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P.L. 2005, CHAPTER 360, *approved January 12, 2006*  
Senate, No. 2907 (*First Reprint*)

1 **AN ACT** concerning the remediation of contaminated sites, and  
2 amending and supplementing 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. (New section) a. The provisions of any other law, or rule or  
8 regulation adopted pursuant thereto, to the contrary notwithstanding,  
9 the State may enter into a redevelopment agreement pursuant to  
10 sections 35 and 36 of P.L.1997, c. 278 (C.58:10B-27 and 58:10B-28)  
11 for a redevelopment project that was commenced prior to the effective  
12 date of sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26  
13 through 58:10B-31) in which the State may agree to reimburse a  
14 developer for 75% of remediation costs incurred subsequent to  
15 entering into the redevelopment agreement, provided that the Chief  
16 Executive Officer and Secretary of the Commerce and Economic  
17 Growth Commission, in consultation with the State Treasurer, finds  
18 that:

19 (1) the remediation that has not yet been performed on the subject  
20 real property is necessary to ensure that the public health and safety  
21 and the environment are protected; and

22 (2) (a) the cost or extent of remediation was unanticipated at the  
23 time the redevelopment project was commenced; (b) changes to the  
24 rules and regulations governing site remediation were adopted after  
25 the redevelopment project was commenced; (c) principles of fairness  
26 and consistency indicate that the reimbursement of remediation costs  
27 provided by P.L.1997, c.278 should be made available to the  
28 developer who agreed to remediate and redevelop a brownfield prior  
29 to the enactment of P.L.1997, c.278; (d) an estimate of the cost of the  
30 remediation to be performed subsequent to entry into the  
31 redevelopment agreement as approved by the Department of  
32 Environmental Protection exceeds \$10 million; (e) the subject real  
33 property is situated within a Planning Area 1 as designated in the State  
34 Development and Redevelopment Plan; and (f) a phase of the  
35 redevelopment project has not been commenced.

36 b. A developer that enters into a redevelopment agreement  
37 pursuant to this section shall be eligible for reimbursement of  
38 remediation costs pursuant to sections 36 and 37 of P.L.1997, c.278  
39 (C.58:10B-28 and 58:10B-29), provided that:

**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.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup> Senate SEN committee amendments adopted December 8, 2005.

1 (1) in estimating the amount of State taxes that are anticipated to  
2 be derived from a redevelopment project the director shall only  
3 consider tax revenues generated subsequent to the date of the  
4 redevelopment agreement from a phase of the redevelopment project  
5 that has not <sup>1</sup>[commenced at the time the State and the developer  
6 enter into the redevelopment agreement] generated tax revenues prior  
7 to January 1, 2006<sup>1</sup>; and

8 (2) a developer has entered into a memorandum of agreement or  
9 other oversight document with the Commissioner of Environmental  
10 Protection for the remediation of a contaminated site located on the  
11 site of the redevelopment project and the developer is in compliance  
12 with the memorandum of agreement or oversight document.

13 c. Nothing in this section shall require that a no further action  
14 letter be obtained by a developer for remediation of groundwater  
15 beneath the subject real property prior to reimbursement of the  
16 remediation costs, provided that the developer has completed any  
17 capital construction or infrastructure required for the remediation of  
18 groundwater on the site.

19  
20 2. Section 39 of P.L. 1997 c.278 (C.58:10B-31) is amended to  
21 read as follows:

22 39. a. The State Treasurer shall reimburse the developer the  
23 amount of the remediation costs agreed upon in the redevelopment  
24 agreement, and as provided in sections 35 and 36 of P.L.1997, c.278  
25 (C.58:10B-27 and C.58:10B-28) upon issuance of the certification by  
26 the director pursuant to section 36 of P.L.1997, c.278 (C.58:10B-28).  
27 The developer shall be entitled to periodic payments from the fund in  
28 an amount, in the frequency, and over the time period as provided in  
29 the redevelopment agreement. Notwithstanding any other provision  
30 of sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through  
31 C.58:10B-31), the State Treasurer may not reimburse the developer  
32 any amount of the remediation costs from the fund until the State  
33 Treasurer is satisfied that the anticipated tax revenues from the  
34 redevelopment project have been realized by the State in an amount  
35 sufficient to pay for the cost of the reimbursements.

