and new sections 34:1B-209.1 through 34:1B-209.3.

Exemption of certain property from the development fee imposed by the Statewide Non-Residential Fee Act, see amendments to 40:55D-8.2, 40:55D-8.6, and new section 40:55D-8.8. Return of certain non-residential development fees to developers; reimbursement of municipality from appropriation made to the "New Jersey Affordable Housing Fund," see 40:55D-8.8. Appropriation to the "New Jersey Affordable Housing Fund" to replace suspended non-residential development fees, see 52:27D-320.1; see also section 52:27D-311.3, reduction or elimination of affordable housing obligation of municipality in certain cases.

Higher education partnership agreements between a municipality and an institution of higher education for issuance of bonds to finance construction projects, see 18A:72A-81 et seq. See also 18A:3B-39 (requiring submission of long-range facilities plan) and 18A:3B-40. Public-private partnership agreements for construction projects at State and county colleges, see 18A:64-85. Amendments enlarging permissible time period for certain contracts of State and county colleges, see 18A:64-79 and 18A:64A-25.28, as amended by L. 2009, c. 90.

Postconsumer material manufacturing facilities, exemption from sales and use tax on purchase and use of energy and utility service and from transitional energy facility assessment (TEFA) unit rate surcharge in certain cases, see new section 54:32B-8.60, and section 48:2-21.34 as amended by L. 2009, c. 90.



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N.J. Stat. § 52:27D-489c (2016)

§ 52:27D-489c. Definitions relative to economic stimulus.

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).

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

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

"Developer" means any person who enters or proposes to enter into a redevelopment incentive grant agreement pursuant to the provisions of section 9 of P.L.2009, c.90 (C.52:27D-489i), or its successors or 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 redeveloper as defined herein or Rutgers, the State University of New Jersey.

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

"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); or a municipality which contains a Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino Reinvestment Development Authority.

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

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

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

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

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

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

- a. the total square footage of the entire mixed use parking project;
- b. the estimated revenues of the entire mixed use parking project; or
- c. the total construction cost of the entire mixed use parking project.

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

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

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

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

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

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

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

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

"Project financing gap" means:

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

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

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

"Property tax increment" means the amount obtained by:

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

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

For the purpose of this definition, "property tax increment base" means the aggregate taxable value of all property assessed which is located within the redevelopment project area as of October 1st of the year 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 per-

cent 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 (C.52:18A-196 et al.), as Planning Area 4A (Rural Planning Area), Planning Area 4B (Rural/Environmentally Sensitive) or Planning Area 5 (Environmentally Sensitive) if Planning Area 4A (Rural Planning Area), Planning Area 4B (Rural/Environmentally Sensitive) or Planning Area 5 (Environmentally Sensitive) is located within:
 - (a) a designated center under the State Development and Redevelopment Plan;
 - (b) a designated growth center in an endorsed plan until the State Planning Commission revises and readopts New Jersey's State Strategic Plan and adopts regulations to revise this definition as it pertains to Statewide planning areas;
 - (c) any area determined to be in need of redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and C.40A:12A-6) or in need of rehabilitation pursuant to section 14 of P.L.1992, c.79 (C.40A:12A-14);

(d) any area on which a structure exists or previously existed including any desired expansion of the footprint of the existing or previously existing structure provided 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:

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

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

"Redevelopment utility" means a self-liquidating fund created by a municipality pursuant to section 12 of P.L.2009, c.90 (C.52:27D-489I) 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 situated.

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

"Tourism destination project" means a redevelopment project that will be among the most visited privately owned or operated tourism or recreation sites in the State, and which is located within the incentive area and has been deter-

mined by the authority to be in an area appropriate for development and in need of economic development incentive assistance.

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

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

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

- a. buildings and structures, such as academic buildings, recreation centers, indoor athletic facilities, public works garages, and water and sewer treatment and pumping facilities;
- b. open space with improvements, such as athletic fields and other outdoor athletic facilities, planned commons, and parks; and
- c. transportation facilities, such as bus shelters and parking facilities.

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

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

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

HISTORY: L. 2009, c. 90, § 3, eff. July 28, 2009; amended 2010, c. 10, § 4, eff. May 5, 2010, retroactive to July 28, 2009; 2011, c. 89, § 6, eff. July 26, 2011; 2013, c. 161, § 14, eff. Sept. 18, 2013; 2014, c. 63, § 7, eff. Oct. 24, 2014; 2015, c. 69, § 1, eff. July 6, 2015; 2015, c. 217, § 3, eff. Jan. 11, 2016; 2015, c. 242, § 1, eff. Jan. 19, 2016.

NOTES:

OLS Corrections:

Pursuant to R.S.1:3-1, the Office of Legislative Services, through its Legislative Counsel and with the concurrence of the Attorney General, inserted the inadvertently omitted word "of" following "section 5" in the definition of "Incentive grant" in L. 2009, c. 90, § 3.

Editor's Note:

Section 7 of L. 2011, c. 89 provides: "The provisions of P.L.2011, c.89 shall be severable, and if any of its provisions shall be held to be unconstitutional, the decision of the court shall not affect the validity of the remaining provisions of P.L.2011, c.89."

L. 2014, c. 63, as enacted, contains recommendations made by the Governor on conditional veto of the legislation (Assembly Bill No. 3213) earlier in the session.

The title to L. 2014, c. 63 designates the act as the "Economic Opportunity Act of 2014, Part 3."

L. 2013, c. 161, as enacted, contains recommendations made by the Governor on conditional veto of the legislation (Assembly Bill No. 3680) earlier in the session.

Effective Dates:

Section 12 of L. 2010, c. 10 provides: "This act shall take effect immediately and section 1 and sections 3 through 9 shall be retroactive to July 28, 2009 (the date of enactment of P.L.2009, c.90), and section 2, if enacted on or before June 30, 2010, shall apply to applications submitted for the 2010 Technology Business Tax Certificate Transfer Program." Chapter 10, L. 2010, was approved on May 5, 2010.

Section 5 of L. 2015, c. 217 provides: "This act shall take effect immediately, section 1 shall apply to program applications submitted on or after the first July 1 occurring on or after the date of enactment, and section 2 shall be retroactive to October 24, 2014." Chapter 217, L. 2015, was approved on Jan. 11, 2016.

Amendment Note:

2010 amendment, by Chapter 10, added the definitions of "Ancillary infrastructure project", "Infrastructure improvements in the public right-of-way", and "Municipal redeveloper"; in the definition of "Qualifying economic redevelopment and growth grant incentive area", inserted "a pinelands regional growth area, a pinelands town management area, a pinelands village, or a military and federal installation area established pursuant to the pinelands comprehensive management plan adopted pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.)"; in the definition of "Redevelopment incentive grant agreement", inserted "or a municipal ordinance authorizing a project to be undertaken by a municipal redeveloper"; and in the definition of "Redevelopment project", added "and any ancillary infrastructure project associated therewith."

2011 amendment, by Chapter 89, in the definition of "Qualifying economic redevelopment and growth grant incentive area", inserted "an area zoned for development pursuant to 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); 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)."

2013 amendment, by Chapter 161, rewrote the section.

2014 amendment, by Chapter 63, added "or a municipality which contains a Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino Reinvestment Development Authority" in the definition of "Garden State Growth Zone."

2015 amendment, by Chapter 69, inserted the definitions of "Mixed use parking project," "Non-parking component," and "Parking component"; substituted "redeveloper as defined herein" for "government or a redevelopment agency as defined in section 3 of P.L.1992, c.79 (C.40A:12A-3)" in the second sentence of the definition of "Developer"; rewrote the definition of "Municipal redeveloper"; redesignated former (1) and (2) as a. and b. in the definitions of "Property tax increment" and "Redevelopment incentive grant agreement"; inserted "but not be limited to" in the second sentence of the definition of "Redevelopment project"; and made a stylistic change.

2015 amendment, by Chapter 217, deleted "undertaken by a municipal redeveloper" following "a redevelopment project" in the definition of "Mixed use parking project."

