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P.L. 2002, CHAPTER 87, *approved October 22, 2002*

Assembly Committee Substitute for
Assembly, Nos. 2437 and 1801

1 AN ACT concerning the reimbursement of remediation costs for
2 contaminated sites, and amending P.L.1997, c.278.

3

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

6

7 1. Section 35 of P.L.1997, c.278 (C.58:10B-27) is amended to
8 read as follows:

9 35. a. The provisions of any other law, or rule or regulation
10 adopted pursuant thereto, to the contrary notwithstanding, any
11 developer may enter into a redevelopment agreement with the State
12 pursuant to the provisions of this section. The State may not enter
13 into a redevelopment agreement with a developer who is liable,
14 pursuant to paragraph (1) of subsection c. of section 8 of P.L.1976,
15 c.141 (C.58:10-23.11g), for the contamination at the site proposed to
16 be in the redevelopment agreement.

17 The decision whether or not to enter into a redevelopment
18 agreement is solely within the discretion of the Commissioner of
19 Commerce and Economic Development and the State Treasurer and
20 both must agree to enter into the redevelopment agreement. Nothing
21 in P.L.1997, c.278 (C.58:10B-1.1 et al.) may be construed to compel
22 the commissioner and the State Treasurer to enter into any
23 redevelopment agreement.

24 The Commissioner of Commerce and Economic Development in
25 consultation with the State Treasurer shall negotiate the terms and
26 conditions of any redevelopment agreement on behalf of the State.
27 The redevelopment agreement shall specify the amount of the
28 reimbursement to be awarded the developer, the frequency of
29 payments and the length of time in which that reimbursement shall be
30 granted. In no event shall the amount of the reimbursement, when
31 taken together with the property tax exemption received pursuant to
32 the "Environmental Opportunity Zone Act," P.L.1995, c.413
33 (C.54:4-3.151), less any in lieu of tax payments made pursuant to that
34 act, or any other State, local, or federal tax incentive or grant to
35 remediate a site, exceed 75% of the total cost of the remediation.

36 The commissioner and the State Treasurer may only enter into a
37 redevelopment agreement if they make a finding that the State tax
38 revenues to be realized from the redevelopment project will be in
39 excess of the amount necessary to reimburse the developer. This
40 finding may be made by an estimation based upon the professional

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 judgment of the commissioner and the State Treasurer.

2 The percentage of each payment to be made to the developer
3 pursuant to the redevelopment agreement shall be conditioned on the
4 occupancy rate of the residential dwelling units, buildings , or other
5 work areas located on the property. The redevelopment agreement
6 shall provide for the payments made in order to reimburse the
7 developer to be in the same percentages as the occupancy rate at the
8 site except that upon the attainment of a 90% occupancy rate, the
9 developer shall be entitled to the entire amount of each payment
10 toward the reimbursement as set forth in the redevelopment
11 agreement. The redevelopment agreement shall provide for the
12 frequency of the director's finding of the occupancy rate during the
13 payment schedule.

14 b. In deciding whether or not to enter into a redevelopment
15 agreement and in negotiating a redevelopment agreement with a
16 developer, the commissioner shall consider the following factors:

17 (1) the economic feasibility of the redevelopment project;

18 (2) the extent of economic and related social distress in the
19 municipality and the area to be affected by the redevelopment project;

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

22 (4) the likelihood that the redevelopment project shall, upon
23 completion, be capable of generating new tax revenue in an amount in
24 excess of the amount necessary to reimburse the developer for the
25 remediation costs incurred as provided in the redevelopment
26 agreement;

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

30 (6) the need of the redevelopment agreement to the viability of the
31 redevelopment project; and

32 (7) the degree to which the redevelopment project enhances and
33 promotes job creation and economic development.

34 (cf: P.L.1997, c.278, s.35)

35

36 2. Section 36 of P.L.1997, c.278 (C.58:10B-28) is amended to
37 read as follows:

38 36. a. The provisions of any other law, or rule or regulation
39 adopted pursuant thereto, to the contrary notwithstanding, any
40 developer that enters into a redevelopment agreement pursuant to
41 section 35 of P.L.1997, c.278 (C.58:10B-27), may be eligible for
42 reimbursement of up to 75% of the costs of the remediation of the
43 subject real property pursuant to the provisions of this section upon
44 the commencement of a business operation , or the completion of the
45 construction of one or more new residences, within a redevelopment
46 project.

1 b. To be eligible for reimbursement of the costs of remediation, a
2 developer shall submit an application, in writing, to the director for
3 review and certification of the reimbursement. The director shall
4 review the request for the reimbursement upon receipt of an
5 application therefor, and shall approve or deny the application for
6 certification on a timely basis. The director shall also make a finding
7 of the occupancy rate of the property subject to the redevelopment
8 agreement in the frequency set forth in the redevelopment agreement
9 as provided in section 35 of P.L.1997, c.278 (C.58:10B-27).

10 The director shall certify a developer to be eligible for the
11 reimbursement if the director finds that:

12 (1) residential construction is complete, or a place of business is
13 located, in the area subject to the redevelopment agreement that has
14 generated new tax revenues;

15 (2) the developer had entered into a memorandum of agreement
16 with the Commissioner of Environmental Protection, after the
17 developer entered into the redevelopment agreement, for the
18 remediation of contamination located on the site of the redevelopment
19 project pursuant to section 37 of P.L.1997, c.278 (C.58:10B-29) and
20 the developer is in compliance with the memorandum of agreement;
21 and

22 (3) the costs of the remediation were actually and reasonably
23 incurred. In making this finding the director may consult with the
24 Department of Environment Protection.