36 b. A developer shall submit to the director updated remediation  
37 costs actually incurred by the developer for the remediation of the  
38 contaminated property located at the site of the redevelopment project  
39 as provided in the redevelopment agreement. The reimbursement  
40 authorized pursuant to this section shall continue until such time as the  
41 aggregate dollar amount of the agreed upon reimbursement. To  
42 remain entitled to the reimbursement authorized pursuant to this  
43 section, the developer shall perform and complete all remediation  
44 activities as may be required pursuant to the memorandum of  
45 agreement or other oversight agreement entered into with the  
46 Commissioner of Environmental Protection pursuant to section 37 of

1 P.L.1997, c.278 (C.58:10B-29). The Department of Environmental  
2 Protection may review the remediation costs incurred by the developer  
3 to determine if they are reasonable.

4 Reimbursable remediation costs shall include costs that are incurred  
5 in preparing the area of land whereon the contaminated site is located  
6 for remediation and may include costs of dynamic compaction of soil  
7 necessary for the remediation.

8 (cf: P.L.2001, c.398, s.4)

9

10 3. This act shall take effect immediately.

11

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13

14

15 Authorizes redevelopment agreements for reimbursement of  
16 remediation costs for projects that have already begun.

**SENATE, No. 2907**

---

**STATE OF NEW JERSEY**  
**211th LEGISLATURE**

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INTRODUCED DECEMBER 1, 2005

**Senator JOSEPH V. DORIA, JR.** Sponsored by:  
District 31 (Hudson)

**SYNOPSIS**

Authorizes redevelopment agreements for reimbursement of remediation costs for projects that have already begun.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning the remediation of contaminated sites, and  
2 amending and supplementing 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. (New section) a. The provisions of any other law, or rule or  
8 regulation adopted pursuant thereto, to the contrary notwithstanding,  
9 the State may enter into a redevelopment agreement pursuant to  
10 sections 35 and 36 of P.L.1997, c. 278 (C.58:10B-27 and 58:10B-28)  
11 for a redevelopment project that was commenced prior to the effective  
12 date of sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26  
13 through 58:10B-31) in which the State may agree to reimburse a  
14 developer for 75% of remediation costs incurred subsequent to  
15 entering into the redevelopment agreement, provided that the Chief  
16 Executive Officer and Secretary of the Commerce and Economic  
17 Growth Commission, in consultation with the State Treasurer, finds  
18 that:

19 (1) the remediation that has not yet been performed on the subject  
20 real property is necessary to ensure that the public health and safety  
21 and the environment are protected; and

22 (2) (a) the cost or extent of remediation was unanticipated at the  
23 time the redevelopment project was commenced; (b) changes to the  
24 rules and regulations governing site remediation were adopted after  
25 the redevelopment project was commenced; (c) principles of fairness  
26 and consistency indicate that the reimbursement of remediation costs  
27 provided by P.L.1997, c.278 should be made available to the  
28 developer who agreed to remediate and redevelop a brownfield prior  
29 to the enactment of P.L.1997, c.278; (d) an estimate of the cost of the  
30 remediation to be performed subsequent to entry into the  
31 redevelopment agreement as approved by the Department of  
32 Environmental Protection exceeds \$10 million; (e) the subject real  
33 property is situated within a Planning Area 1 as designated in the State  
34 Development and Redevelopment Plan; and (f) a phase of the  
35 redevelopment project has not been commenced.

36 b. A developer that enters into a redevelopment agreement  
37 pursuant to this section shall be eligible for reimbursement of  
38 remediation costs pursuant to sections 36 and 37 of P.L.1997, c.278  
39 (C.58:10B-28 and 58:10B-29), provided that:

40 (1) in estimating the amount of State taxes that are anticipated to  
41 be derived from a redevelopment project the director shall only  
42 consider tax revenues generated subsequent to the date of the  
43 redevelopment agreement from a phase of the redevelopment project

**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 that has not commenced at the time the State and the developer enter  
2 into the redevelopment agreement; and

3 (2) a developer has entered into a memorandum of agreement or  
4 other oversight document with the Commissioner of Environmental  
5 Protection for the remediation of a contaminated site located on the  
6 site of the redevelopment project and the developer is in compliance  
7 with the memorandum of agreement or oversight document.