2015 amendment, by Chapter 242, added "or Rutgers, the State University of New Jersey" in the second sentence of the definition of "Developer"; inserted the definition of "University infrastructure"; and made stylistic changes.

Cross References:

Powers, see 34:1B-5.

Definitions relative to public contracts with private entities, see 52:18-42.

Certain laws inoperative, without effect relative to certain applications, see 52:27D-489m.

Implementation guidelines, directives, rules, regulations, see 52:27D-489n.



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*** This section is current through New Jersey 217th First Annual Session, L. 2016, c. 55, and J.R. 6 ***

Title 52. State Government, Departments and Officers
 Subtitle 3. Executive and Administrative Departments
 Chapter 27D. Department of Community Affairs
 Article 9. Department of Community Affairs Act

GO TO THE NEW JERSEY ANNOTATED STATUTES ARCHIVE DIRECTORY

N.J. Stat. § 52:27D-489d (2016)

§ 52:27D-489d. Establishment of local Economic Redevelopment and Growth Grant program.

a. The governing body of a municipality wherein is located a qualifying economic redevelopment and growth grant incentive area may adopt an ordinance to establish a local Economic Redevelopment and Growth Grant program for the purpose of encouraging redevelopment projects in that area through the provision of incentive grants to reimburse developers for all or a portion of the project financing gap for such projects. No local Economic Redevelopment and Growth Grant program shall take effect until the Local Finance Board approves the ordinance.

b. A developer shall submit an application for a local incentive grant prior to July 1, 2019. A developer that submits an application for a local incentive grant shall indicate on the application whether it is also applying for a State incentive grant. An application by a developer applying for a local incentive grant only shall not require approval by the authority. A municipal redeveloper may only apply for local incentive grants for the construction of: (1) infrastructure improvements in the public right-of-way, or (2) publicly owned facilities.

c. No local incentive grant shall be finally approved by a municipality until approved by the Local Finance Board. The Local Finance Board shall not approve a local incentive grant unless the application was submitted prior to July 1, 2019.

d. In deciding whether or not to approve a local incentive grant agreement the Local Finance Board shall consider the following factors:

- (1) the economic feasibility of the redevelopment project;
- (2) the extent of economic and related social distress in the municipality and the area to be affected by the redevelopment project;
- (3) the degree to which the redevelopment project will advance State, regional, and local development and planning strategies;
- (4) the likelihood that the redevelopment project shall, upon completion, be capable of generating new tax revenue in an amount in excess of the amount necessary to reimburse the developer for project costs incurred as provided in the redevelopment incentive grant agreement;
- (5) the relationship of the redevelopment project to a comprehensive local development strategy, including other major projects undertaken within the municipality;
- (6) the need for the redevelopment incentive grant agreement to the viability of the redevelopment project;
- (7) compliance with the provisions of P.L.2009, c.90 (C.52:27D-489a et al.); and
- (8) the degree to which the redevelopment project enhances and promotes job creation and economic development./f1

HISTORY: L. 2009, c. 90, § 4, eff. July 28, 2009; amended 2010, c. 10, § 3, eff. May 5, 2010, retroactive to July 28, 2009; 2013, c. 161, § 15, eff. Sept. 18, 2013.

NOTES:

Editor's Note:

L. 2013, c. 161, as enacted, contains recommendations made by the Governor on conditional veto of the legislation (Assembly Bill No. 3680) earlier in the session.

Effective Dates:

Section 12 of L. 2010, c. 10 provides: "This act shall take effect immediately and section 1 and sections 3 through 9 shall be retroactive to July 28, 2009 (the date of enactment of P.L.2009, c.90), and section 2, if enacted on or before June 30, 2010, shall apply to applications submitted for the 2010 Technology Business Tax Certificate Transfer Program." Chapter 10, L. 2010, was approved on May 5, 2010.

Amendment Note:

2010 amendment, by Chapter 10, in the third sentence of b., substituted "A municipal redeveloper may only" for "A municipality or its redevelopment agency only may", and transferred "the construction of" to precede rather than follow "(1)."

2013 amendment, by Chapter 161, added the first sentence of b.; and added the second sentence of c.

Cross References:

Definitions relative to economic stimulus, see 52:27D-489c.

Ordinance for payment to municipal redeveloper for certain projects, see 52:27D-489o.



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Title 52. State Government, Departments and Officers
Subtitle 3. Executive and Administrative Departments
Chapter 27D. Department of Community Affairs
Article 9. Department of Community Affairs Act

GO TO THE NEW JERSEY ANNOTATED STATUTES ARCHIVE DIRECTORY

N.J. Stat. § 52:27D-489e (2016)

§ 52:27D-489e. Economic Redevelopment and Growth Grant program.

a. The New Jersey Economic Development Authority, in consultation with the State Treasurer, shall establish an Economic Redevelopment and Growth Grant program for the purpose of encouraging redevelopment projects in qualifying economic redevelopment and growth grant incentive areas that do not qualify as such areas solely by virtue of being a transit village, through the provision of incentive grants to reimburse developers for certain project financing gap costs.

b. (1) A developer shall submit an application for a State incentive grant prior to July 1, 2019. A developer that submits an application for a State incentive grant shall indicate on the application whether it is also applying for a local incentive grant.

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

c. An application for a State incentive grant shall be reviewed and approved by the authority. The authority shall not approve an application for a State incentive grant unless the application was submitted prior to July 1, 2019.

HISTORY: L. 2009, c. 90, § 5, eff. July 28, 2009; amended 2010, c. 10, § 5, eff. May 5, 2010, retroactive to July 28, 2009; 2013, c. 161, § 16, eff. Sept. 18, 2013.

NOTES:

Editor's Note:

Section 21 of L. 2013, c. 161, provides: "On or before July 1, 2018, the authority shall submit a written report to the Governor and the Legislature providing a comprehensive review and analysis of the Grow New Jersey Assistance Program, established pursuant to P.L.2011, c.149 (C.34:1B-242 et seq.), the State Economic Redevelopment and Growth Grant program, established pursuant to section 5 of P.L.2009, c.90 (C.52:27D-489e), and other economic incentive laws under the authority's jurisdiction, with particular emphasis on the recalibration of those programs and the creation of Garden State Growth Zones, pursuant to P.L.2013, c.161 (C.52:27D-489p et al.), and the effectiveness of those programs on economic development and private-sector job retention and growth. In order to ensure the independence and objectivity of the report, the authority shall retain a premier, not-for-profit, non-partisan entity to undertake the review and analysis of the State economic incentive laws, which shall include a cost-benefit analysis of each incentive

program, an assessment of the success of each program in meeting the goals of the program, and any recommendations for improving the operation and effectiveness of each program, including recommendations for legislation."

L. 2013, c. 161, as enacted, contains recommendations made by the Governor on conditional veto of the legislation (Assembly Bill No. 3680) earlier in the session.

Effective Dates:

Section 12 of L. 2010, c. 10 provides: "This act shall take effect immediately and section 1 and sections 3 through 9 shall be retroactive to July 28, 2009 (the date of enactment of P.L.2009, c.90), and section 2, if enacted on or before June 30, 2010, shall apply to applications submitted for the 2010 Technology Business Tax Certificate Transfer Program." Chapter 10, L. 2010, was approved on May 5, 2010.

Amendment Note:

2010 amendment, by Chapter 10, at the end of c., deleted "and by the municipality by ordinance."

2013 amendment, by Chapter 161, added the first sentence of b.(1); and added the second sentence of c.

Cross References:

Definitions relative to economic stimulus, see 52:27D-489c.

Agreement between developer and municipality, see 52:27D-489k.



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Title 52. State Government, Departments and Officers
Subtitle 3. Executive and Administrative Departments
Chapter 27D. Department of Community Affairs
Article 9. Department of Community Affairs Act

GO TO THE NEW JERSEY ANNOTATED STATUTES ARCHIVE DIRECTORY

N.J. Stat. § 52:27D-489f (2016)

§ 52:27D-489f. Payment to developer from State.

