

**SENATE, No. 2032**

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**STATE OF NEW JERSEY**  
**217th LEGISLATURE**

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INTRODUCED MARCH 14, 2016

**Sponsored by:**  
**Senator PAUL A. SARLO**  
**District 36 (Bergen and Passaic)**

**SYNOPSIS**

Reconciles simultaneous legislative enactments to clarify law that limits tax credits under the Economic Redevelopment and Growth Grant Program.

**CURRENT VERSION OF TEXT**

As introduced.



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1 AN ACT clarifying limits on tax credits under the Economic  
2 Redevelopment and Growth Grant Program, and reconciling  
3 provisions of P.L.2015, c.217, P.L.2015, c.242, and P.L.2015,  
4 c.252.

5

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

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

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

**EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 fee imposed pursuant to section 1 of P.L.2003, c.114 (C.54:32D-1),  
2 or the portion of the fee imposed pursuant to section 3 of P.L.1968,  
3 c.49 (C.46:15-7) derived from the sale of real property at the site of  
4 the redevelopment project and paid to the State Treasurer for use by  
5 the State, that is not credited to the "Shore Protection Fund" or the  
6 "Neighborhood Preservation Nonlapsing Revolving Fund" ("New  
7 Jersey Affordable Housing Trust Fund") pursuant to section 4 of  
8 P.L.1968, c.49 (C.46:15-8). Any developer shall be allowed to  
9 assign their ability to apply for the tax credit under this subsection  
10 to a non-profit organization with a mission dedicated to attracting  
11 investment and completing development and redevelopment  
12 projects in a Garden State Growth Zone. The non-profit  
13 organization may make an application on behalf of a developer  
14 which meets the requirements for the tax credit, or a group of non-  
15 qualifying developers, such that these will be considered a unified  
16 project for the purposes of the incentives provided under this  
17 section.

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

22 (2) In the case of a qualified residential project or a project  
23 involving university infrastructure, if the authority determines that  
24 the estimated amount of incremental revenues pledged towards the  
25 State portion of an incentive grant is inadequate to fully fund the  
26 amount of the State portion of the incentive grant, then in lieu of an  
27 incentive grant based on **[such]** incremental **[revenue]** revenues,  
28 the developer shall be awarded tax credits equal to the full amount  
29 of the incentive grant.

30 (3) In the case of a mixed use parking project, if the authority  
31 determines that the estimated amount of **[the]** incremental revenues  
32 pledged towards the State portion of an incentive grant is  
33 inadequate to fully fund the amount of the State portion of the  
34 incentive grant, then, in lieu of an incentive grant based on **[such]**  
35 incremental **[revenue]** revenues, **[a municipal redeveloper]** the  
36 developer shall be awarded tax credits equal to the full amount of  
37 the incentive grant.

38 The value of all credits approved by the authority pursuant to  
39 **[paragraph]** paragraphs (2) **[or]** and (3) of this **[paragraph]**  
40 subsection shall not exceed **[\$600,000,000]** \$628,000,000, of  
41 which:

42 (a) \$250,000,000 shall be restricted to qualified residential  
43 projects within Atlantic, Burlington, Camden, Cape May,  
44 Cumberland, Gloucester, Ocean, and Salem counties, of which  
45 \$175,000,000 of credits shall be restricted to the following  
46 categories of projects: (i) qualified residential projects located in a  
47 Garden State Growth Zone located within the aforementioned  
48 counties **[,];** and (ii) mixed use parking projects located in a

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1 Garden State Growth Zone or urban transit hub located within the  
2 aforementioned counties **【.】**; and \$75,000,000 of credits shall be  
3 restricted to qualified residential projects in municipalities with a  
4 2007 Municipal Revitalization Index of 400 or higher as of the date  
5 of enactment of the "New Jersey Economic Opportunity Act of  
6 2013," P.L.2013, c.161 (C.52:27D-489p et al.) and located within  
7 the aforementioned counties;