8 c. Nothing in this section shall require that a no further action  
9 letter be obtained by a developer for remediation of groundwater  
10 beneath the subject real property prior to reimbursement of the  
11 remediation costs, provided that the developer has completed any  
12 capital construction or infrastructure required for the remediation of  
13 groundwater on the site.

14

15 2. Section 39 of P.L. 1997 c.278 (C.58:10B-31) is amended to  
16 read as follows:

17 39. a. The State Treasurer shall reimburse the developer the  
18 amount of the remediation costs agreed upon in the redevelopment  
19 agreement, and as provided in sections 35 and 36 of P.L.1997, c.278  
20 (C.58:10B-27 and C.58:10B-28) upon issuance of the certification by  
21 the director pursuant to section 36 of P.L.1997, c.278 (C.58:10B-28).  
22 The developer shall be entitled to periodic payments from the fund in  
23 an amount, in the frequency, and over the time period as provided in  
24 the redevelopment agreement. Notwithstanding any other provision  
25 of sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through  
26 C.58:10B-31), the State Treasurer may not reimburse the developer  
27 any amount of the remediation costs from the fund until the State  
28 Treasurer is satisfied that the anticipated tax revenues from the  
29 redevelopment project have been realized by the State in an amount  
30 sufficient to pay for the cost of the reimbursements.

31 b. A developer shall submit to the director updated remediation  
32 costs actually incurred by the developer for the remediation of the  
33 contaminated property located at the site of the redevelopment project  
34 as provided in the redevelopment agreement. The reimbursement  
35 authorized pursuant to this section shall continue until such time as the  
36 aggregate dollar amount of the agreed upon reimbursement. To  
37 remain entitled to the reimbursement authorized pursuant to this  
38 section, the developer shall perform and complete all remediation  
39 activities as may be required pursuant to the memorandum of  
40 agreement or other oversight agreement entered into with the  
41 Commissioner of Environmental Protection pursuant to section 37 of  
42 P.L.1997, c.278 (C.58:10B-29). The Department of Environmental  
43 Protection may review the remediation costs incurred by the developer  
44 to determine if they are reasonable.

45 Reimbursable remediation costs shall include costs that are incurred  
46 in preparing the area of land whereon the contaminated site is located



1 for remediation and may include costs of dynamic compaction of soil  
2 necessary for the remediation.  
3 (cf: P.L.2001, c.398, s.4)

4  
5 3. This act shall take effect immediately.

6  
7  
8 STATEMENT

9  
10 This bill would authorize the State and a developer to enter into a  
11 redevelopment agreement for a project that was commenced prior to  
12 the effective date of P.L.1997, c.278 (C.58:10B-26 et seq.) in which  
13 the State may agree to reimburse a developer for remediation costs  
14 incurred subsequent to entering into the redevelopment agreement,  
15 provided that the Chief Executive Officer and Secretary of the  
16 Commerce and Economic Growth Commission, in consultation with  
17 the State Treasurer, finds that the remediation of the subject real  
18 property is necessary to ensure that the public health and safety and  
19 the environment are protected, and: (1) the cost or extent of  
20 remediation was unanticipated at the time the redevelopment project  
21 was commenced; (2) changes to the rules and regulations governing  
22 site remediation were adopted after the redevelopment project was  
23 commenced; (3) principles of fairness and consistency indicate that the  
24 reimbursement of remediation costs provided by P.L.1997, c.278  
25 should be made available to the developer who agreed to remediate  
26 and redevelop a brownfield prior to the enactment of P.L.1997, c.278;  
27 (4) an estimate of the cost of the remediation to be performed  
28 subsequent to entry into the redevelopment agreement as approved by  
29 the Department of Environmental Protection exceeds \$10 million; (5)  
30 the subject real property is situated within a Planning Area 1 as  
31 designated in the State Development and Redevelopment Plan; and (6)  
32 a phase of the redevelopment project has not been commenced.