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 any 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 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 Public 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 Nonlapsing 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 or a project involving university infrastructure, 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 the incremental revenues, the developer shall be awarded tax credits equal to the full amount of the incentive grant.

(3) In the case of a mixed use parking 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 the incremental revenues, 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 paragraphs (2) and (3) of this subsection shall not exceed \$ 718,000,000, 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 the credits shall be restricted to the following categories of projects: (i) qualified residential projects located in a Garden State Growth Zone located within the aforementioned counties; and (ii) mixed use parking projects located in a Garden State Growth Zone or urban transit hub located within the aforementioned counties; (iii) and \$ 75,000,000 of the 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 2013," P.L.2013, c.161 (C.52:27D-489p et al.) and located within the aforementioned counties;

(b) \$ 290,000,000 shall be restricted to the following categories of projects: (i) qualified residential projects located in urban transit hubs that are commuter rail in nature that otherwise do not qualify under subparagraph (a) of this paragraph; (ii) qualified residential projects located in Garden State Growth Zones that do not qualify under subparagraph (a) of this paragraph; (iii) mixed use parking projects located in urban transit hubs or Garden State Growth Zones that do not qualify under subparagraph (a) of this paragraph, provided however, an urban transit hub shall be allocated no more than \$ 25,000,000 for mixed use parking projects; (iv) qualified residential projects which are disaster recovery projects that otherwise do not qualify under subparagraph (a) of this paragraph; (v) qualified residential projects in 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; (vi) \$ 25,000,000 of credits shall be restricted to mixed use parking projects in Garden State Growth Zones which have a population in excess of 125,000 and do not qualify under subparagraph (a) of this paragraph; and (vii) \$ 40,000,000 of credits shall be restricted to qualified residential projects that include a theater venue for the performing arts and do not qualify under subparagraph (a) of this paragraph, which projects are located in a municipality with a population of less than 100,000 according to the latest federal decennial census, and within which municipality is located an urban transit hub and a campus of a public research university, as defined in section 1 of P.L.2009, c.308 (C.18A:3B-46);

(c) \$ 87,000,000 shall be restricted to the following categories of projects: (i) qualified residential projects located 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 (ii) mixed use parking projects that do not qualify under subparagraph (a) or (b) of this paragraph, and which are used by an independent institution of higher education, a school of medicine, a nonprofit hospital system, or any combination thereof; provided, however, that \$ 20,000,000 of the \$ 87,000,000 shall be allocated to mixed use parking projects that do not qualify under subparagraph (a) or (b) of this paragraph;

(d) (i) \$ 16,000,000 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

(ii) an additional \$ 50,000,000 shall be restricted to qualified residential projects which, as of the effective date [Sept. 7, 2016] of P.L.2016, c.51, are located in a city of the first class with a population in excess of 270,000, are subject to a Renewal Contract for a Section 8 Mark-Up-To-Market Project from the United States Department of Housing and Urban Development, and for which an application for the award of tax credits under this subsection was submitted prior to January 1, 2016; and

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

(f) For subparagraphs (a) through (d) 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, 2016 and if approved after September 18, 2013, the effective date of P.L.2013, c.161 (C.52:27D-489p et al.) shall submit a temporary certificate of occupancy for the project no later than July 28, 2019. The developer of a mixed use parking project seeking an award of credits towards the funding of its incentive grant pursuant to subparagraph (c) of this paragraph and if approved after the effective date [Jan. 11, 2016] of P.L.2015, c.217, shall submit a temporary certificate of occupancy for the project no later than July 28, 2021. 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, the same term of the grant, and the same mechanism for administering the credits, and shall be utilized or transferred by the developer as if the 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.

(4) 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) or paragraph (3) 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 who 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 C.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 before considering any further discounting to present value that may be permitted. 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 information necessary to facilitate grants under this program and remit that information in order to assist in the calculation of incremental revenue.

HISTORY: L. 2009, c. 90, § 6, eff. July 28, 2009; amended 2010, c. 10, § 6, eff. May 5, 2010, retroactive to July 28, 2009; 2013, c. 161, § 17, eff. Sept. 18, 2013; 2014, c. 63, § 8, eff. Oct. 24, 2014; 2015, c. 69, § 2, eff. July 6, 2015; 2015, c. 217, § 4, eff. Jan. 11, 2016; 2015, c. 242, § 2, eff. Jan. 19, 2016; 2015, c. 252, § 3, eff. Jan. 19, 2016; 2016, c. 51, § 1, eff. Sept. 7, 2016.

NOTES:

OLS Corrections:

Pursuant to R.S.1:3-1, the Office of Legislative Services, through its Legislative Counsel and with the concurrence of the Attorney General, corrected L. 2015, c. 242, § 2 to incorporate the inadvertently omitted provisions of the amendment of this section by L. 2015, c. 217, § 4.

Pursuant to R.S.1:3-1, the Office of Legislative Services, through its Legislative Counsel and with the concurrence of the Attorney General, corrected L. 2015, c. 252, § 3 to incorporate the inadvertently omitted provisions of the amendment of this section by L. 2015, c. 217, § 4 and L. 2015, c. 242, § 2.

Publisher's Notes:

The bracketed material was added by the Publisher to provide a reference.

Editor's Note:

L. 2013, c. 161, as enacted, contains recommendations made by the Governor on conditional veto of the legislation (Assembly Bill No. 3680) earlier in the session.

L. 2014, c. 63, as enacted, contains recommendations made by the Governor on conditional veto of the legislation (Assembly Bill No. 3213) earlier in the session.

The title to L. 2014, c. 63 designates the act as the "Economic Opportunity Act of 2014, Part 3."

Effective Dates:

Section 12 of L. 2010, c. 10 provides: "This act shall take effect immediately and section 1 and sections 3 through 9 shall be retroactive to July 28, 2009 (the date of enactment of P.L.2009, c.90), and section 2, if enacted on or before June 30, 2010, shall apply to applications submitted for the 2010 Technology Business Tax Certificate Transfer Program." Chapter 10, L. 2010, was approved on May 5, 2010.

Section 5 of L. 2015, c. 217 provides: "This act shall take effect immediately, section 1 shall apply to program applications submitted on or after the first July 1 occurring on or after the date of enactment, and section 2 shall be retroactive to October 24, 2014." Chapter 217, L. 2015, was approved on Jan. 11, 2016.

Amendment Note:

2010 amendment, by Chapter 10, in d., substituted "State" for "local" preceding "redevelopment incentive grant agreement."

2013 amendment, by Chapter 161, in the first sentence of a., inserted "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", inserted "or at the site of", deleted "premises" preceding "from the following", inserted "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", substituted "furniture, fixtures and equipment, or materials" for "materials used", and deleted "or the construction of new residences" following "of new structures"; added the last two sentences of a.; and rewrote b., which formerly read: "Up to 75 percent of the projected annual incremental revenues may be pledged towards the State portion of an incentive grant."

2014 amendment, by Chapter 63, in b.(2)(e) [now b.(3)(e)], in the second sentence, substituted "July 1, 2016 and if approved after the effective date of P.L.2013, c.161" for "July 1, 2015 and if approved" and "July 28, 2018" for "July 28, 2015" and inserted "the same term of the grant, and the same mechanism for administering the credits" in the next to last sentence; added "before considering any further discounting to present value that may be permitted" in the next to last sentence of b.(3) [now b.(4)]; and made stylistic changes.

2015 amendment, by Chapter 69, redesignated most of former b.(2) as b.(3) and redesignated former b.(3) as b.(4); in present b.(3), added the first paragraph pertaining to a mixed use parking project, inserted "paragraph (2) or" in the second paragraph, and rewrote (a) through (c); and inserted "or paragraph (3)" in the first sentence of b.(4).