25 c. When filing an application for certification for a reimbursement
26 pursuant to this section, the developer shall submit to the director a
27 certification of the total remediation costs incurred by the developer
28 for the remediation of the subject property located at the site of the
29 redevelopment project as provided in the redevelopment agreement ,
30 information concerning the occupancy rate of the buildings or other
31 work areas located on the property subject to the redevelopment
32 agreement, and such other information as the director deems necessary
33 in order to make the certifications and findings pursuant to this
34 section.

35 (cf: P.L.1997, c.278, s.36)

36
37 3. Section 38 of P.L.1997, c.278 (C.58:10B-30) is amended to
38 read as follows:

39 38. a. There is created in the Department of Treasury a special
40 fund to be known as the Brownfield Site Reimbursement Fund.
41 Moneys in the fund shall be dedicated to the purpose of reimbursing
42 a developer who enters into a redevelopment agreement pursuant to
43 section 35 of P.L.1997, c.278 (C.58:10B-27) and is certified for
44 reimbursement pursuant to section 36 of P.L.1997, c.278
45 (C.58:10B-28). A special account within the fund shall be created for
46 each developer upon approval of a certification pursuant to section 36

1 of P.L.1997, c.278 (C.58:10B-28). The Legislature shall annually
2 appropriate the entire balance of the fund for the purposes of
3 reimbursement of remediation costs as provided in section 39 of
4 P.L.1997, c.278 (C.58:10B-31).

5 b. The fund shall be credited with an amount from the General
6 Fund, determined sufficient by the Commissioner of Commerce and
7 Economic Development, to provide the negotiated reimbursement to
8 the developer. Moneys credited to the fund shall be an amount that
9 equals the percent of the remediation costs expected to be reimbursed
10 pursuant to the redevelopment agreement. In estimating the amount
11 of new State taxes that is anticipated to be derived from a
12 redevelopment project pursuant to section 35 of P.L.1997, c.278
13 (C.58:10B-27), the Commissioner of Commerce and Economic
14 Development and the State Treasurer shall consider taxes from the
15 following: the Corporation Business Tax Act (1945), P.L.1945, c.162
16 (C.54:10A-1 et seq.), "The Savings Institution Tax Act," P.L.1973,
17 c.31 (C.54:10D-1 et seq.), the tax imposed on marine insurance
18 companies pursuant to R.S.54:16-1 et seq., the tax imposed on fire
19 insurance companies pursuant to R.S.54:17-4 et al., the tax imposed
20 on insurers generally, pursuant to P.L.1945, c.132 (C.54:18A-1 et
21 seq.), the public utility franchise tax, public utilities gross receipts tax
22 and public utility excise tax imposed pursuant to P.L.1940, c.4, and
23 P.L.1940, c.5 (C.54:30A-16 et seq. and C.54:30A-49 et seq.), [that
24 is a taxpayer in respect of] the tax derived from net profits from
25 business, a distributive share of partnership income, or a prorata share
26 of S corporation income under the "New Jersey Gross Income Tax
27 Act," N.J.S.54A:1-1 et seq., [or who] the tax derived from a
28 business at the site of a redevelopment project that is required to
29 collect the tax pursuant to the "Sales and Use Tax Act," P.L.1966,
30 c.30 (C.54:32B-1 et seq.) , the tax imposed pursuant to P.L.1966, c.30
31 (C.54:32B-1 et seq.) from the purchase of materials used for the
32 construction of new residences at the site of a redevelopment project,
33 or the portion of the fee imposed pursuant to section 3 of P.L.1968,
34 c.49 (C.46:15-7) derived from the sale of real property at the site of
35 the redevelopment project and paid to the State Treasurer for use by
36 the State, that is not credited to the "Shore Protection Fund" or the
37 "Neighborhood Preservation Nonlapsing Fund" pursuant to section 4
38 of P.L.1968, c.49 (C.46:15-8) .
39 (cf: P.L.1997, c.278, s.38)

40

41 4. This act shall take effect immediately.

42

43

44

45 Expands redevelopment agreement program to provide incentives for
46 residential development of contaminated sites.

ASSEMBLY, No. 2437

STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED JUNE 13, 2002

Sponsored by:

Assemblyman PAUL SARLO

District 36 (Bergen, Essex and Passaic)

Assemblyman DOUGLAS H. FISHER

District 3 (Salem, Cumberland and Gloucester)

Co-Sponsored by:

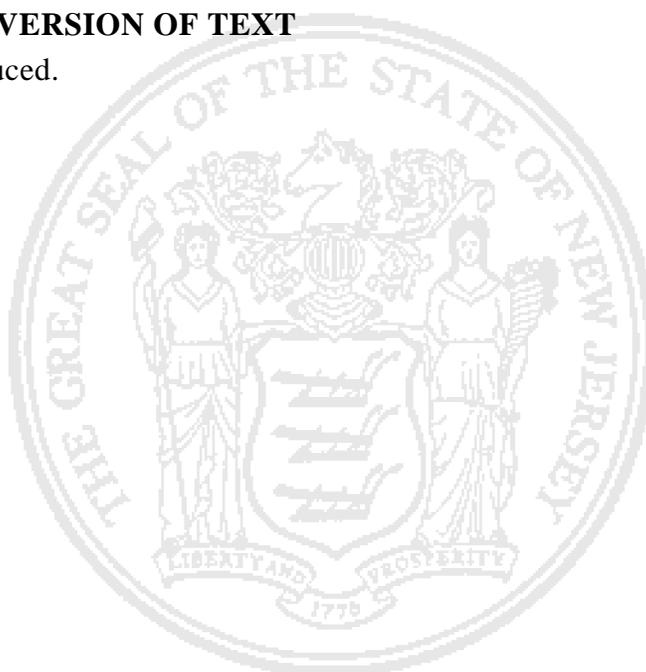
Assemblymen Sires and Gusciora

SYNOPSIS

Expands redevelopment agreement program to provide incentives for residential development of contaminated sites.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/18/2002)

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15 c.141 (C.58:10-23.11g), for the contamination at the site proposed to
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17 The decision whether or not to enter into a redevelopment
18 agreement is solely within the discretion of the Commissioner of
19 Commerce and Economic Development and the State Treasurer and
20 both must agree to enter into the redevelopment agreement. Nothing
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22 the commissioner and the State Treasurer to enter into any
23 redevelopment agreement.