33 The bill also provides that a developer that enters into a  
34 redevelopment agreement pursuant to the provisions of this bill would  
35 be eligible for reimbursement of remediation costs pursuant to sections  
36 36 and 37 of P.L.1997, c.278 (C.58:10B-28 and 58:10B-29). In  
37 estimating the amount of State taxes that are anticipated to be derived  
38 from a redevelopment project, the Director of the Division of Taxation  
39 would only consider tax revenues generated subsequent to the date of  
40 the redevelopment agreement from a phase of the redevelopment  
41 project that is commenced subsequent to the date of the  
42 redevelopment agreement. The bill also requires that in order to be  
43 eligible for the reimbursement of remediation costs, the developer  
44 must have entered into a memorandum of agreement or other  
45 oversight document with the Commissioner of Environmental  
46 Protection for the remediation of a contaminated site located on the

**S2907 DORIA**

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1 site of the redevelopment project and the developer must be in  
2 compliance with the memorandum of agreement or oversight  
3 document.

4 Finally, the bill provides that a no further action letter need not be  
5 obtained by the developer for groundwater remediation beneath the  
6 subject real property prior to reimbursement of the remediation costs,  
7 provided that the developer has completed any capital construction or  
8 infrastructure required for the groundwater remediation on the site.

# SENATE ENVIRONMENT COMMITTEE

## STATEMENT TO

### **SENATE, No. 2907**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: DECEMBER 8, 2005

The Senate Environment Committee reports favorably and with committee amendments Senate Bill No. 2907.

Senate Bill No. 2907 would authorize the State and a developer to enter into a redevelopment agreement for a project that was commenced prior to the effective date of P.L.1997, c.278 (C.58:10B-26 et seq.) in which the State may agree to reimburse a developer for 75% of remediation costs incurred subsequent to entering into the redevelopment agreement, provided that the Chief Executive Officer and Secretary of the Commerce and Economic Growth Commission, in consultation with the State Treasurer, finds that the remediation of the subject real property is necessary to ensure that the public health and safety and the environment are protected, and: (1) the cost or extent of remediation was unanticipated at the time the redevelopment project was commenced; (2) changes to the rules and regulations governing site remediation were adopted after the redevelopment project was commenced; (3) principles of fairness and consistency indicate that the reimbursement of remediation costs provided by P.L.1997, c.278 should be made available to the developer who agreed to remediate and redevelop a brownfield prior to the enactment of P.L.1997, c.278; (4) an estimate of the cost of the remediation to be performed subsequent to entry into the redevelopment agreement as approved by the Department of Environmental Protection exceeds \$10 million; (5) the subject real property is situated within a Planning Area 1 as designated in the State Development and Redevelopment Plan; and (6) a phase of the redevelopment project has not been commenced.

As amended, the bill provides that a developer that enters into a redevelopment agreement pursuant to the provisions of this bill would be eligible for reimbursement of remediation costs pursuant to sections 36 and 37 of P.L.1997, c.278 (C.58:10B-28 and 58:10B-29). In estimating the amount of State taxes that are anticipated to be derived from a redevelopment project, the Director of the Division of Taxation would only consider tax revenues generated subsequent to the date of

the redevelopment agreement from a phase of the redevelopment project that has not generated tax revenues prior to January 1, 2006.

The bill also requires that in order to be eligible for the reimbursement of remediation costs, the developer must have entered into a memorandum of agreement or other oversight document with the Commissioner of Environmental Protection for the remediation of a contaminated site located on the site of the redevelopment project and the developer must be in compliance with the memorandum of agreement or oversight document.

Finally, the bill provides that a no further action letter need not be obtained by the developer for groundwater remediation beneath the subject real property prior to reimbursement of the remediation costs, provided that the developer has completed any capital construction or infrastructure required for the groundwater remediation on the site.

# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 2907

STATE OF NEW JERSEY

211th LEGISLATURE

DATED: FEBRUARY 21, 2006

## SUMMARY

**Synopsis:** Authorizes redevelopment agreements for reimbursement of remediation costs for projects that have already begun.