2015 amendment, by Chapter 217, substituted "the developer" for "a municipal redeveloper" in b.(3); substituted "\$ 603,000,000" for "\$ 600,000,000" in the introductory language of b.(3); in b.(3)(c), substituted "\$ 87,000,000" for "\$ 75,000,000", deleted "which include a vacant commercial building located wholly or partially within a distressed mu-

nicipality" following "this paragraph", and inserted "provided, however, that \$ 20,000,000 of the \$ 87,000,000 shall be allocated to mixed used parking projects that do not qualify under subparagraph (a) or (b) of this paragraph"; substituted "\$ 16,000,000" for "\$ 25,000,000" in b.(3)(d); in b.(3)(e), in the second sentence, inserted "September 18, 2013" and "(C.52:27D-489p et al.)" and inserted the third sentence; and made a stylistic change.

2015 amendment, by Chapter 242, inserted "or a project involving university infrastructure" in b.(2); in the introductory language of b.(3), substituted "paragraphs (2) and (3) of this subsection" for "paragraph (2) or this paragraph" and "\$ 625,000,000" for "\$ 600,000,000"; added the b.(3)(a)(iii) designation; inserted b.(3)(e); redesignated former b.(3)(e) as b.(3)(f); in e., deleted "and all" following "to collect any" and "as may be required from time to time" following "that information"; and made related and stylistic changes.

2015 amendment, by Chapter 252, deleted "on or" following "businesses operating" in the first sentence of a.; in the second sentence of b.(3)(e), inserted "(C.52:27D-489p et al.)" and substituted "July 28, 2019" for "July 28, 2018"; in e., deleted "and all" following "to collect any" and "as may be required from time to time" following "that information"; and made stylistic changes.



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Title 52. State Government, Departments and Officers
Subtitle 3. Executive and Administrative Departments
Chapter 27D. Department of Community Affairs
Article 9. Department of Community Affairs Act

GO TO THE NEW JERSEY ANNOTATED STATUTES ARCHIVE DIRECTORY

N.J. Stat. § 52:27D-489g (2016)

§ 52:27D-489g. Payment to developers from municipalities

a. Up to the limits established in subsection b. of this section, and in accordance with a redevelopment incentive grant agreement, the municipality shall pay to the developer incremental eligible revenues directly realized from activities or business operations on the redevelopment project premises and may also pay eligible revenues derived from the project area.

b. Up to 75 percent of the incremental local revenues collected pursuant to subsection d. of section 11 of P.L.2009, c.90 (C.52:27D-489k) may be pledged towards the municipal portion, if any, of an incentive grant.

c. All administrative costs associated with the local incentive grant shall be assessed to the applicant and be retained by the municipality from its annual payments to the developer.

HISTORY: L. 2009, c. 90, § 7, eff. July 28, 2009; amended 2010, c. 10, § 7, eff. May 5, 2010, retroactive to July 28, 2009.

NOTES:

Effective Dates:

Section 12 of L. 2010, c. 10 provides: "This act shall take effect immediately and section 1 and sections 3 through 9 shall be retroactive to July 28, 2009 (the date of enactment of P.L.2009, c.90), and section 2, if enacted on or before June 30, 2010, shall apply to applications submitted for the 2010 Technology Business Tax Certificate Transfer Program." Chapter 10, L. 2010, was approved on May 5, 2010.

Amendment Note:

2010 amendment, by Chapter 10, in a., added "and may also pay eligible revenues derived from the project area."

Cross References:

Ordinance for payment to municipal redeveloper for certain projects, see 52:27D-489o.



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Title 52. State Government, Departments and Officers
Subtitle 3. Executive and Administrative Departments
Chapter 27D. Department of Community Affairs
Article 9. Department of Community Affairs Act

GO TO THE NEW JERSEY ANNOTATED STATUTES ARCHIVE DIRECTORY

N.J. Stat. § 52:27D-489h (2016)

§ 52:27D-489h. Incentive grant application form, procedure

a. (1) The authority, in consultation with the State Treasurer, shall promulgate an incentive grant application form and procedure for the Economic Redevelopment and Growth Grant program.

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

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

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

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

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

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

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

c. (1) With regard to State tax revenues proposed to be pledged for an incentive grant the authority and the State Treasurer shall review the project costs, evaluate and validate the project financing gap estimated by the developer, and conduct a State fiscal impact analysis to ensure that the overall public assistance provided to the project, except with regards to a qualified residential project, a mixed use parking project, or a project involving university infrastructure, will result in net benefits to the State including, without limitation, both direct and indirect economic benefits and non-financial community revitalization objectives, including but not limited to, the promotion of the use of public transportation in the case of the ancillary infrastructure project portion of any transit project.

(2) With regard to local incremental revenues proposed to be pledged for an incentive grant the authority and the Local Finance Board shall review the project costs, and except with respect to an application by a municipal redeveloper, evaluate and validate the project financing gap projected by the developer, and conduct a local fiscal impact analysis to ensure that the overall public assistance provided to the project, except with regards to a qualified residential project, a mixed use parking project, or a project involving university infrastructure, will result in net benefits to the municipality wherein the redevelopment project is located including, without limitation, both direct and indirect eco-

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

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

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

(5) A developer who has already applied for an incentive grant award prior to the effective date [Sept. 18, 2013] of the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.), but who has not yet been approved for the grant, or has not executed an agreement with the authority, may proceed under that application or seek to amend the application or reapply for an incentive grant award for the same project or any part thereof for the purpose of availing himself or herself of any more favorable provisions of the Economic Redevelopment and Growth Grant program established pursuant to the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.), except that projects with costs exceeding \$ 200,000,000 shall not be eligible for revised percentage caps under subsection d. of section 19 of P.L.2013, c.161 (C.52:27D-489i).

HISTORY: L. 2009, c. 90, § 8, eff. July 28, 2009; amended 2010, c. 10, § 8, eff. May 5, 2010, retroactive to July 28, 2009; 2013, c. 161, § 18, eff. Sept. 18, 2013; 2015, c. 69, § 3, eff. July 6, 2015; 2015, c. 242, § 3, eff. Jan. 19, 2016.

NOTES:

OLS Corrections:

Pursuant to R.S.1:3-1, the Office of Legislative Services, through its Legislative Counsel and with the concurrence of the Attorney General, deleted "and project" following "increment base" in b.(4) of L. 2009, c. 90, § 8.

Publisher's Note:

The bracketed material was added by the Publisher to provide a reference.

Editor's Note:

L. 2013, c. 161, as enacted, contains recommendations made by the Governor on conditional veto of the legislation (Assembly Bill No. 3680) earlier in the session.

Effective Dates:

Section 12 of L. 2010, c. 10 provides: "This act shall take effect immediately and section 1 and sections 3 through 9 shall be retroactive to July 28, 2009 (the date of enactment of P.L.2009, c.90), and section 2, if enacted on or before June 30, 2010, shall apply to applications submitted for the 2010 Technology Business Tax Certificate Transfer Program." Chapter 10, L. 2010, was approved on May 5, 2010.

Amendment Note:

2010 amendment, by Chapter 10, in c.(2), inserted "and except with respect to an application by a municipal redeveloper."

2013 amendment, by Chapter 161, substituted "authority" for "New Jersey Economic Development Authority" wherever it appears in a.; in c.(1) and c.(2), deleted "redevelopment" following "shall review the", inserted "except with regards to a qualified residential project", and added "including, without limitation, both direct and indirect economic benefits and non-financial community revitalization objectives, including but not limited to, the promotion of the use of public transportation in the case of the ancillary infrastructure project portion of any transit project"; and added c.(5).

2015 amendment, by Chapter 69, inserted "or a mixed use parking project" in c.(1) and c.(2).

2015 amendment, by Chapter 242, inserted "or a project involving university infrastructure" in c.(1) and c.(2); substituted "himself or herself" for "itself" in c.(5); and made related and stylistic changes.

Cross References:

Ordinance for payment to municipal redeveloper for certain projects, see 52:27D-489o.