24 The Commissioner of Commerce and Economic Development in
25 consultation with the State Treasurer shall negotiate the terms and
26 conditions of any redevelopment agreement on behalf of the State.
27 The redevelopment agreement shall specify the amount of the
28 reimbursement to be awarded the developer, the frequency of
29 payments and the length of time in which that reimbursement shall be
30 granted. In no event shall the amount of the reimbursement, when
31 taken together with the property tax exemption received pursuant to
32 the "Environmental Opportunity Zone Act," P.L.1995, c.413
33 (C.54:4-3.151), less any in lieu of tax payments made pursuant to that
34 act, or any other State, local, or federal tax incentive or grant to
35 remediate a site, exceed 75% of the total cost of the remediation.

36 The commissioner and the State Treasurer may only enter into a
37 redevelopment agreement if they make a finding that the State tax
38 revenues to be realized from the redevelopment project will be in
39 excess of the amount necessary to reimburse the developer. This
40 finding may be made by an estimation based upon the professional
41 judgment of the commissioner and the State Treasurer.

42 The percentage of each payment to be made to the developer
43 pursuant to the redevelopment agreement shall be conditioned on the

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Matter underlined thus is new matter.

1 occupancy rate of the residential dwelling units, buildings , or other
2 work areas located on the property. The redevelopment agreement
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4 developer to be in the same percentages as the occupancy rate at the
5 site except that upon the attainment of a 90% occupancy rate, the
6 developer shall be entitled to the entire amount of each payment
7 toward the reimbursement as set forth in the redevelopment
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9 frequency of the director's finding of the occupancy rate during the
10 payment schedule.

11 b. In deciding whether or not to enter into a redevelopment
12 agreement and in negotiating a redevelopment agreement with a
13 developer, the commissioner shall consider the following factors:

- 14 (1) the economic feasibility of the redevelopment project;
- 15 (2) the extent of economic and related social distress in the
16 municipality and the area to be affected by the redevelopment project;
- 17 (3) the degree to which the redevelopment project will advance
18 State, regional and local development and planning strategies;
- 19 (4) the likelihood that the redevelopment project shall, upon
20 completion, be capable of generating new tax revenue in an amount in
21 excess of the amount necessary to reimburse the developer for the
22 remediation costs incurred as provided in the redevelopment
23 agreement;
- 24 (5) the relationship of the redevelopment project to a
25 comprehensive local development strategy, including other major
26 projects undertaken within the municipality;
- 27 (6) the need of the redevelopment agreement to the viability of the
28 redevelopment project; and
- 29 (7) the degree to which the redevelopment project enhances and
30 promotes job creation and economic development.

31 (cf: P.L.1997, c.278, s.35)

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33 2. Section 36 of P.L.1997, c.278 (C.58:10B-28) is amended to
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43 project.

44 b. To be eligible for reimbursement of the costs of remediation, a
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7 The director shall certify a developer to be eligible for the
8 reimbursement if the director finds that:

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11 generated new tax revenues;

12 (2) the developer had entered into a memorandum of agreement
13 with the Commissioner of Environmental Protection, after the
14 developer entered into the redevelopment agreement, for the
15 remediation of contamination located on the site of the redevelopment
16 project pursuant to section 37 of P.L.1997, c.278 (C.58:10B-29) and
17 the developer is in compliance with the memorandum of agreement;
18 and

19 (3) the costs of the remediation were actually and reasonably
20 incurred. In making this finding the director may consult with the
21 Department of Environment Protection.

22 c. When filing an application for certification for a reimbursement
23 pursuant to this section, the developer shall submit to the director a
24 certification of the total remediation costs incurred by the developer
25 for the remediation of the subject property located at the site of the
26 redevelopment project as provided in the redevelopment agreement ,
27 information concerning the occupancy rate of the buildings or other
28 work areas located on the property subject to the redevelopment
29 agreement, and such other information as the director deems necessary
30 in order to make the certifications and findings pursuant to this
31 section.

32 (cf: P.L.1997, c.278, s.36)

33

34 3. Section 38 of P.L.1997, c.278 (C.58:10B-30) is amended to
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36 38. a. There is created in the Department of Treasury a special
37 fund to be known as the Brownfield Site Reimbursement Fund.
38 Moneys in the fund shall be dedicated to the purpose of reimbursing
39 a developer who enters into a redevelopment agreement pursuant to
40 section 35 of P.L.1997, c.278 (C.58:10B-27) and is certified for
41 reimbursement pursuant to section 36 of P.L.1997, c.278
42 (C.58:10B-28). A special account within the fund shall be created for
43 each developer upon approval of a certification pursuant to section 36
44 of P.L.1997, c.278 (C.58:10B-28). The Legislature shall annually
45 appropriate the entire balance of the fund for the purposes of

1 reimbursement of remediation costs as provided in section 39 of
2 P.L.1997, c.278 (C.58:10B-31).