**Type of Impact:** Reduction of sales tax revenue to the General Fund.

**Agencies Affected:** Departments of the Treasury and Environmental Protection.

### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Revenue Decrease (Loss)</b>	Indeterminate -- See Comments Below		

- ! The bill P.L.1997, c.278 (C.58:10B-26 et seq.) to authorize the State and a developer to enter into a redevelopment reimbursement agreement for a project that was commenced prior to the effective date of that act.
- ! "P.L.1997, c.278, the "Brownfield and Contaminated Site Remediation Act," provides that the State may reimburse a developer for 75 percent of remediation costs of a brownfield property; such costs would be paid from potential State sales tax revenues generated from the property after it is developed.
- ! The Office of Legislative Services estimates that the bill's expansion of reimbursement authority would result in the further loss of potential sales tax revenues.

## BILL DESCRIPTION

Senate Bill No. 2907 (1R) of 2005 would authorize the State and a developer to enter into a redevelopment agreement for a project that was commenced prior to the effective date of P.L.1997, c.278 (C.58:10B-26 et seq.). The bill would thereby allow the State to reimburse a developer for 75 percent of remediation costs incurred subsequent to entering into the redevelopment agreement, provided that certain conditions are met as set forth therein. In estimating the amount of State taxes that are anticipated to be derived from a redevelopment

project, the Director of the Division of Taxation would only consider tax revenues generated subsequent to the date of the redevelopment agreement from a phase of the redevelopment project that has not generated tax revenues prior to January 1, 2006.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The Office of Legislative Services (OLS) estimates that the bill would expand the sales tax reimbursement authority pursuant to P.L.1997, c.278, thereby further facilitating the loss of potential State sales tax revenues. The OLS, however, cannot estimate at this time the amount of such loss due to the lack of pertinent data on this subject.

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

Analyst: *Richard M. Handelman*  
*Senior Fiscal Analyst*

Approved: *David J. Rosen*  
*Legislative Budget and Finance Officer*

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

**ASSEMBLY, No. 4383**

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**STATE OF NEW JERSEY**  
**211th LEGISLATURE**

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INTRODUCED NOVEMBER 10, 2005

**Sponsored by:**  
**Assemblyman LOUIS MANZO**  
**District 31 (Hudson)**

**SYNOPSIS**

Authorizes redevelopment agreements for certain projects.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning the remediation of contaminated sites, and  
2 amending and supplementing 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. (New section) a. The provisions of any other law, or rule or  
8 regulation adopted pursuant thereto to the contrary notwithstanding,  
9 the State may enter into a redevelopment agreement pursuant to  
10 sections 35 and 36 of P.L. 1997, c. 278 (C.58:10B-27 and 58:10B-28)  
11 for a redevelopment project that was commenced or completed prior  
12 to the effective date of P.L. 1997, c.278 (C.58:10B-26 et seq.) in  
13 which the State may agree to reimburse a developer for remediation  
14 costs incurred subsequent to entering into the redevelopment  
15 agreement, provided that the Secretary, in consultation with the State  
16 Treasurer, finds that:

17 (1) the remediation of the subject real property is necessary to  
18 ensure that the public health and safety and the environment are  
19 protected; and

20 (2) (i) the cost or extent of remediation was unanticipated at the  
21 time the project was commenced; (ii) principles of fairness and  
22 consistency indicate that the reimbursement of remediation costs  
23 provided by P.L. 1997, c. 278 should be made available to the  
24 developer who agreed to remediate and redevelop a brownfield prior  
25 to the enactment of P.L. 1997, c. 278; (iii) an estimate of the cost of  
26 the remediation subsequent to entry into the redevelopment agreement  
27 as approved by the Department of Environmental Protection exceeds  
28 \$10 million; or (iv) the subject real property is situated within a  
29 Planning Area 1 as designated in the State Development and  
30 Redevelopment Plan.