8 (b) \$250,000,000 shall be restricted to the following categories  
9 of projects: (i) qualified residential projects located in urban transit  
10 hubs that are commuter rail in nature that otherwise do not qualify  
11 under subparagraph (a) of this paragraph **【.】**; (ii) qualified  
12 residential projects located in Garden State Growth Zones that do  
13 not qualify under subparagraph (a) of this paragraph **【.】**; (iii) mixed  
14 use parking projects located in urban transit hubs or Garden State  
15 Growth Zones that do not qualify under subparagraph (a) of this  
16 paragraph, provided however, an urban transit hub shall be  
17 allocated no more than \$25,000,000 for mixed use parking projects  
18 **【.】**; (iv) qualified residential projects which are disaster recovery  
19 projects that otherwise do not qualify under subparagraph (a) of this  
20 paragraph **【, and】**; (v) qualified residential projects in SDA  
21 municipalities located in Hudson County that were awarded State  
22 Aid in State Fiscal Year 2013 through the Transitional Aid to  
23 Localities program and otherwise do not qualify under  
24 subparagraph (a) of this paragraph **【.】**; and (vi) \$25,000,000 of  
25 credits shall be restricted to mixed use parking projects in Garden  
26 State Growth Zones which have a population in excess of 125,000  
27 and do not qualify under subparagraph (a) of this paragraph;

28 (c) **【\$75,000,000】** \$87,000,000 shall be restricted to the  
29 following categories of projects: (i) qualified residential projects  
30 located in distressed municipalities, deep poverty pockets,  
31 highlands development credit receiving areas or redevelopment  
32 areas, otherwise not qualifying pursuant to subparagraph (a) or (b)  
33 of this paragraph **【.】**; and (ii) mixed use parking projects that do not  
34 qualify under subparagraph (a) or (b) of this paragraph, **【which**  
35 **include a vacant commercial building located wholly or partially**  
36 **within a distressed municipality,】** and which are used by an  
37 independent institution of higher education, a school of medicine, a  
38 nonprofit hospital system, or any combination thereof; provided,  
39 however, that \$20,000,000 of the \$87,000,000 shall be allocated to  
40 mixed used parking projects that do not qualify under subparagraph  
41 (a) or (b) of this paragraph; 【and】

42 (d) **【\$25,000,000】** \$16,000,000 shall be restricted to qualified  
43 residential projects that are located within a qualifying economic  
44 redevelopment and growth grant incentive area otherwise not  
45 qualifying under subparagraph (a), (b), or (c) of this paragraph; and

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

1 (f) For subparagraphs (a) through (d) of this paragraph, not  
2 more than \$40,000,000 of credits shall be awarded to any qualified  
3 residential project in a deep poverty pocket or distressed  
4 municipality and not more than \$20,000,000 of credits shall be  
5 awarded to any other qualified residential project. The developer of  
6 a qualified residential project seeking an award of credits towards  
7 the funding of its incentive grant shall submit an incentive grant  
8 application prior to July 1, 2016 and if approved after September  
9 18, 2013, the effective date of P.L.2013, c.161 (C.52:27D-489p et  
10 al.) shall submit a temporary certificate of occupancy for **such** the  
11 project no later than July 28, [2018] 2019. The developer of a  
12 mixed use parking project seeking an award of credits towards the  
13 funding of its incentive grant pursuant to subparagraph (c) of this  
14 paragraph and if approved after the effective date of P.L. \_\_\_\_\_,  
15 c. \_\_\_\_\_ (pending before the Legislature as this bill), shall submit a  
16 temporary certificate of occupancy for the project no later than July  
17 28, 2021. Applications for tax credits pursuant to this subsection  
18 relating to an ancillary infrastructure project or infrastructure  
19 improvement in the public **right of way** right-of-way, or both,  
20 shall be accompanied with a letter of support relating to the project  
21 or improvement by the governing body or agency in which the  
22 project is located. Credits awarded to a developer pursuant to this  
23 subsection shall be subject to the same financial and related analysis  
24 by the authority, the same term of the grant, and the same  
25 mechanism for administering the credits, and shall be utilized or  
26 transferred by the developer as if **such** the credits had been  
27 awarded to the developer pursuant to section 35 of P.L.2009, c.90  
28 (C.34:1B-209.3) for qualified residential projects thereunder. No  
29 portion of the revenues pledged pursuant to the "New Jersey  
30 Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-  
31 489p et al.) shall be subject to withholding or retainage for  
32 adjustment, in the event the developer or taxpayer waives its rights  
33 to claim a refund thereof.