3 b. The fund shall be credited with an amount from the General
4 Fund, determined sufficient by the Commissioner of Commerce and
5 Economic Development, to provide the negotiated reimbursement to
6 the developer. Moneys credited to the fund shall be an amount that
7 equals the percent of the remediation costs expected to be reimbursed
8 pursuant to the redevelopment agreement. In estimating the amount
9 of new State taxes that is anticipated to be derived from a
10 redevelopment project pursuant to section 35 of P.L.1997, c.278
11 (C.58:10B-27), the Commissioner of Commerce and Economic
12 Development and the State Treasurer shall consider taxes from the
13 following: the Corporation Business Tax Act (1945), P.L.1945, c.162
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16 companies pursuant to R.S.54:16-1 et seq., the tax imposed on fire
17 insurance companies pursuant to R.S.54:17-4 et al., the tax imposed
18 on insurers generally, pursuant to P.L.1945, c.132 (C.54:18A-1 et
19 seq.), the public utility franchise tax, public utilities gross receipts tax
20 and public utility excise tax imposed pursuant to P.L.1940, c.4, and
21 P.L.1940, c.5 (C.54:30A-16 et seq. and C.54:30A-49 et seq.), [that
22 is a taxpayer in respect of] the tax derived from net profits from
23 business, a distributive share of partnership income, or a prorata share
24 of S corporation income under the "New Jersey Gross Income Tax
25 Act," N.J.S.54A:1-1 et seq., [or who] the tax derived from a
26 business at the site of a redevelopment project that is required to
27 collect the tax pursuant to the "Sales and Use Tax Act," P.L.1966,
28 c.30 (C.54:32B-1 et seq.) , the tax imposed pursuant to P.L.1966, c.30
29 (C.54:32B-1 et seq.) from the purchase of materials used for the
30 construction of new residences at the site of a redevelopment project,
31 or the portion of the fee imposed pursuant to section 3 of P.L.1968,
32 c.49 (C.46:15-7) derived from the sale of real property at the site of
33 the redevelopment project and paid to the State Treasurer for use by
34 the State, that is not credited to the "Shore Protection Fund" or the
35 "Neighborhood Preservation Nonlapsing Fund" pursuant to section 4
36 of P.L.1968, c.49 (C.46:15-8) .
37 (cf: P.L.1997, c.278, s.38)

38

39 4. This act shall take effect immediately.

40

41

42

STATEMENT

43

44 This bill would expand the redevelopment agreement program in
45 which the State and a redeveloper may enter into an agreement to
46 reimburse the developer of property for up to 75 percent of the costs

1 of remediation from revenues derived from new State taxes that are
2 generated from the redevelopment at the site. Specifically, the bill
3 would authorize the State to enter into a redevelopment agreement to
4 reimburse a developer of residential property upon the completion of
5 the construction of one or more new residences. Further, the bill
6 would expand the list of taxes that may be considered in estimating the
7 amount of new State revenue to be derived from the redevelopment
8 project. Those additional revenues that may be considered would
9 include taxes collected pursuant to the "Sales and Use Tax Act,"
10 derived from the purchase of materials used for the construction of
11 new residences at the site of a redevelopment project, or the portion
12 of the realty transfer fee imposed pursuant to section 3 of P.L.1968,
13 c.49 (C.46:15-7) derived from the sale of real property at the site of
14 the redevelopment project and paid to the State Treasurer for use by
15 the State, that is not credited to the "Shore Protection Fund" or the
16 "Neighborhood Preservation Nonlapsing Fund" pursuant to section 4
17 of P.L.1968, c.49 (C.46:15-8).

ASSEMBLY, No. 1801

STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED FEBRUARY 11, 2002

Sponsored by:

Assemblyman THOMAS H. KEAN, JR.

District 21 (Essex, Morris, Somerset and Union)

SYNOPSIS

Expands redevelopment agreement program to provide incentives for residential development of contaminated sites.

CURRENT VERSION OF TEXT

As introduced.



A1801 KEAN

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15 the commencement of a business operation , or the issuance of a
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17 within a redevelopment project.

18 b. To be eligible for reimbursement of the costs of remediation, a
19 developer shall submit an application, in writing, to the director for
20 review and certification of the reimbursement. The director shall
21 review the request for the reimbursement upon receipt of an
22 application therefor, and shall approve or deny the application for
23 certification on a timely basis. The director shall also make a finding
24 of the occupancy rate of the property subject to the redevelopment
25 agreement in the frequency set forth in the redevelopment agreement
26 as provided in section 35 of P.L.1997, c.278 (C.58:10B-27).

27 The director shall certify a developer to be eligible for the
28 reimbursement if the director finds that:

29 (1) residential construction has begun, or a place of business is
30 located, in the area subject to the redevelopment agreement that has
31 generated new tax revenues;

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33 with the Commissioner of Environmental Protection, after the
34 developer entered into the redevelopment agreement, for the
35 remediation of contamination located on the site of the redevelopment
36 project pursuant to section 37 of P.L.1997, c.278 (C.58:10B-29) and
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5 (C.54:32B-1 et seq.) from the purchase of materials used for the
6 construction of new residences at the site of a redevelopment project,
7 or the portion of the fee imposed pursuant to section 3 of P.L.1968,
8 c.49 (C.46:15-7) derived from the sale of real property at the site of
9 the redevelopment project and paid to the State Treasurer for use by
10 the State, that is not credited to the "Shore Protection Fund" or the
11 "Neighborhood Preservation Nonlapsing Fund" pursuant to section 4
12 of P.L.1968, c.49 (C.46:15-8) .
13 (cf: P.L.1997, c.278, s.38)

14

15 3. This act shall take effect immediately.

