

**SENATE, No. 2917**

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**STATE OF NEW JERSEY**

**220th LEGISLATURE**

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INTRODUCED JUNE 23, 2022

**Sponsored by:**

**Senator NILSA I. CRUZ-PEREZ**

**District 5 (Camden and Gloucester)**

**Senator M. TERESA RUIZ**

**District 29 (Essex)**

**Assemblywoman ELIANA PINTOR MARIN**

**District 29 (Essex)**

**Assemblyman ROY FREIMAN**

**District 16 (Hunterdon, Mercer, Middlesex and Somerset)**

**Assemblywoman VERLINA REYNOLDS-JACKSON**

**District 15 (Hunterdon and Mercer)**

**Co-Sponsored by:**

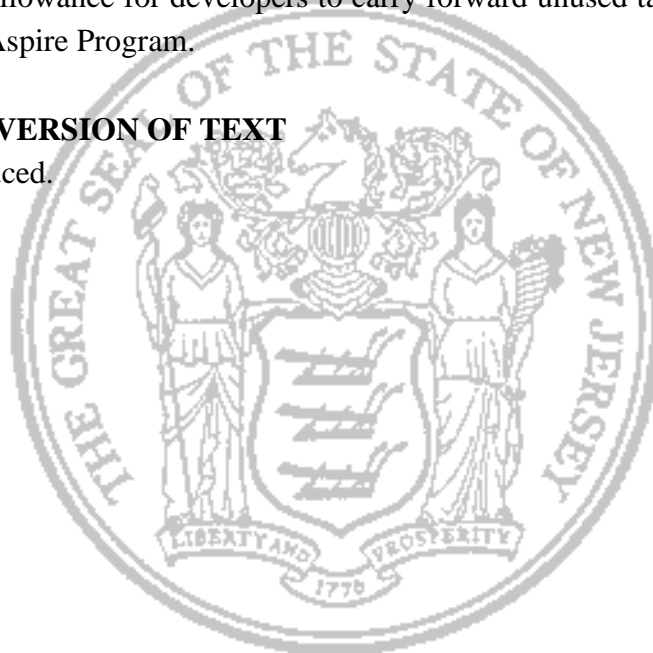
**Senators Pou and Turner**

**SYNOPSIS**

Expands allowance for developers to carry forward unused tax credits under New Jersey Aspire Program.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 6/29/2022)

1 AN ACT concerning the New Jersey Aspire Program and amending  
2 P.L.2020, c.156.

3  
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6  
7 1. Section 62 of P.L.2020, c.156 (C.34:1B-330) is amended to  
8 read as follows:

9 62. a. A developer approved for an incentive award pursuant to  
10 sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and C.34:1B-  
11 327) and that enters an incentive award agreement pursuant to  
12 section 60 of P.L.2020, c.156 (C.34:1B-328) shall submit annually,  
13 commencing in the year in which the incentive award is issued and  
14 for the remainder of the eligibility period, a report indicating  
15 whether the developer is aware of any condition, event, or act that  
16 would cause the developer not to be in compliance with the  
17 incentive award agreement or the provisions of sections 54 through  
18 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335) and any  
19 additional reporting requirements contained in the incentive award  
20 agreement or tax credit certificate. The developer, or an authorized  
21 agent of the developer, shall certify that the information provided  
22 pursuant to this subsection is true under the penalty of perjury.

23 b. (1) Upon receipt and review of each report submitted during  
24 the eligibility period, the authority shall provide to the developer  
25 and the director a certificate of compliance indicating the amount of  
26 tax credits that the developer may apply against the developer's tax  
27 liability.

28 (2) Upon receipt by the director of the certificate of compliance,  
29 the director shall allow the developer a credit against the tax  
30 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5). A  
31 developer shall apply the credit awarded against the developer's  
32 liability under section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2  
33 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1  
34 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 for the privilege  
35 period during which the director allows the developer a tax credit  
36 pursuant to this subsection. A developer **[shall not]** may carry  
37 forward an unused credit **[unless the developer was unable to use**  
38 **the credit because the developer's redevelopment project was**  
39 **directly impacted due to a natural disaster, state emergency,**  
40 **national emergency, or a situation that was out of the developer's**  
41 **control that impacted the developer's use of the credit that year, in**  
42 **which case the developer is permitted to carry forward an unused**  
43 **credit for up to two years upon submitting evidence of the**  
44 **developer's redevelopment project being directly impacted by such**  
45 **a circumstance and receiving approval from the authority]** resulting

**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 from the limitations of paragraph (3) of this subsection, if  
2 necessary, for use in the seven privilege periods next following the  
3 privilege period for which the credits are awarded. Credits granted  
4 to a partnership shall be passed through to the partners, members, or  
5 owners, respectively, pro-rata, or pursuant to an executed agreement  
6 among the partners, members, or owners documenting an alternate  
7 distribution method provided to the director accompanied by any  
8 additional information as the director may prescribe.

9 (3) The director shall prescribe the order of priority of the  
10 application of the credit allowed under this section and any other  
11 credits allowed by law against the tax imposed under section 5 of  
12 P.L.1945, c.162 (C.54:10A-5). The amount of the credit applied  
13 under this section against the tax imposed pursuant to section 5 of  
14 P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with  
15 any other credits allowed by law, shall not reduce the tax liability to  
16 an amount less than the statutory minimum provided in subsection  
17 (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).  
18 (cf: P.L.2020, c.156, s.62)

19  
20 2. This act shall take effect immediately.

## 21 22 23 STATEMENT

24  
25 This bill provides that the recipients of tax credits under the New  
26 Jersey Aspire Program may carry forward unused tax credits during  
27 the seven privilege periods following the year in which the credits  
28 are awarded.

29 Under current law, when a developer is awarded tax credits  
30 under the New Jersey Aspire Program, the developer may only  
31 carry forward unused tax credits in certain circumstances.  
32 Specifically, the developer is required to demonstrate that the tax  
33 credits could not be claimed because the developer's redevelopment  
34 project was directly impacted by a natural disaster, state emergency,  
35 national emergency, or other situation beyond the developer's  
36 control. In these circumstances, current law allows the developer to  
37 carry forward the unused tax credit for up two years if the developer  
38 receives approval from the New Jersey Economic Development  
39 Authority (EDA).

40 Notably, the bill expands the circumstances in which a developer  
41 may carry forward unused tax credits under the New Jersey Aspire  
42 Program. Under the bill, a developer would be permitted to carry  
43 forward any tax credits that cannot be claimed due to the value of  
44 the tax credits exceeding the amount of eligible tax liabilities  
45 against which the tax credits may be claimed. The bill also  
46 provides that the EDA would no longer be required to approve the  
47 carry forward of tax credits.

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1        Additionally, the bill increases the period of time in which  
2        unused tax credits may be carried forward. Specifically, the bill  
3        permits a developer to carry forward unused tax credits for use in  
4        the seven privilege periods following the privilege period for which  
5        the tax credits are awarded.