July 3, 2013

State Legislature Passes New Jersey Economic Opportunity Act of 2013 to Help Spur Redevelopment, Job Creation

On June 27, 2013, the New Jersey State Legislature passed Bill A-3680, known as the New Jersey Economic Opportunity Act of 2013 (the "Bill"). The comprehensive Bill is an aggressive push by the state to promote job creation and the redevelopment of urban centers, suburban office parks and areas impacted by Hurricane Sandy by expanding the various state programs that offer tax credits and incentives.

The Bill proposes to merge five economic development incentive programs, including the Business Employment Incentive Program and Urban Transit Hub Tax Credit Program, into two existing programs: the Grow New Jersey Assistance Program (GROW) and the Economic Redevelopment and Growth Grant Program (ERG), which are administered by the New Jersey Economic Development Authority (EDA).

Job Creation/Retention

The Bill seeks to expand the GROW, which is focused on attracting and retaining companies in New Jersey. The Bill offers broader incentives and tax credits for businesses that invest and create jobs in New Jersey. A project must meet minimum capital investment and jobs-created or jobs-retained thresholds in order to be eligible for the tax credit. These thresholds are reduced for businesses located in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean and Salem counties and for businesses located in a newly created Garden State Growth Zone, which encompasses the four cities with the lowest median family income. The tax credit, ranging from $500 to $5,000 per job, is tied to the number of jobs created or retained by the project, the location of the project, and other standards.

Redevelopment

The Bill also expands the ERG, which will be the sole redevelopment incentive program for the state. The Bill builds on the existing ERG to close project financing gaps and incentivize redevelopment, including rehabilitating or rebuilding public infrastructure necessary for redevelopment projects, rebuilding certain areas impacted by Hurricane Sandy, and building markets that bring fresh produce to urban areas.

In the case of residential redevelopment, the ERG provides incentives and tax credits for qualified residential projects, which must have a minimum total project cost ranging between $5 million and $17.5 million, depending on the location of the project. For residential projects that have already applied for the Urban Transit Hub Tax Credit, a qualified residential project can receive a tax credit of up to 35 percent of its capital investment or up to 40 percent of the capital investment for projects in a Garden State Growth Zone.

Under the ERG, the developer can apply for a state or local incentive agreement to get back from the state or local authority up to an average of 75 percent of the annual incremental state or local revenues from the project generated through various taxes or 85 percent of such revenues for projects in a Garden State Growth Zone. In the case of a qualified residential project where the state revenues from the project are inadequate to fully fund the grant, the EDA can convert the grant award into tax credits equal to the full amount of the incentive grant.

The redevelopment incentive grant under the ERG shall not exceed 30 percent of the total project costs unless the development is in a Garden State Growth Zone, where the cap is increased to 40 percent of the total project costs. Applications to the EDA for a state or local incentive grant must be made prior to July 1, 2019. The maximum amount of tax credits that may be awarded for all qualified residential projects is $600 million, which is further broken out into various caps based on certain areas of the state.

Qualified Health Care Facility

The Bill further provides for a new tax credit for repurposing a "qualified health care facility" into a non-acute health care and health support services center. The tax credit is equal to 75 percent or, if so determined by the EDA, up to 100 percent of the developer's capital investment. The minimum capital investment in repurposing a qualified health care facility is $10 million, and the facility shall employ no fewer than 100 full-time employees.

Use of the Tax Credit

The tax credit is a gap financing tool that allows corporations to apply the tax credit dollar for dollar against certain tax liabilities or to assign the tax credit to a financial institution over the life of the tax credit (typically 10 years). For instance, if a developer is awarded tax credits in the amount of $900,000, which are spread out over 10 years ($90,000 per year), that developer can assign the tax credits to a third party in exchange for upfront capital, which, in the case of the ERG, cannot be less than 75 percent of the value of the total tax credit.

The tax credit has been a fundamental tool in the construction of affordable housing under the federal Low-Income Housing Tax Credit Program. The state is using the tax credit as a way to spur redevelopment projects in areas impacted by Hurricane Sandy and in other areas, such as urban centers and suburban office parks, that have typically struggled with redevelopment due to project financing gaps.

As noted at the outset, the Bill is very comprehensive. This update is only meant to summarize certain aspects and is not exhaustive of all facets of the Bill. The Bill still needs to be presented to the governor to be signed into law. Please continue to follow the Day Pitney website for updates on the status of the New Jersey Economic Opportunity Act of 2013. If you have any questions, please contact any of our attorneys listed here.