16

17

18

STATEMENT

19

20 This bill would provide additional incentives to developers of
21 property to remediate contaminated property for residential uses. The
22 bill would expand the redevelopment agreement program in which the
23 State and a redeveloper may enter into an agreement to reimburse the
24 developer of property for up to 75 percent of the costs of remediation
25 from revenues derived from new State taxes that are generated from
26 the redevelopment at the site. Specifically, the bill would authorize
27 the State to enter into a redevelopment agreement to reimburse a
28 developer of residential property upon the issuance of a permit for the
29 construction of one or more new residences. Further, the bill would
30 expand the list of taxes that may be considered in estimating the
31 amount of new State revenue to be derived from the redevelopment
32 project. Those additional revenues that may be considered would
33 include taxes collected pursuant to the "Sales and Use Tax Act,"
34 derived from the purchase of materials used for the construction of
35 new residences at the site of a redevelopment project, or the portion
36 of the realty transfer fee imposed pursuant to section 3 of P.L.1968,
37 c.49 (C.46:15-7) derived from the sale of real property at the site of
38 the redevelopment project and paid to the State Treasurer for use by
39 the State, that is not credited to the "Shore Protection Fund" or the
40 "Neighborhood Preservation Nonlapsing Fund" pursuant to section 4
41 of P.L.1968, c.49 (C.46:15-8).

ASSEMBLY ENVIRONMENT AND SOLID WASTE
COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 2437 and 1801

STATE OF NEW JERSEY

DATED: JUNE 17, 2002

The Assembly Environment and Solid Waste Committee reports favorably an Assembly Committee Substitute for Assembly Bill Nos. 2437 and 1801.

This committee substitute would expand the redevelopment agreement program in which the State and a redeveloper may enter into an agreement to reimburse the developer of property for up to 75 percent of the costs of remediation from revenues derived from new State taxes that are generated from the redevelopment at the site. Specifically, this committee substitute would authorize the State to enter into a redevelopment agreement to reimburse a developer of residential property upon the completion of the construction of one or more new residences. Further, the committee substitute would expand the list of taxes that may be considered in estimating the amount of new State revenue to be derived from the redevelopment project. Those additional revenues that may be considered would include taxes collected pursuant to the "Sales and Use Tax Act," derived from the purchase of materials used for the construction of new residences at the site of a redevelopment project, or the portion of the realty transfer 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 Fund" pursuant to section 4 of P.L.1968, c.49 (C.46:15-8).

As reported, this committee substitute for Assembly Bill Nos. 2437 and 1801 is identical to Senate Bill No. 1181 (1R).

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, Nos. 2437 and 1801**

STATE OF NEW JERSEY

DATED: JUNE 24, 2002

The Assembly Budget Committee reports favorably Assembly Bill Nos. 2437 and 1801(ACS).

Assembly Bill Nos. 2437 and 1801 (ACS) expands the redevelopment agreement program in which the State and a redeveloper may enter into an agreement to reimburse the developer of property for up to 75 percent of the costs of remediation from revenues derived from new State taxes that are generated from the redevelopment at the site. Specifically, this bill authorizes the State to enter into a redevelopment agreement to reimburse a developer of residential property upon the completion of the construction of one or more new residences. Further, the bill expands the list of taxes that may be considered in estimating the amount of new State revenue to be derived from the redevelopment project.

As reported, Assembly Bill Nos. 2437 and 1801 (ACS) is identical to Senate Bill No. 1181 (1R).

FISCAL IMPACT:

The additional revenues to be considered include taxes collected pursuant to the "Sales and Use Tax Act," derived from the purchase of materials used for the construction of new residences at the site of a redevelopment project, or the portion of the realty transfer 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 Fund" pursuant to section 4 of P.L.1968, c.49 (C.46:15-8).

There are no data available as to the amount of sales tax paid on the purchase of materials used in the construction of new residences nor how much in realty transfer fees would be collected by the State on sales of property at the site. The Office of Legislative Services estimates that the bill will encourage greater participation in the program and thereby increase future State tax revenues.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, Nos. 2437 and 1801**

STATE OF NEW JERSEY

DATED: SEPTEMBER 19, 2002

The Senate Budget and Appropriations Committee reports favorably Assembly Bill Nos. 2437 and 1801 ACS.

This bill would expand the brownfields redevelopment reimbursement program, under which the State and a redeveloper may enter into an agreement to reimburse the developer of a brownfield site for up to 75 percent of the costs of remediating the site, with the reimbursement payments being made from revenues derived from new State taxes generated from the redevelopment at the site.

The bill broadens the category of redevelopers eligible for participation in the program to include developers of residential property, allowing them to receive reimbursement upon completion of the construction of one or more new residences. Also, the bill would expand the list of taxes that may be considered in estimating the amount of new State revenue to be derived from the redevelopment project. The additional revenues that may be considered would include taxes collected pursuant to the "Sales and Use Tax Act" on the purchase of materials used for the construction of new residences at the site of a redevelopment project, or the portion of the realty transfer 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 Fund" pursuant to section 4 of P.L.1968, c.49 (C.46:15-8).

The provisions of this bill are identical to those of Senate Bill No. 1181 (1R), which the committee also reports this day.