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*** This section is current through New Jersey 217th First Annual Session, L. 2016, c. 55, and J.R. 6 ***

Title 52. State Government, Departments and Officers
Subtitle 3. Executive and Administrative Departments
Chapter 27D. Department of Community Affairs
Article 9. Department of Community Affairs Act

GO TO THE NEW JERSEY ANNOTATED STATUTES ARCHIVE DIRECTORY

N.J. Stat. § 52:27D-489i (2016)

§ 52:27D-489i. Certain grant agreements permitted

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

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

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

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

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

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

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

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

(d) a transit project;

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

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

(g) located in a Garden State Growth Zone;

(h) a disaster recovery project;

(i) an aviation project;

(j) a tourism destination project; or

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

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

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

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

(1) the economic feasibility of the redevelopment project;

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

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

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

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

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

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

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

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

HISTORY: L. 2009, c. 90, § 9, eff. July 28, 2009; amended 2010, c. 10, § 9, eff. May 5, 2010, retroactive to July 28, 2009; 2013, c. 161, § 19, eff. Sept. 18, 2013; 2015, c. 69, § 4, eff. July 6, 2015; 2015, c. 242, § 4, eff. Jan. 19, 2016.

NOTES:

OLS Corrections:

Pursuant to R.S.1:3-1, the Office of Legislative Services, through its Legislative Counsel and with the concurrence of the Attorney General, inserted "an" preceding "agreement" in subsection b. of L. 2009, c. 90, § 9.

Editor's Note:

L. 2013, c. 161, as enacted, contains recommendations made by the Governor on conditional veto of the legislation (Assembly Bill No. 3680) earlier in the session.

Effective Dates:

Section 52 of L. 2009, c. 90 provides: "This act shall take effect immediately; however, sections 9 and 11 shall remain inoperative until the first day of the third month next following enactment unless the Local Finance Board determines an earlier operative date." Chapter 90, L. 2009, was approved on July 28, 2009.

Section 12 of L. 2010, c. 10 provides: "This act shall take effect immediately and section 1 and sections 3 through 9 shall be retroactive to July 28, 2009 (the date of enactment of P.L.2009, c.90), and section 2, if enacted on or before June 30, 2010, shall apply to applications submitted for the 2010 Technology Business Tax Certificate Transfer Program." Chapter 10, L. 2010, was approved on May 5, 2010.

Amendment Note:

2010 amendment, by Chapter 10, in the second sentence of d., added "Except for redevelopment incentive grant agreements with a municipal redeveloper" and deleted "exclusive of publicly-owned infrastructure" from the end of the sentence, and added the third and fourth sentences of d.; and in the first sentence of g.(1), inserted "or support" and "or bond."

2013 amendment, by Chapter 161, substituted "authority" for "New Jersey Economic Development Authority" in c., the second sentence of e., and the introductory language of f.; rewrote d.; added "Except in the case of a qualified residential project" in the first sentence of e.; added "or the level of site specific distress to include dilapidated conditions, brownfields designation, environmental contamination, pattern of vacancy, abandonment, or under utilization of the property, rate of foreclosures, or other site conditions as determined by the authority" in f.(2); added "provided, however, that any tax revenue generated by a redevelopment project that is a disaster recovery project shall be considered new tax revenue even if the same or more tax revenue was generated at or on the site prior to the disaster" in f.(4); inserted "or the promotion of the use of public transportation" in f.(6); added "or the promotion of the use of public transportation" in f.(7); substituted "assign, transfer, or sell" for "and assign as security or support for any loan or bond" in the first sentence of g.(1); and made a stylistic change.

2015 amendment, by Chapter 69, added the second sentence of d.(3); and inserted "or a mixed use parking project" in the first sentence of e.

2015 amendment, by Chapter 242, substituted "of whether" for "whether or not" in b.; inserted "or a project involving university infrastructure" in the first sentence of e.; deleted "or not" following "deciding whether" in the introductory language of f.; and made related and stylistic changes.

Cross References:

Definitions relative to economic stimulus, see 52:27D-489c.

Incentive grant application form, procedure, see 52:27D-489h.



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Title 52. State Government, Departments and Officers
Subtitle 3. Executive and Administrative Departments
Chapter 27D. Department of Community Affairs
Article 9. Department of Community Affairs Act

GO TO THE NEW JERSEY ANNOTATED STATUTES ARCHIVE DIRECTORY

N.J. Stat. § 52:27D-489j (2016)

§ 52:27D-489j. Assistance to developer to enhance credit

The New Jersey Economic Development Authority, or any other State agency, may provide assistance to a developer in order to enhance its credit for the purpose of securing private project financing on more favorable terms.

HISTORY: L. 2009, c. 90, § 10, eff. July 28, 2009.



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Title 52. State Government, Departments and Officers
Subtitle 3. Executive and Administrative Departments
Chapter 27D. Department of Community Affairs
Article 9. Department of Community Affairs Act

GO TO THE NEW JERSEY ANNOTATED STATUTES ARCHIVE DIRECTORY

N.J. Stat. § 52:27D-489k (2016)

§ 52:27D-489k. Agreement between developer and municipality.

a. The governing body of a municipality is authorized to enter into a redevelopment incentive grant agreement with a developer, which shall not be effective until adopted by ordinance, for any redevelopment project located within a qualifying economic redevelopment and growth grant incentive area.

b. The redevelopment incentive grant agreement shall specify the maximum amount of project costs, the amount of the incentive grant to be awarded the developer, the frequency of payments, and the eligibility period. The maximum amount of any municipal redevelopment incentive grant shall be equal to:

(1) 100 percent of the project costs in the case of a municipal redeveloper, or

(2) for all other developers, the maximum amount of any redevelopment incentive grant agreement shall be 30 percent of the total project costs, or 40 percent if located in a Garden State Growth Zone.

c. Except in the case of a qualified residential project, the municipality may enter into a redevelopment incentive grant agreement only if the chief financial officer of the municipality makes a finding that the incremental revenues to be realized from the redevelopment project will be in excess of the amount necessary to reimburse the developer for its project financing gap. Such finding shall be based upon appropriate documentation and calculations supporting the decision.

d. Within a qualifying economic redevelopment and growth grant incentive area a municipality that has entered into a local redevelopment incentive grant agreement may pledge eligible revenues it is authorized to collect as follows:

(1) incremental payments in lieu of taxes, with respect to property located in the district, made pursuant to the "Five-Year Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et seq.), or the "Long Term Tax Exemption Law," P.L.1991, c.431 (C.40A:20-1 et al.);

(2) incremental revenues collected from payroll taxes, with respect to business activities carried on within the area, pursuant to section 15 of P.L.1970, c.326 (C.40:48C-15);

(3) incremental revenue from lease payments made to the municipality, the developer, or the developer's successors with respect to property located in the area;

(4) incremental revenue collected from parking taxes derived from parking facilities located within the area pursuant to section 7 of P.L.1970, c.326 (C.40:48C-7);

(5) incremental admissions and sales taxes derived from the operation of a public facility within the area pursuant to section 1 of P.L.2007, c.302 (C.40:48G-1);

(6) (a) incremental sales and excise taxes which are derived from activities within the area and which are rebated to or retained by the municipality pursuant to the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.) or any other law providing for such rebate or retention;

(b) within Planning Area 1 (Metropolitan) under the State Development and Redevelopment Plan adopted pursuant to the "State Planning Act," sections 1 through 12 of P.L.1985, c.398 (C.52:18A-196 et seq.), a municipality may impose the entire State sales tax on business activities within a redevelopment project located in an urban enterprise zone that would ordinarily be entitled to collect reduced rate revenues under section 21 of P.L.1983, c.303 (C.52:27H-80), and pledge the excess revenues to a local redevelopment incentive grant agreement;

(7) incremental parking revenue collected, pursuant to section 7 of P.L.1970, c.326 (C.40:48C-7), from public parking facilities built as part of a redevelopment project, except for public parking facilities owned by parking authorities pursuant to the "Parking Authority Law," P.L.1948, c.198 (C.40:11A-1 et seq.);

(8) incremental revenues collected, pursuant to section 3 of P.L.2003, c.114 (C.40:48F-1), P.L.1981, c.77 (C.40:48E-1 et seq.), or P.L.1947, c.71 (C.40:48-8.15 et seq.), from hotel and motel taxes;

(9) upon approval by the Local Finance Board, other incremental municipal revenues that may become available;

(10) the property tax increment, 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.).