34 (4) A developer may apply to the Director of the Division of  
35 Taxation in the Department of the Treasury and the chief executive  
36 officer of the authority for a tax credit transfer certificate, if the  
37 developer is awarded a tax credit pursuant to paragraph (2) or  
38 paragraph (3) of this subsection, covering one or more years, in lieu  
39 of the developer being allowed any amount of the credit against the  
40 tax liability of the developer. The tax credit transfer certificate,  
41 upon receipt thereof by the developer from the director and the  
42 chief executive officer of the authority, may be sold or assigned, in  
43 full or in part, to any other person **that** who may have a tax  
44 liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),  
45 sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3),  
46 section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The  
47 certificate provided to the developer shall include a statement  
48 waiving the developer's right to claim that amount of the credit

1 against the taxes that the developer has elected to sell or assign.  
2 The sale or assignment of any amount of a tax credit transfer  
3 certificate allowed under this paragraph shall not be exchanged for  
4 consideration received by the developer of less than 75 percent of  
5 the transferred credit amount before considering any further  
6 discounting to present value that may be permitted. Any amount of  
7 a tax credit transfer certificate used by a purchaser or assignee  
8 against a tax liability shall be subject to the same limitations and  
9 conditions that apply to the use of the credit by the developer who  
10 originally applied for and was allowed the credit.

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

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

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

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

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26 2. This act shall take effect immediately.

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## STATEMENT

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31 This bill clarifies section 6 of P.L.2009, c.90 (C.52:27D-489f) by  
32 reconciling three near simultaneous enactments of the 216<sup>th</sup>  
33 Legislature, each of which amended that section of law. Section 6  
34 of P.L.2009, c.90 (C.52:27D-489f) imposes limits on the overall  
35 amount of tax credits the Economic Development Authority (EDA)  
36 may approve under the Economic Redevelopment and Growth  
37 Grant (ERGG) Program, and allocates funding to specific  
38 geographic regions and categories of projects. Prior to the recent  
39 amendments to this statute, this provision of law limited the overall  
40 amount of tax credits that EDA may approve under the ERGG  
41 program to \$600 million.

42 P.L.2015, c.217, approved on January 11, 2016, increased the  
43 overall limit on the amount of tax credits that EDA may approve  
44 under the ERGG program from \$600 million to \$603 million,  
45 reallocated funding between two categories of projects, and  
46 increased the amount allocated to a specific category of projects.  
47 P.L.2015, c.242, approved on January 19, 2016, established a new  
48 project category (university infrastructure projects), allocated \$25

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1 million worth of tax credits to that project category, and increased  
2 the overall “cap” on ERGG tax credits from \$600 million to \$625  
3 million. P.L.2015, c.252 was also approved on January 19, 2016,  
4 however, it did not alter the funding allocations or overall program  
5 limit, leaving in place the \$600 million overall limitation.

6 This bill reconciles P.L.2015, c.217, P.L.2015, c.242, and  
7 P.L.2015, c.252 by increasing the overall limit on the amount of tax  
8 credits that EDA may approve under the ERGG program to \$628  
9 million. The bill incorporates changes contained in each of the  
10 three recent enactments, and makes a few technical changes  
11 necessary to facilitate the Legislature’s intention to allow for the  
12 EDA to implement P.L.2015, c.217, P.L.2015, c.242, and P.L.2015,  
13 c.252.