FISCAL IMPACT

The Office of Legislative Services (OLS) cannot estimate the bill's impact on State tax revenues because any such estimate requires data about the number and scope of projects yet to be built and the terms of agreements yet to be made. However, it can be assumed that the bill will tend to expand the brownfields reimbursement program by encouraging the participation of residential redevelopers, and thus result in the generation of additional State tax revenues on properties that currently contribute little or no such revenues.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 2437 and 1801
STATE OF NEW JERSEY
210th LEGISLATURE

DATED JULY 16, 2002

SUMMARY

Synopsis: Expands redevelopment agreement program to provide incentives for residential development of contaminated sites.

Type of Impact: Increase in various tax revenues to the General Fund.

Agencies Affected: Department of the Treasury

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Revenue	Indeterminate - See Comments Below		

- ! The bill amends P.L. 1997, c.278 to include and encourage the participation of residential redevelopers in the Brownfields Reimbursement Program.
- ! The Brownfields Reimbursement Program encourages the remediation and development of brownsfield properties by reimbursing redevelopers for up to 75 percent of remediation costs; reimbursement funds are derived from new State taxes generated from the businesses or residences built on the redeveloped property.
- ! The bill stipulates the conditions and eligible taxes under which residential redevelopers can receive reimbursement expenses under the program.
- ! The Office of Legislative Services (OLS) estimates that the bill will encourage greater participation in the program and thereby increase future State tax revenues.

BILL DESCRIPTION

Assembly Committee Substitute for Assembly Bill Nos. 2437 and 1801 of 2002 expands and modifies the Brownfields Redevelopment Agreement program, which reimburses a redeveloper of a brownsfield property for up to 75 percent of the costs of remediation from revenues derived from new State taxes that are generated from the redevelopment at the site.

The bill amends program statutes to include redevelopers of residential property and to make them eligible for program reimbursement upon the complete construction of one or more new residences. The bill adds another incentive for residential redevelopers by expanding the tax base that is considered in estimating new State revenue to be derived from a redevelopment project. Under the bill, such additional revenues could be derived from the State sales tax on the purchase of construction materials for new residences at an eligible redevelopment site, and from the undedicated portion of realty transfer fees for these residences.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services (OLS) cannot estimate the bill's impact on State tax revenues because such future estimates can only be determined on a project-by-project basis. However, it can be assumed that the bill's intention of expanding the Brownfields Reimbursement Program by encouraging the participation of residential redevelopers will certainly augment the generation of additional State tax revenues on properties that currently contribute little or no such revenues.

Section: *Environment, Agriculture, Energy and Natural Resources*

Analyst: *Richard M. Handelman*
Senior Fiscal Analyst

Approved: *Alan R. Kooney*
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

SENATE, No. 1181

STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED FEBRUARY 25, 2002

Sponsored by:

Senator DIANE ALLEN

District 7 (Burlington and Camden)

Senator RONALD L. RICE

District 28 (Essex)

Co-Sponsored by:

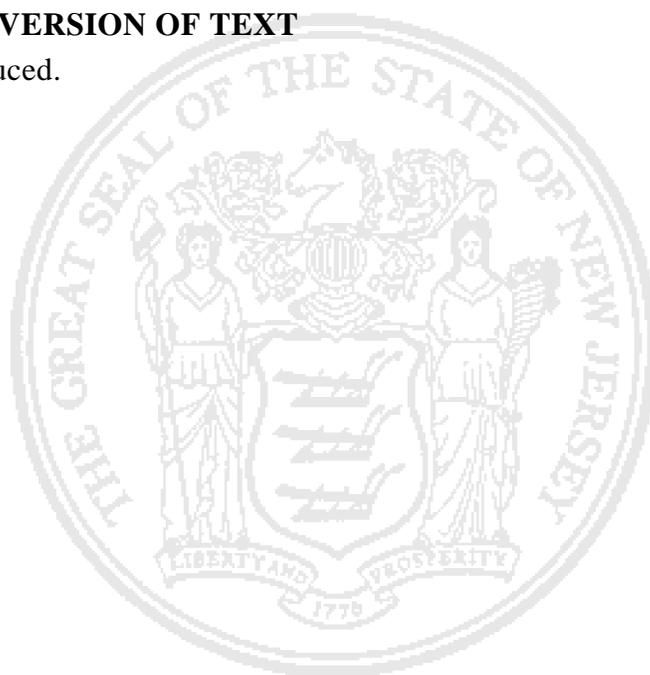
Senators Bagger and Ciesla

SYNOPSIS

Expands redevelopment agreement program to provide incentives for residential development of contaminated sites.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/10/2002)

1 AN ACT concerning the reimbursement of remediation costs for
2 contaminated sites, and amending P.L.1997, c.278.

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

6
7 1. Section 36 of P.L.1997, c.278 (C.58:10B-28) is amended to
8 read as follows:

9 36. a. The provisions of any other law, or rule or regulation
10 adopted pursuant thereto, to the contrary notwithstanding, any
11 developer that enters into a redevelopment agreement pursuant to
12 section 35 of P.L.1997, c.278 (C.58:10B-27), may be eligible for
13 reimbursement of up to 75% of the costs of the remediation of the
14 subject real property pursuant to the provisions of this section upon
15 the commencement of a business operation , or the issuance of a
16 permit to commence the construction of one or more new residences,
17 within a redevelopment project.

18 b. To be eligible for reimbursement of the costs of remediation, a
19 developer shall submit an application, in writing, to the director for
20 review and certification of the reimbursement. The director shall
21 review the request for the reimbursement upon receipt of an
22 application therefor, and shall approve or deny the application for
23 certification on a timely basis. The director shall also make a finding
24 of the occupancy rate of the property subject to the redevelopment
25 agreement in the frequency set forth in the redevelopment agreement
26 as provided in section 35 of P.L.1997, c.278 (C.58:10B-27).