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

e. (1) In calculating the general tax rate of a municipality each year, the aggregate amount of the incremental ratable value over the property tax increment base in the redevelopment project area that is pledged as part of a redevelopment incentive grant agreement shall be excluded from the ratable base of a municipality.

(2) The amount of property tax increment not pledged toward a redevelopment incentive grant agreement shall be allocated pursuant to the normal tax rate distribution.

The full incremental value of a project area shall be included in the value used for county and regional school tax apportionment until such time that the Director of the Division of Taxation in the Department of the Treasury can certify that property tax management systems are capable of handling the technical and legal requirements of treating parcels in areas of redevelopment as exempt from county and regional school apportionment.

f. In addition to the incremental revenues that may be pledged in subsection d. of this section, any amount of tax proceeds collected from the tax on the rental of motor vehicles pursuant to section 20 of P.L.2009, c.90 (C.40:48H-2), may be included in a redevelopment incentive grant agreement with a developer, regardless of whether or not the redevelopment project area is within or outside of the designated industrial zone from which the tax on the rental of motor vehicles is collected.

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

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

HISTORY: L. 2009, c. 90, § 11, eff. July 28, 2009; amended 2010, c. 10, § 10, eff. May 5, 2010; 2013, c. 161, § 20, eff. Sept. 18, 2013.

NOTES:

OLS Corrections:

Pursuant to R.S.1:3-1, the Office of Legislative Services, through its Legislative Counsel and with the concurrence of the Attorney General, corrected a technical error in L. 2009, c. 90, § 11.

Editor's Note:

L. 2013, c. 161, as enacted, contains recommendations made by the Governor on conditional veto of the legislation (Assembly Bill No. 3680) earlier in the session.

Effective Dates:

Section 52 of L. 2009, c. 90 provides: "This act shall take effect immediately; however, sections 9 and 11 shall remain inoperative until the first day of the third month next following enactment unless the Local Finance Board determines an earlier operative date." Chapter 90, L. 2009, was approved on July 28, 2009.

Section 12 of L. 2010, c. 10 provides: "This act shall take effect immediately and section 1 and sections 3 through 9 shall be retroactive to July 28, 2009 (the date of enactment of P.L.2009, c.90), and section 2, if enacted on or before June 30, 2010, shall apply to applications submitted for the 2010 Technology Business Tax Certificate Transfer Program." Chapter 10, L. 2010, was approved on May 5, 2010.

Amendment Note:

2010 amendment, by Chapter 10, in b., added "Except for redevelopment incentive grants with a municipal redeveloper" to the second sentence and added the third and fourth sentences; and in the first sentence of g.(1), inserted "or support" and "or bond."

2013 amendment, by Chapter 161, rewrote b.; added "Except in the case of a qualified residential project" in the first sentence of c.; added "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.)" in d.(10); and substituted "assign, transfer, or sell" for "and assign as security or support for any loan or bond" in the first sentence of g.(1).

Cross References:

Definitions, see 40A:1-1.

Definitions relative to economic stimulus, see 52:27D-489c.

Payment to developers from municipalities, see 52:27D-489g.

Creation of municipal redevelopment utility permitted, see 52:27D-489l.

Ordinance for payment to municipal redeveloper for certain projects, see 52:27D-489o.



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Title 52. State Government, Departments and Officers
 Subtitle 3. Executive and Administrative Departments
 Chapter 27D. Department of Community Affairs
 Article 9. Department of Community Affairs Act

GO TO THE NEW JERSEY ANNOTATED STATUTES ARCHIVE DIRECTORY

N.J. Stat. § 52:27D-4891 (2016)

§ 52:27D-4891. Creation of municipal redevelopment utility permitted

a. A municipality may adopt an ordinance creating a municipal redevelopment utility under the name and style of "the redevelopment utility," with all or any significant part of the name of the municipality inserted. The redevelopment utility shall be a municipal public utility for the purposes of Title 40A of the New Jersey Statutes.

b. The purpose of every redevelopment utility shall be to receive revenues collected pursuant to section 11 of P.L.2009, c.90 (C.52:27D-489k) and to use those revenues as payment of incentive grants, and for other local purposes that may be approved by the Local Finance Board, as that board deems necessary or useful.

c. If a municipality does not create a municipal redevelopment utility, then any revenues collected pursuant to section 11 of P.L.2009, c.90 (C.52:27D-489k) and any grants received to pay incentive grants shall be treated as riders in the municipal budget pursuant to N.J.S.40A:4-36.

HISTORY: L. 2009, c. 90, § 12, eff. July 28, 2009.

NOTES:

Editor's Note:

Self-liquidating purpose, municipal public utility, see 40A:2-45.

Cross References:

Definitions relative to economic stimulus, see 52:27D-489c.



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Title 52. State Government, Departments and Officers
Subtitle 3. Executive and Administrative Departments
Chapter 27D. Department of Community Affairs
Article 9. Department of Community Affairs Act

GO TO THE NEW JERSEY ANNOTATED STATUTES ARCHIVE DIRECTORY

N.J. Stat. § 52:27D-489m (2016)

§ 52:27D-489m. Certain laws inoperative, without effect relative to certain applications

Sections 11 through 41 of P.L.2001, c.310 (C.52:27D-459 through C.52:27D-489) shall be inoperative and without effect for applications submitted after the effective date of P.L.2009, c.90; provided, however, those sections shall remain in effect for revenue allocation districts for which financing has been approved prior to the effective date [July 28, 2009] of P.L.2009, c.90. Any revenue allocation district that has been approved prior to the effective date of P.L.2009, c.90, but for which financing has not been approved prior to that date, shall fall under the provisions of sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.).

HISTORY: L. 2009, c. 90, § 13, eff. July 28, 2009.

NOTES:

Publisher's Note:

The bracketed material was added by the Publisher to provide a reference.



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Title 52. State Government, Departments and Officers
Subtitle 3. Executive and Administrative Departments
Chapter 27D. Department of Community Affairs
Article 9. Department of Community Affairs Act

GO TO THE NEW JERSEY ANNOTATED STATUTES ARCHIVE DIRECTORY

N.J. Stat. § 52:27D-489n (2016)

§ 52:27D-489n. Implementation guidelines, directives, rules, regulations

The Local Finance Board in the Department of Community Affairs, the State Treasurer, and the Economic Development Authority may adopt implementation guidelines or directives, and adopt such administrative rules, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as are necessary for the implementation of those agencies' respective responsibilities under sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.), except that notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the Local Finance Board, the State Treasurer, and the Economic Development Authority may adopt, immediately upon filing with the Office of Administrative Law, such rules and regulations as they deem necessary to implement the provisions of sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.) which shall be effective for a period not to exceed 12 months and shall thereafter be amended, adopted, or re-adopted in accordance with the provisions of P.L.1968, c.410 (C.52:14B-1 et seq.).

HISTORY: L. 2009, c. 90, § 18, eff. July 28, 2009.



