

CHAPTER 398

AN ACT concerning requirements for certain transformative projects under New Jersey Aspire Program and amending P.L.2020, c.156.

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

1. Section 60 of P.L.2020, c.156 (C.34:1B-328) is amended to read as follows:

C.34:1B-328 Incentive award agreement.

60. a. (1) Following approval and selection of an application pursuant to sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and C.34:1B-327), the authority shall enter into an incentive award agreement with the developer. The chief executive officer of the authority shall negotiate the terms and conditions of the incentive award agreement on behalf of the State.

(2) For a phased project, the incentive phase agreement shall set forth, for each phase of the project and for the total project, the capital investment requirements and the time periods in which each phase of the project shall be commenced and completed. The awarding of tax credits shall be conditioned on the developer's compliance with the requirements of the agreement. A redevelopment project may be completed in phases in accordance with rules adopted by the authority if the redevelopment project has an eligible project cost in excess of \$50,000,000.

b. An incentive award agreement shall specify the amount of the incentive award the authority shall award to the developer and the duration of the eligibility period. The duration of the eligibility period shall not exceed 10 years for a commercial project, mixed-use project, or residential project, except that to reduce the total value of tax credits needed to reimburse a developer for all or part of the project financing gap of a redevelopment project, the authority may, in its discretion, approve a duration for the eligibility period that is shorter than the applicable maximum periods. The incentive award agreement shall provide an estimated date of completion and include a requirement for periodic progress reports, including the submittal of executed financing commitments and documents that evidence site control, provided, however, that the developer may sell one or more buildings during the eligibility period, subject to such rules and regulations as may be adopted by the authority. If the authority does not receive periodic progress reports, or if the progress reports demonstrate unsatisfactory progress, then the authority may rescind the incentive award. If the authority rescinds an incentive award in the same calendar year in which the authority approved the incentive award, then the authority may assign the incentive award to another applicant. The incentive award agreement may also provide for a verification of the financing gap at the time the developer provides executed financing commitments to the authority and a verification of the developer's projected cash flow at the time of certification that the project is completed, provided that the authority shall not resize or reduce the tax credit based on the executed financing commitments or the updated projected cash flow, but that the authority shall use the commitments and cash flow to calculate the return on investment required pursuant to subsection c. of this section.

c. To ensure the protection of taxpayer money, at project certification and at the end of the seventh year of the eligibility period, the authority shall evaluate the developer's rate of return on investment and compare that rate of return on investment to the reasonable and appropriate rate of return at the time of board approval. If the actual rate of return on investment exceeds the reasonable and appropriate rate of return on investment at the time of board approval by more than 15 percent, the authority shall require the developer to pay up to 20 percent of the amount in excess of the reasonable and appropriate rate of return on investment. For any year during the eligibility period in which the director purchases a tax credit certificate or tax credit transfer certificate issued for a redevelopment project pursuant to section 89 of P.L.2020, c.156

(C.52:18A-263), if the actual rate of return on investment exceeds the reasonable and appropriate rate of return on investment at the time of board approval by more than 10 percent, the authority shall require the developer to pay up to 20 percent of the amount in excess of the reasonable and appropriate rate of return on investment, except as otherwise provided in paragraph (2) of subsection a. of section 89 of P.L.2020, c.156 (C.52:18A-263). The authority shall require an escrow account to be held by the authority for any payment received pursuant to this subsection until the end of the eligibility period. For any payment amount calculated at project certification, the developer shall make equal annual payments, which in aggregate shall equal the calculated payment amount, with each annual report for the first seven years of the eligibility period. At the end of the seventh year of the eligibility period, the developer shall pay the authority any additional amount required. For projects that have an eligibility period of fewer than 10 years, the authority may adjust the year of the eligibility period in which the evaluation of the rate of return and contribution to the escrow account, as may be appropriate, are required. The authority shall not reduce or recapture any tax credits at project certification or at the end of the seventh year of the eligibility period solely due to an increase to the return on investment. Following the final year of the eligibility period, the authority shall determine if the developer's rate of return exceeded the reasonable and appropriate rate of return determined at board approval. If the final rate of return does not exceed the reasonable and appropriate rate of return determined at board approval, the authority shall release to the developer the escrowed funds. If the project final rate of return exceeds the reasonable and appropriate rate of return determined at board approval, the authority shall require the developer to pay up to 20 percent of the amount of the excess, which shall include the funds held in escrow, and such funds shall be deposited in the State General Fund.