27 The director shall certify a developer to be eligible for the
28 reimbursement if the director finds that:

29 (1) residential construction has begun, or a place of business is
30 located, in the area subject to the redevelopment agreement that has
31 generated new tax revenues;

32 (2) the developer had entered into a memorandum of agreement
33 with the Commissioner of Environmental Protection, after the
34 developer entered into the redevelopment agreement, for the
35 remediation of contamination located on the site of the redevelopment
36 project pursuant to section 37 of P.L.1997, c.278 (C.58:10B-29) and
37 the developer is in compliance with the memorandum of agreement;
38 and

39 (3) the costs of the remediation were actually and reasonably
40 incurred. In making this finding the director may consult with the
41 Department of Environment Protection.

42 c. When filing an application for certification for a reimbursement
43 pursuant to this section, the developer shall submit to the director a

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

Matter underlined thus is new matter.

1 certification of the total remediation costs incurred by the developer
2 for the remediation of the subject property located at the site of the
3 redevelopment project as provided in the redevelopment agreement ,
4 information concerning the occupancy rate of the buildings or other
5 work areas located on the property subject to the redevelopment
6 agreement, and such other information as the director deems necessary
7 in order to make the certifications and findings pursuant to this
8 section.

9 (cf: P.L.1997, c.278, s.36)

10

11 2. Section 38 of P.L.1997, c.278 (C.58:10B-30) is amended to
12 read as follows:

13 38. a. There is created in the Department of Treasury a special
14 fund to be known as the Brownfield Site Reimbursement Fund.
15 Moneys in the fund shall be dedicated to the purpose of reimbursing
16 a developer who enters into a redevelopment agreement pursuant to
17 section 35 of P.L.1997, c.278 (C.58:10B-27) and is certified for
18 reimbursement pursuant to section 36 of P.L.1997, c.278
19 (C.58:10B-28). A special account within the fund shall be created for
20 each developer upon approval of a certification pursuant to section 36
21 of P.L.1997, c.278 (C.58:10B-28). The Legislature shall annually
22 appropriate the entire balance of the fund for the purposes of
23 reimbursement of remediation costs as provided in section 39 of
24 P.L.1997, c.278 (C.58:10B-31).

25 b. The fund shall be credited with an amount from the General
26 Fund, determined sufficient by the Commissioner of Commerce and
27 Economic Development, to provide the negotiated reimbursement to
28 the developer. Moneys credited to the fund shall be an amount that
29 equals the percent of the remediation costs expected to be reimbursed
30 pursuant to the redevelopment agreement. In estimating the amount
31 of new State taxes that is anticipated to be derived from a
32 redevelopment project pursuant to section 35 of P.L.1997, c.278
33 (C.58:10B-27), the Commissioner of Commerce and Economic
34 Development and the State Treasurer shall consider taxes from the
35 following: the Corporation Business Tax Act (1945), P.L.1945, c.162
36 (C.54:10A-1 et seq.), "The Savings Institution Tax Act," P.L.1973,
37 c.31 (C.54:10D-1 et seq.), the tax imposed on marine insurance
38 companies pursuant to R.S.54:16-1 et seq., the tax imposed on fire
39 insurance companies pursuant to R.S.54:17-4 et al., the tax imposed
40 on insurers generally, pursuant to P.L.1945, c.132 (C.54:18A-1 et
41 seq.), the public utility franchise tax, public utilities gross receipts tax
42 and public utility excise tax imposed pursuant to P.L.1940, c.4, and
43 P.L.1940, c.5 (C.54:30A-16 et seq. and C.54:30A-49 et seq.), [that
44 is a taxpayer in respect of] the tax derived from net profits from
45 business, a distributive share of partnership income, or a prorata share
46 of S corporation income under the "New Jersey Gross Income Tax

1 Act," N.J.S.54A:1-1 et seq., [or who] the tax derived from a
2 business at the site of a redevelopment project that is required to
3 collect the tax pursuant to the "Sales and Use Tax Act," P.L.1966,
4 c.30 (C.54:32B-1 et seq.) , the tax imposed pursuant to P.L.1966, c.30
5 (C.54:32B-1 et seq.) from the purchase of materials used for the
6 construction of new residences at the site of a redevelopment project,
7 or the portion of the fee imposed pursuant to section 3 of P.L.1968,
8 c.49 (C.46:15-7) derived from the sale of real property at the site of
9 the redevelopment project and paid to the State Treasurer for use by
10 the State, that is not credited to the "Shore Protection Fund" or the
11 "Neighborhood Preservation Nonlapsing Fund" pursuant to section 4
12 of P.L.1968, c.49 (C.46:15-8) .
13 (cf: P.L.1997, c.278, s.38)

14

15 3. This act shall take effect immediately.

16

17

18

STATEMENT

19

20 This bill would provide additional incentives to developers of
21 property to remediate contaminated property for residential uses. The
22 bill would expand the redevelopment agreement program in which the
23 State and a redeveloper may enter into an agreement to reimburse the
24 developer of property for up to 75 percent of the costs of remediation
25 from revenues derived from new State taxes that are generated from
26 the redevelopment at the site. Specifically, the bill would authorize
27 the State to enter into a redevelopment agreement to reimburse a
28 developer of residential property upon the issuance of a permit for the
29 construction of one or more new residences. Further, the bill would
30 expand the list of taxes that may be considered in estimating the
31 amount of new State revenue to be derived from the redevelopment
32 project. Those additional revenues that may be considered would
33 include taxes collected pursuant to the "Sales and Use Tax Act,"
34 derived from the purchase of materials used for the construction of
35 new residences at the site of a redevelopment project, or the portion
36 of the realty transfer fee imposed pursuant to section 3 of P.L.1968,
37 c.49 (C.46:15-7) derived from the sale of real property at the site of
38 the redevelopment project and paid to the State Treasurer for use by
39 the State, that is not credited to the "Shore Protection Fund" or the
40 "Neighborhood Preservation Nonlapsing Fund" pursuant to section 4
41 of P.L.1968, c.49 (C.46:15-8).