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Title 52. State Government, Departments and Officers
Subtitle 3. Executive and Administrative Departments
Chapter 27D. Department of Community Affairs
Article 9. Department of Community Affairs Act

GO TO THE NEW JERSEY ANNOTATED STATUTES ARCHIVE DIRECTORY

N.J. Stat. § 52:27D-489o (2016)

§ 52:27D-489o. Ordinance for payment to municipal redeveloper for certain projects

a. The governing body of a municipality may, by ordinance, agree that certain eligible revenues in a project area may be paid for a period, not to exceed 20 years, to a municipal redeveloper to undertake and fund up to 100 percent of the construction of infrastructure improvements in a public right-of-way or publicly owned facilities.

b. An ordinance adopted pursuant to subsection a. of this section shall set forth in detail the proposed construction, the proposed redevelopment project, the estimated project costs, and the projected eligible incremental revenues to be paid. No ordinance shall be finally approved by the municipality unless approved by the Local Finance Board. In deciding whether or not to approve such ordinance, the Local Finance Board shall determine whether the proposed redevelopment project consists of publicly owned facilities or infrastructure improvements in the public right-of-way. It also shall consider the factors listed at paragraphs (1) through (8) of subsection d. of section 4 of P.L.2009, c.90 (C.52:27D-489d), provided that with respect to infrastructure improvements in the public right-of-way, it shall not consider paragraph (4) of subsection d. of section 4 of P.L.2009, c.90 (C.52:27D-489d). Such proposed redevelopment project shall conform to the requirements of sections 7, 8, and 11 of P.L.2009, c.90 (C.52:27D-489g, C.52:27D-489h, and C.52:27D-489k), except as set forth therein.

HISTORY: L. 2010, c. 10, § 11, eff. May 5, 2010.

NOTES:

Effective Dates:

Section 12 of L. 2010, c. 10 provides: "This act shall take effect immediately and section 1 and sections 3 through 9 shall be retroactive to July 28, 2009 (the date of enactment of P.L.2009, c.90), and section 2, if enacted on or before June 30, 2010, shall apply to applications submitted for the 2010 Technology Business Tax Certificate Transfer Program." Chapter 10, L. 2010, was approved on May 5, 2010.



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Title 52. State Government, Departments and Officers
 Subtitle 3. Executive and Administrative Departments
 Chapter 27D. Department of Community Affairs
 Article 9. Department of Community Affairs Act

GO TO THE NEW JERSEY ANNOTATED STATUTES ARCHIVE DIRECTORY

N.J. Stat. § 52:27D-489p (2016)

§ 52:27D-489p. Short title

This act shall be known and may be cited as the "New Jersey Economic Opportunity Act of 2013."

HISTORY: L. 2013, c. 161, § 1, eff. Sept. 18, 2013.

NOTES:

Editor's Note:

Section 21 of L. 2013, c. 161, provides: "On or before July 1, 2018, the authority shall submit a written report to the Governor and the Legislature providing a comprehensive review and analysis of the Grow New Jersey Assistance Program, established pursuant to P.L.2011, c.149 (C.34:1B-242 et seq.), the State Economic Redevelopment and Growth Grant program, established pursuant to section 5 of P.L.2009, c.90 (C.52:27D-489e), and other economic incentive laws under the authority's jurisdiction, with particular emphasis on the recalibration of those programs and the creation of Garden State Growth Zones, pursuant to P.L.2013, c.161 (C.52:27D-489p et al.), and the effectiveness of those programs on economic development and private-sector job retention and growth. In order to ensure the independence and objectivity of the report, the authority shall retain a premier, not-for-profit, non-partisan entity to undertake the review and analysis of the State economic incentive laws, which shall include a cost-benefit analysis of each incentive program, an assessment of the success of each program in meeting the goals of the program, and any recommendations for improving the operation and effectiveness of each program, including recommendations for legislation."

L. 2013, c. 161, as enacted, contains recommendations made by the Governor on conditional veto of the legislation (Assembly Bill No. 3680) earlier in the session.

Cross References:

1. Business Retention and Relocation Assistance Grant Program, see 34:1B-114.**1.** **2.** Project requirements, see 34:1B-127.**2.** **3.** Credit for qualified business facilities, conditions for eligibility; allowance, see 34:1B-209.**3.** **4.** Definitions relative to the "Grow New Jersey Assistance Act.", see 34:1B-243.**4.** **5.** Incentive agreement required prior to issuance of tax credits, see 34:1B-245.**5.** **6.** Total amount of tax credit for eligible business, see 34:1B-246.**6.** **7.** Limit on combined value of approved credits, see 34:1B-247.**7.** **8.** Developer allowed certain tax credits, see 34:1B-209.3.**8.** **9.** Definitions relative to economic stimulus, see 52:27D-489c.**9.** **10.** Payment to developer from State, see 52:27D-489f.**10.** **11.** Incentive grant application form, procedure, see 52:27D-489h.**11.** **12.** Agreement between developer and municipality, see 52:27D-489k.**12.** **13.** Definitions relative to the "New Jersey Economic Oppor-

tunity Act of 2013.", see 52:27D-489r.**13.** **14.** Authority of development entity, see 52:27D-489s.**14.** **15.** Severability, see 52:27D-489t.**15.**



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Title 52. State Government, Departments and Officers
 Subtitle 3. Executive and Administrative Departments
 Chapter 27D. Department of Community Affairs
 Article 9. Department of Community Affairs Act

GO TO THE NEW JERSEY ANNOTATED STATUTES ARCHIVE DIRECTORY

N.J. Stat. § 52:27D-489q (2016)

§ 52:27D-489q. Findings, declarations relative to the "New Jersey Economic Opportunity Act of 2013."

The Legislature finds and declares that:

- a. Healthy, thriving municipalities are vital to the health, safety, and economic well-being of the State.
- b. Municipalities that are economically distressed adversely impact not only that municipality, but also affect the county and region where they are located as well as the whole State.
- c. Numerous programs have been previously established to assist municipalities in economic and fiscal distress to enable them to regain health and vitality, including programs to provide increasing degrees of oversight and to provide substantial amounts of financial aid and incentives.
- d. While these existing programs have proven successful in aiding a number of municipalities, others are in such difficult straits that such measures have not proven sufficient. Thus, extraordinary measures are required now to turn around the fate of such municipalities.
- e. The new programs provided herein will have a substantial likelihood of achieving success where prior programs have not, and employing these programs now is crucial to the economic well-being of the county, region, and State.
- f. Accordingly, the municipalities identified as Garden State Growth Zones are hereby declared blighted areas and areas in need of rehabilitation, provided however, that this declaration alone shall not be used to allow any property to be taken or acquired.

HISTORY: L. 2013, c. 161, § 22, eff. Sept. 18, 2013.

NOTES:

Editor's Note:

L. 2013, c. 161, as enacted, contains recommendations made by the Governor on conditional veto of the legislation (Assembly Bill No. 3680) earlier in the session.

Cross References:

Definitions relative to public contracts with private entities, see 52:18-42.



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Title 52. State Government, Departments and Officers
 Subtitle 3. Executive and Administrative Departments
 Chapter 27D. Department of Community Affairs
 Article 9. Department of Community Affairs Act

GO TO THE NEW JERSEY ANNOTATED STATUTES ARCHIVE DIRECTORY

N.J. Stat. § 52:27D-489r (2016)

§ 52:27D-489r. Definitions relative to the "New Jersey Economic Opportunity Act of 2013."

As used in section 24 of P.L.2013, c.161 (C.52:27D-489s):

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

"Division of Codes and Standards" means the Division of Codes and Standards located in the Department of Community Affairs.

"Eligible person" means any individual purchasing or renting an eligible residential residence within a growth zone after the enactment of P.L.2013, c.161 (C.52:27D-489p et al.). For the purpose of this definition, an eligible person is limited to those who establish a permanent residency at the eligible residential residence, are subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and are current with all State and local tax obligations.

"Eligible property" means any residential, commercial, industrial, or other business property, located in a Garden State Growth Zone, that receives a Certificate of Occupancy or is transferred in a legal sale on or after July 1, 2013. Purchasers of newly constructed homes are not the applicant.

"Exemption" means that portion of the assessor's full and true value of any improvement, conversion, alteration, redevelopment, rehabilitation, or construction not regarded as increasing the taxable value of a property pursuant to P.L.2013, c.161 (C.52:27D-489p et al.) for the purposes of encouraging the construction, conversion, improvement, and redevelopment of real property conducted by eligible businesses or residents within a growth zone pursuant to 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).