d. The incentive award agreement shall include a requirement that the authority confirm with the Department of Environmental Protection, the Department of Labor and Workforce Development, and the Department of the Treasury that the developer is in substantial good standing with the respective department, or the developer has entered into an agreement with the respective department that includes a practical corrective action for the developer, and the developer shall confirm that each contractor or subcontractor performing work at the redevelopment project: (1) is registered as required by "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has not been debarred, suspended, or disqualified by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in the State, or been debarred, suspended, or disqualified by a federal agency from engaging in federally funded construction projects or bidding on federal contracting opportunities; and (3) possesses a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury. The incentive award agreement shall also include a provision that the developer shall forfeit the incentive award in any year in which the developer is neither in substantial good standing with each department nor has entered into a practical corrective action. The incentive award agreement shall also require a developer to engage in on-site consultations with the Division of Workplace Safety and Health in the Department of Health.

e. (1) Except as provided in paragraph (2) of this subsection, the authority shall not enter into an incentive award agreement for a redevelopment project that includes at least one retail establishment which will have more than 10 employees, at least one distribution center which will have more than 20 employees, or at least one hospitality establishment which will have more than 10 employees, unless the incentive award agreement includes a precondition that any business that serves as the owner or operator of the retail establishment, distribution center, or hospitality establishment enters into a labor harmony agreement with a labor organization

or cooperating labor organizations which represent retail establishment, hospitality establishment, or distribution center employees in the State.

(2) A labor harmony agreement shall be required only if the State has a proprietary interest in the redevelopment project and shall remain in effect for as long as the State acts as a market participant in the redevelopment project. The authority may enter into an incentive award agreement with a developer without the labor harmony agreement required under paragraph (1) of this subsection if the authority determines that the redevelopment project would not be able to go forward if a labor harmony agreement is required. The authority shall support the determination by a written finding, which provides the specific basis for the determination.

(3) (Deleted by amendment, P.L.2023, c.98)

f. (1) Except for a special mission nonprofit project in any location, or a residential project that is located in a government-restricted municipality and in which 100 percent of the residential units constructed in the residential project are reserved for occupancy by low- and moderate-income households, for a redevelopment project whose total project cost equals or exceeds \$10 million, in addition to the incentive award agreement, a developer shall enter into a community benefits agreement with the authority and the county or municipality in which the redevelopment project is located. The agreement may include, but shall not be limited to, requirements for training, employment, and youth development and free services to underserved communities in and around the community in which the redevelopment project is located. Prior to entering a community benefits agreement, the county or municipality in which the redevelopment project is located shall hold at least one previously advertised public hearing at which testimony from residents, community groups, and other stakeholders shall have an opportunity to be heard on the needs of the community that the agreement should address, and the minutes of the meeting shall be included in the resolution of the governing body of the municipality or county adopting the community benefits agreement.

(2) The community benefits agreement shall provide for the creation of a community advisory committee to oversee the implementation of the agreement, monitor successes, ensure compliance with the terms of the agreement, and produce an annual public report. The community advisory committee created pursuant to this paragraph shall be comprised of representatives of diverse community groups and residents of the county or municipality in which the redevelopment project is located.

(3) At the time the developer submits the annual report required pursuant to section 62 of P.L.2020, c.156 (C.34:1B-330) to the authority, the developer shall certify, under the penalty of perjury, that it is in compliance with the terms of the community benefits agreement. If the developer fails to provide the certification required pursuant to this paragraph or the authority determines that the developer is not in compliance with the terms of the community benefits agreement based on the reports submitted by the community advisory committee pursuant to paragraph (2) of this subsection, then the authority may rescind an award or recapture all or part of any tax credits awarded.

(4) Notwithstanding any requirement of this subsection to the contrary, a developer shall be considered to have met the requirements of a community benefits agreement pursuant to this subsection if the developer submits to the authority:

(a) a copy of either the developer's approval letter from the authority or a redevelopment agreement applicable to the qualified business facility, provided that the approval letter or redevelopment agreement is certified by the municipality in which the redevelopment project is located and includes provisions that meet or exceed the standards required for a community benefits agreement in this subsection, as determined by the chief executive officer pursuant to rules adopted by the authority; or

(b) a resolution adopted by the governing body of the municipality in which the redevelopment project is located, which resolution shall be adopted after at least one public hearing at which the governing body provides an opportunity for residents, community groups, and other stakeholders to testify, and which resolution shall state that the governing body has determined that the redevelopment project will provide economic and social benefits to the community that fulfill the purposes of this subsection, which benefits render a separate community benefit agreement unnecessary, and explain the reasons supporting the governing body's determination.