SENATE ENVIRONMENT COMMITTEE

STATEMENT TO

SENATE, No. 1181

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 13, 2002

The Senate Environment Committee reports favorably and with committee amendments Senate Bill No. 1181.

This bill would expand the redevelopment agreement program in which the State and a redeveloper may enter into an agreement to reimburse the developer of property for up to 75 percent of the costs of remediation from revenues derived from new State taxes that are generated from the redevelopment at the site. Specifically, the bill, as amended, would authorize the State to enter into a redevelopment agreement to reimburse a developer of residential property upon the completion of the construction of one or more new residences. Further, the bill would expand the list of taxes that may be considered in estimating the amount of new State revenue to be derived from the redevelopment project. Those additional revenues that may be considered would include taxes collected pursuant to the "Sales and Use Tax Act," derived from the purchase of materials used for the construction of new residences at the site of a redevelopment project, or the portion of the realty transfer 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 Fund" pursuant to section 4 of P.L.1968, c.49 (C.46:15-8).

The committee amendments would provide that reimbursement of remediation costs would commence after completion of construction, rather than upon the issuance of a permit to commence construction of one or more new residences. The committee amendments would also clarify that, like the reimbursement payment rate for other projects, the percentage of the payments to a developer for a residential project is conditioned upon the occupancy rate of the residential units.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 1181

STATE OF NEW JERSEY

DATED: SEPTEMBER 19, 2002

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 1181 (1R).

This bill would expand the brownfields redevelopment reimbursement program, under which the State and a redeveloper may enter into an agreement to reimburse the developer of a brownfield site for up to 75 percent of the costs of remediating the site, with the reimbursement payments being made from revenues derived from new State taxes generated from the redevelopment at the site.

The bill broadens the category of redevelopers eligible for participation in the program to include developers of residential property, allowing them to receive reimbursement upon completion of the construction of one or more new residences. Also, the bill would expand the list of taxes that may be considered in estimating the amount of new State revenue to be derived from the redevelopment project. The additional revenues that may be considered would include taxes collected pursuant to the "Sales and Use Tax Act" on the purchase of materials used for the construction of new residences at the site of a redevelopment project, or the portion of the realty transfer 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 Fund" pursuant to section 4 of P.L.1968, c.49 (C.46:15-8).

The provisions of this bill are identical to those of Assembly Bill Nos. 2437 and 1801 ACS, which the committee also reports this day.

FISCAL IMPACT

The Office of Legislative Services (OLS) cannot estimate the bill's impact on State tax revenues because any such estimate requires data about the number and scope of projects yet to be built and the terms of agreements yet to be made. However, it can be assumed that the bill will tend to expand the brownfields reimbursement program by encouraging the participation of residential redevelopers, and thus result in the generation of additional State tax revenues on properties that currently contribute little or no such revenues.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 1181

STATE OF NEW JERSEY

210th LEGISLATURE

DATED: JULY 16, 2002

SUMMARY

Synopsis: Expands redevelopment agreement program to provide incentives for residential development of contaminated sites.

Type of Impact: Increase in tax revenues to the General Fund.

Agencies Affected: Department of the Treasury.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Revenue		Indeterminate	

- ! The bill amends P.L. 1997, c.278 to include and encourage the participation of residential redevelopers in the Brownfields Reimbursement Program.
- ! The Brownfields Reimbursement Program encourages the remediation and development of brownfield properties by reimbursing redevelopers for up to 75 percent of remediation costs; reimbursement funds are derived from new State taxes generated from the businesses or residences built on the redeveloped property.
- ! The bill stipulates the conditions and eligible taxes under which residential redevelopers can receive reimbursement expenses under the program.
- ! The Office of Legislative Services estimates that the bill will encourage greater participation in the program and thereby increase future State tax revenues.

BILL DESCRIPTION

Senate Bill No. 1181 (1R) of 2002 expands and modifies the Brownfields Redevelopment Agreement program, which reimburses a redeveloper of a brownfield property for up to 75 percent of the costs of remediation from revenues derived from new State taxes that are generated from the redevelopment at the site. The bill amends program statutes to include redevelopers of residential property and to make them eligible for program reimbursement upon the complete construction of one or more new residences. The bill adds another incentive for

residential redevelopers by expanding the tax base that is considered in estimating new State revenue to be derived from a redevelopment project. Under the bill, such additional revenues could be derived from the State sales tax on the purchase of construction materials for new residences at an eligible redevelopment site, and from the undedicated portion of realty transfer fees for these residences.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services (OLS) cannot estimate the bill's impact on State tax revenues because such future estimates can only be determined on a project-by-project basis. However, it can be assumed that the bill's intention of expanding the Brownfields Reimbursement Program by encouraging the participation of residential redevelopers will certainly augment the generation of additional State tax revenues on properties that currently contribute little or no such revenues.

Section: *Environment, Agriculture, Energy and Natural Resources*

Analyst: *Richard M. Handelman*
Senior Fiscal Analyst

Approved: *Alan R. Kooney*
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.