"Garden State Growth Zone Development Entity" means a private corporation incorporated pursuant to Title 14A of the New Jersey Statutes, or established pursuant to Title 42 of the Revised Statutes, for which the profits of the entity are limited as follows. The allowable net profits of the entity shall be determined by applying the allowable profit rate to the total project cost, and all capital costs, determined in accordance with generally accepted accounting principles, of any other entity whose revenue is included in the computation of excess profits, for the period commencing on the date on which the construction of the project is completed, and terminating at the close of the fiscal year of the entity preceding the date on which the computation is made, where:

"Allowable profit rate" means the greater of 12 percent or the percentage per annum arrived at by adding one and 1/4 percent to the annual interest percentage rate payable on the entity's initial permanent mortgage financing. If the initial permanent mortgage is insured or guaranteed by a governmental agency, the mortgage insurance premium or similar charge, if payable on a per annum basis, shall be considered as interest for this purpose. If there is no permanent

mortgage financing the allowable profit rate shall be the greater of 12 percent or the percentage per annum arrived at by adding one and 1/4 percent per annum to the interest rate per annum which the municipality determines to be the prevailing rate on mortgage financing on comparable improvements in the county.

"Improvements" means any repair, construction, or reconstruction, including alterations and additions, having the effect of rehabilitating a deteriorated property so that it becomes habitable or attains higher standards of safety, health, economic use or amenity, or is brought into compliance with laws, ordinances or regulations governing such standards. Ordinary upkeep and maintenance shall not be deemed an improvement.

HISTORY: L. 2013, c. 161, § 23, eff. Sept. 18, 2013.

NOTES:

Editor's Note:

L. 2013, c. 161, as enacted, contains recommendations made by the Governor on conditional veto of the legislation (Assembly Bill No. 3680) earlier in the session.

Cross References:

Grow New Jersey Assistance Program, see 34:1B-244.



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Title 52. State Government, Departments and Officers
Subtitle 3. Executive and Administrative Departments
Chapter 27D. Department of Community Affairs
Article 9. Department of Community Affairs Act

GO TO THE NEW JERSEY ANNOTATED STATUTES ARCHIVE DIRECTORY

N.J. Stat. § 52:27D-489s (2016)

§ 52:27D-489s. Authority of development entity

a. A Garden State Growth Zone Development Entity is authorized to undertake clearance, re-planning, development, or redevelopment of property within a Garden State Growth Zone.

b. Notwithstanding any other law to the contrary, every Garden State Growth Zone Development Entity that owns real property, or leases real property for a period of not less than 30 years, within a Garden State Growth Zone and that undertakes the clearance, re-planning, development, or redevelopment of such property is hereby granted an exemption on improvements to such eligible property for any new construction, improvements, or substantial rehabilitation of structures on real property for a period of 20 years from receiving a final Certificate of Occupancy, provided however, that a municipality located within the Garden State Growth Zone shall, by ordinance, opt-in to such program within 90 calendar days of the enactment of P.L.2013, c.161 (C.52:27D-489p et al.). The exemption allowed by this subsection shall be dependent upon: (1) the owner, or lessee, of the real property making improvements to the real property after the enactment of P.L.2013, c.161 (C.52:27D-489p et al.); and (2) the Division of Codes and Standards, in consultation with the eligible municipality, issuing a final Certificate of Occupancy within 10 years of the date of enactment of P.L.2013, c.161 (C.52:27D-489p et al.). For purposes of this section, a lessee of real property shall include a Garden State Growth Zone Development Entity that is a lessee that is subject to a statutory obligation to make a payment in lieu of taxes on the improvements equal to the taxes on real and personal property.

c. The exemption granted by subsection b. of this section shall be for a period of 20 years. For the first 10 years immediately subsequent to the issuance of a Certificate of Occupancy, the Garden State Growth Zone Development Entity shall be exempt from the payment of taxes on the improvements to the eligible property. Thereafter, the Garden State Growth Zone Development Entity shall pay to the municipality in lieu of full property tax payments an amount equal to a percentage of taxes otherwise due, according to the following schedule:

- (1) In the eleventh year after completion, 10 percent of taxes otherwise due;
- (2) In the twelfth year after completion, 20 percent of taxes otherwise due;
- (3) In the thirteenth year after completion, 30 percent of taxes otherwise due;
- (4) In the fourteenth year after completion, 40 percent of taxes otherwise due;
- (5) In the fifteenth year after completion, 50 percent of taxes otherwise due;
- (6) In the sixteenth year after completion, 60 percent of taxes otherwise due;
- (7) In the seventeenth year after completion, 70 percent of taxes otherwise due;
- (8) In the eighteenth year after completion, 80 percent of taxes otherwise due;
- (9) In the nineteenth full year after completion, 90 percent of taxes otherwise due;

(10) In the twentieth year after completion, and each year thereafter, 100 percent of taxes.

An amount not less than five percent of all payments pursuant to this subsection shall be paid to the county in which the municipality is located.

d. Upon the termination of the exemption granted pursuant to subsection c. of this section, the project, all affected parcels, land, and all improvements made thereto shall be assessed and subject to taxation as are other taxable properties in the municipality. After the date of termination, all restrictions and limitations upon the Garden State Growth Zone Development Entity shall terminate and be at an end upon the entity's rendering its final accounting to and with the municipality.

e. Notwithstanding subsection b. of this section, the owner of any property located within a Garden State Growth Zone, that does not qualify as a Garden State Growth Zone Development Entity, that performs any new construction, improvements, or substantial rehabilitation improvements to property, shall be entitled to an exemption from taxation regarding such improvements as provided herein. For purposes of such exemption, the municipality shall consider the assessor's full and true value of the improvements as not increasing the value of the property for a period of five years, notwithstanding that the value of the property to which the improvements are made is increased thereby.

f. Any exemption obtained under this section shall be fully transferable upon the sale of real property, as long as the new owner meets all requirements for exemption set forth pursuant to this section, or, for the sale of a residential unit, as long as the new owner occupies the unit as a primary residence.

HISTORY: L. 2013, c. 161, § 24, eff. Sept. 18, 2013; amended 2014, c. 63, § 9, eff. Oct. 24, 2014.

NOTES:

Editor's Note:

L. 2013, c. 161, as enacted, contains recommendations made by the Governor on conditional veto of the legislation (Assembly Bill No. 3680) earlier in the session.

L. 2014, c. 63, as enacted, contains recommendations made by the Governor on conditional veto of the legislation (Assembly Bill No. 3213) earlier in the session.

The title to L. 2014, c. 63 designates the act as the "Economic Opportunity Act of 2014, Part 3."

Amendment Note:

2014 amendment, by Chapter 63, in b., inserted "or leases real property for a period of not less than 30 years" in the first sentence, inserted "or lessee" in the second sentence, and added the final sentence; and added "or, for the sale of a residential unit, as long as the new owner occupies the unit as a primary residence" in f.

Cross References:

Definitions relative to public contracts with private entities, see 52:18-42.

Definitions relative to the "New Jersey Economic Opportunity Act of 2013.", see 52:27D-489r.



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Title 52. State Government, Departments and Officers
Subtitle 3. Executive and Administrative Departments
Chapter 27D. Department of Community Affairs
Article 9. Department of Community Affairs Act

GO TO THE NEW JERSEY ANNOTATED STATUTES ARCHIVE DIRECTORY

N.J. Stat. § 52:27D-489t (2016)

§ 52:27D-489t. Severability

The provisions of this act shall be severable, and if any of its provisions shall be held to be unconstitutional, the decision of the court shall not affect the validity of the remaining provisions of P.L.2013, c.161 (C.52:27D-489p et al.).

HISTORY: L. 2013, c. 161, § 27, eff. Sept. 18, 2013.

NOTES:

Editor's Note:

L. 2013, c. 161, as enacted, contains recommendations made by the Governor on conditional veto of the legislation (Assembly Bill No. 3680) earlier in the session.