(c) The developer and the municipality or county shall submit the executed community benefits agreement, redevelopment agreement, or approved resolution to the authority within the same time as all other conditions subsequent required in the approval letter.

(5) Notwithstanding any provision of paragraph (1) of this subsection to the contrary, the developer of a redevelopment project shall be required to enter into a community benefits agreement, subject to the requirements of this section, if the redevelopment project is located in a government-restricted municipality, which municipality is also designated as the county seat of a county of the second class, and is located in close proximity, as determined by the authority, to a multi-modal transportation hub, a public or private institution of higher education, and a health care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) that serves underrepresented populations.

g. A developer shall submit, prior to the first disbursement of tax credits under the incentive award agreement, but no later than six months following project completion, satisfactory evidence of actual project costs, as certified by a certified public accountant, evidence of a temporary certificate of occupancy, or other event evidencing project completion that begins the eligibility period indicated in the incentive award agreement. The developer, or an authorized agent of the developer, shall certify that the information provided pursuant to this subsection is true under the penalty of perjury. Claims, records, or statements submitted by a developer to the authority in order to receive tax credits shall not be considered claims, records, or statements made in connection with State tax laws.

h. The incentive award agreement shall include a provision allowing the authority to extend, in individual cases, the deadline for any annual reporting or certification requirement.

i. The incentive award agreement shall include one or more provisions, as determined by the authority, concerning the terms and conditions for default and the remedies for the developer of a redevelopment project in the event of default. The incentive award agreement shall not allow the authority to declare a cross-default when the developer of a redevelopment project, including any business affiliate of the developer or any other entity with common principals as the developer, is in default with any other assistance program administered by the authority.

2. Section 65 of P.L.2020, c.156 (C.34:1B-333) is amended to read as follows:

C.34:1B-333 "Transformative project."

65. a. As used in this section, "transformative project" means a redevelopment project: that has a project financing gap; that has a total project cost of at least \$150,000,000; that includes 200,000 or more square feet of new or substantially renovated industrial, commercial, or residential space for a project located in a government-restricted municipality, that includes 250,000 or more square feet of film studios, professional stages, television studios, recording studios, screening rooms, or other infrastructure for film production, that includes 300,000 or more square feet of new or substantially renovated industrial, commercial, or residential space

for a project located in an enhanced area, or that includes 500,000 or more square feet of new or substantially renovated industrial, commercial, or residential space for any other project; and, for a commercial project, that is of special economic importance as measured by the level of new jobs, new capital investment, opportunities to leverage leadership in a high-priority targeted industry, or other State priorities as determined by the authority pursuant to rules and regulations promulgated to implement this section. Notwithstanding the provisions of subsection b. of section 14 of P.L.2023, c.98 (C.34:1B-335.1) to the contrary, for applications submitted on and after the effective date of P.L.2023, c.98 (C.34:1B-335.1 et al.), if the redevelopment project is located entirely on land designated by the Department of Environmental Protection as a brownfield development area pursuant to section 7 of P.L.2005, c.223 (C.58:10B-25.1), and the eligible project cost of the redevelopment project includes at least \$15,000,000 in environmental remediation costs, the redevelopment project shall constitute a project of special economic importance. For applications submitted on or after the effective date of P.L.2025, c.127, the redevelopment project shall constitute a project of special economic importance if the redevelopment project is a health care or health services center that: is associated with, and located on, the same complex as a new or existing university, academic, or medical research center, institution, or facility; is an establishment that is associated with a National Cancer Institute Designated Comprehensive Cancer Center that is engaged in cancer research; is a transformative expansion of healthcare services by an academic medical and research center located in a distressed municipality that is adjacent to existing clinical facilities; or is a project located at a State-designated trauma center. For applications submitted on or after the effective date of P.L.2025, c.398, the redevelopment project shall constitute a project of special economic importance if the redevelopment project is located in a government-restricted municipality, which municipality is also designated as the county seat of a county of the second class, and is located in close proximity, as determined by the authority, to a multi-modal transportation hub, a public or private institution of higher education, and a health care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) that serves underrepresented populations. A transformative project may be completed in phases, which phases may be determined by the authority based on factors such as written architectural plans and specifications completed before or during the physical work, certificates of occupancy, or financial and operational plans. The criteria developed by the authority shall include, but shall not be limited to:

(1) the extent to which the proposed transformative project would create modern facilities that enhance the State's competitiveness in attracting targeted industries;

(2) (a) for a residential project, the construction of 700 or more new residential units;

(b) for a mixed-use residential project containing fewer than 700 new residential units:

(i) the construction of 200 or more new residential units if the project is located in a government-restricted municipality, 300 or more new residential units if the project is located in an enhanced area, or 400 or more new residential units for all other mixed-use projects; and

(ii) the construction of 30,000 square feet or more of commercial space, which commercial space may include retail space; and

(c) (Deleted by amendment, P.L.2025, c.2)

(d) for a residential project, 20 percent of the new residential units shall be constructed for occupancy by low- and moderate-income households with affordability controls as adopted by the authority, in consultation with the agency, in accordance with paragraph (2) of subsection a. of section 56 of P.L.2020, c.156 (C.34:1B-324), except that a residential project receiving a federal historic rehabilitation tax credit pursuant to section 47 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.47, or a tax credit pursuant to the "Historic Property Reinvestment

Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276), shall be exempt from the affordability controls related to bedroom distribution; and

(3) the extent to which the proposed project would leverage the competitive economic development advantages of the State's mass transit assets, higher education assets, and other economic development assets in attracting or retaining both employers and skilled workers generally or in targeted industries.

A "transformative project" shall not include a redevelopment project at which more than 50 percent of the premises is occupied by one or more businesses engaged in final point of sale retail.

b. (1) The authority may award incentive awards to transformative projects in accordance with the provisions of sections 55 through 67 of P.L.2020, c.156 (C.34:1B-323 through C.34:1B-335).

(2) (a) For transformative projects completed in phases, the developer shall enter into a transformative phase agreement with the authority.

(b) As used in this subsection, "transformative phase agreement" shall mean a sub-agreement of the incentive award agreement that governs the timing, capital investment, and other applicable details of the respective phase of a phased project.

(3) Notwithstanding the provisions of section 57 of P.L.2020, c.156 (C.34:1B-325), or any other section of P.L.2020, c.156 (C.34:1B-269 et al.) to the contrary, a transformative project shall be completed, and the developer shall be issued a certificate of occupancy for the transformative project facilities by the applicable enforcing agency, within five years of executing the incentive award agreement, except that the authority may, in its discretion, extend this deadline by up to one additional year. For transformative projects completed in phases, the transformative project shall be completed, and the developer shall be issued certificates of occupancy for all phases of the transformative project facilities by the applicable enforcing agency, within 10 years of executing either the incentive award agreement or the first transformative phase agreement corresponding to the transformative project.

(4) Notwithstanding the provisions of sections 55 and 60 of P.L.2020, c.156 (C.34:1B-323 and C.34:1B-328), or any other section of P.L.2020, c.156 (C.34:1B-269 et al.) to the contrary, each phase of a transformative project completed in phases shall have a separate eligibility period. After completing each phase, the developer shall submit a certification that the phase is completed. If the authority approves the certification, the tax credit allowed to the developer shall be increased by the tax credit amount corresponding to that phase. Notwithstanding the different eligibility periods for each phase, all conditions and requirements applicable during an eligibility period pursuant to sections 55 through 67 of P.L.2020, c.156 (C.34:1B-323 through C.34:1B-335) shall apply to the entire transformative project until the end of the eligibility period for the last phase.

(5) Notwithstanding the provisions of section 60 of P.L.2020, c.156 (C.34:1B-328), or any other section of P.L.2020, c.156 (C.34:1B-269 et al.) to the contrary, for a transformative project completed in phases, a review of the project financing gap shall be performed at the certification of completion of each phase, and the authority shall re-evaluate the developer's rate of return in the seventh year and at the end of the eligibility period for the last phase, provided that the authority may also re-evaluate the developer's rate of return during the fifth year of any earlier phase.

(6) A transformative project receiving an incentive award pursuant to this section, other than a project that includes 250,000 or more square feet of film studios, professional stages, television studios, recording studios, screening rooms, or other infrastructure for film production, shall be located in an incentive area, a distressed municipality, a government-

restricted municipality, or an enhanced area. A transformative project receiving an incentive award pursuant to this section that includes 250,000 or more square feet of film studios, professional stages, television studios, recording studios, screening rooms, or other infrastructure for film production may be located anywhere in the State. The authority shall not consider an application for a transformative project unless the applicant submits with its application a letter evidencing support for the transformative project from the governing body of the municipality in which the transformative project is located.

c. The authority shall review the transformative project cost, 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 transformative project will result in a net positive benefit to the State. In determining whether a transformative project will result in a net positive benefit to the State, the authority shall not consider the value of any taxes exempted, abated, rebated, or retained under the "Five-Year Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et seq.), the "Long Term Tax Exemption Law," P.L.1991, c.431 (C.40A:20-1 et al.), the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.), or any other law that has the effect of lowering or eliminating the developer's State or local tax liability. The determination made pursuant to this subsection shall be based on the potential tax liability of the developer without regard for potential tax losses if the developer were to locate in another state. The authority shall assess the cost of these reviews to the applicant. A developer shall pay to the authority the full amount of the direct costs of an analysis concerning the developer's application for an incentive award that a third party retained by the authority performs, if the authority deems such retention to be necessary. The authority shall evaluate the net economic benefits on a present value basis under which the requested tax credit allocation amount is discounted to present value at the same discount rate as the projected benefits from the implementation of the proposed transformative project for which an award of tax credits is being sought. Projects: that are predominantly residential; that are institutional projects; that qualify as special mission nonprofit projects; or that are located in a government-restricted municipality, which municipality is also designated as the county seat of a county of the second class, and is located in close proximity, as determined by the authority, to a multi-modal transportation hub, a public or private institution of higher education, and a health care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) that serves underrepresented populations, shall be excluded from the calculation of the net benefit test required pursuant to this subsection.

d. In determining net benefits for any business or person considering locating in a transformative project and applying to receive from the authority any other economic development incentive subsequent to the award of transformative project tax credits pursuant to section 65 of P.L.2020, c.156 (C.34:1B-333), the authority shall not credit the business or person with any benefit that was previously credited to the transformative project pursuant to section 65 of P.L.2020, c.156 (C.34:1B-333).

e. The authority shall administer the credits awarded pursuant to this section in accordance with the provisions of sections 62 and 63 of P.L.2020, c.156 (C.34:1B-330 and C.34:1B-331).

f. Prior to allocating an incentive award to a developer, the authority shall confirm with the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury that the developer is in substantial good standing with the respective department, or the developer has entered into an agreement with the respective department that includes a practical corrective action plan, and the developer shall certify that each contractor or subcontractor performing work at the transformative

project: (1) is registered as required by "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has not been debarred by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in the State; and (3) possesses a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury. The authority may also contract with an independent third party to perform a background check on the developer.

g. Notwithstanding the limitation on incentive awards set forth in subsection b. of section 61 and section 98 of P.L.2020, c.156 (C.34:1B-329 and C.34:1B-362) to the contrary, the authority may allow a developer of a transformative project a tax credit in an amount not to exceed the lesser of:

(1) (a) (i) 85 percent of the eligible project cost for a transformative project that is located in a government-restricted municipality, which municipality qualified as a government-restricted municipality prior to the effective date of P.L.2025, c.2 (C.34:1B-335.3 et al.); or

(ii) 80 percent of the eligible project cost for a transformative project that is: located in a government-restricted municipality, which municipality did not qualify as a government-restricted municipality prior to the effective date of P.L.2025, c.2 (C.34:1B-335.3 et al.); or an institutional project, subject to the limitation of subsection c. of section 61 of P.L.2020, c.156 (C.34:1B-329);

(b) 60 percent of the eligible project cost for a residential transformative project that receives a four-percent allocation from the federal Low Income Housing Tax Credit Program administered by the agency or a transformative project that is located in a qualified incentive tract, enhanced area, or a municipality with a Municipal Revitalization Index score of at least 50; or

(c) 50 percent of the eligible project cost for any other transformative project;

(2) the total value of the project financing gap; or

(3) \$400,000,000, except that for a transformative project that is developed in phases, the \$400,000,000 limitation on incentive awards set forth in this paragraph shall apply to the total aggregate award for all phases of the transformative project.

3. This act shall take effect immediately.

Approved January 20, 2026.