31 b. A developer that enters into a redevelopment agreement  
32 pursuant to this section shall be eligible for reimbursement of  
33 remediation costs pursuant to section 36 and 37 of P.L. 1997, c.278  
34 (C.58:10B-28 and 58:10B-29), provided that:

35 (1) in estimating the amount of State taxes that are anticipated to  
36 be derived from a redevelopment project the director shall only  
37 consider tax revenues generated subsequent to the date of the  
38 redevelopment agreement; and

39 (2) a developer has entered into a memorandum of agreement or  
40 other oversight document with the Commissioner of Environmental  
41 Protection for the remediation of a contaminated site located on the  
42 site of the redevelopment project and the developer is in compliance  
43 with the memorandum of agreement or oversight document.

**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 c. Nothing in this section shall require that a no further action  
2 letter be obtained by a developer for remediation of groundwater  
3 beneath the subject real property prior to reimbursement of the  
4 remediation costs, provided that the developer has completed any  
5 capital construction or infrastructure required for the remediation of  
6 ground water on the site.

7  
8 2. Section 39 of P.L. 1997 c.278 (C.58:10B-31) is amended to  
9 read as follows:

10 39. a. The State Treasurer shall reimburse the developer the  
11 amount of the remediation costs agreed upon in the redevelopment  
12 agreement, and as provided in sections 35 and 36 of P.L.1997, c.278  
13 (C.58:10B-27 and C.58:10B-28) upon issuance of the certification by  
14 the director pursuant to section 36 of P.L.1997, c.278 (C.58:10B-28).  
15 The developer shall be entitled to periodic payments from the fund in  
16 an amount, in the frequency, and over the time period as provided in  
17 the redevelopment agreement. Notwithstanding any other provision  
18 of sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through  
19 C.58:10B-31), the State Treasurer may not reimburse the developer  
20 any amount of the remediation costs from the fund until the State  
21 Treasurer is satisfied that the anticipated tax revenues from the  
22 redevelopment project have been realized by the State in an amount  
23 sufficient to pay for the cost of the reimbursements.

24 b. A developer shall submit to the director updated remediation  
25 costs actually incurred by the developer for the remediation of the  
26 contaminated property located at the site of the redevelopment project  
27 as provided in the redevelopment agreement. The reimbursement  
28 authorized pursuant to this section shall continue until such time as the  
29 aggregate dollar amount of the agreed upon reimbursement. To  
30 remain entitled to the reimbursement authorized pursuant to this  
31 section, the developer shall perform and complete all remediation  
32 activities as may be required pursuant to the memorandum of  
33 agreement or other oversight agreement entered into with the  
34 Commissioner of Environmental Protection pursuant to section 37 of  
35 P.L.1997, c.278 (C.58:10B-29). The Department of Environmental  
36 Protection may review the remediation costs incurred by the developer  
37 to determine if they are reasonable.

38 Reimbursable remediation costs shall include costs that are incurred  
39 in preparing the area of land whereon the contaminated site is located  
40 for remediation and may include costs of dynamic compaction of soil  
41 necessary for the remediation.

42 (cf: P.L.2001, c.398, s.4)

43  
44 3. This act shall take effect immediately.

STATEMENT

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This bill would authorize the State and a developer to enter into a redevelopment agreement for a project that was commenced or completed prior to the effective date of P.L. 1997, c.278 (C.58:10B-26 et seq.) in which the State may agree to reimburse a developer for remediation costs incurred subsequent to entering into the redevelopment agreement, provided that the Secretary, in consultation with the State Treasurer, finds that the remediation of the subject real property is necessary to ensure that the public health and safety and the environment are protected, and (1) the cost or extent of remediation was unanticipated at the time the project was commenced; (2) principles of fairness and consistency indicate that the reimbursement of remediation costs provided by P.L. 1997, c. 278 should be made available to the developer who agreed to remediate and redevelop a brownfield prior to the enactment of P.L. 1997, c. 278; (3) an estimate of the cost of the remediation subsequent to entry into the redevelopment agreement as approved by the Department of Environmental Protection exceeds \$10 million; or (4) the subject real property is situated within a Planning Area 1 as designated in the State Development and Redevelopment Plan.

The bill also provides that a developer that enters into a redevelopment agreement pursuant to the provisions of this bill shall be eligible for reimbursement of remediation costs pursuant to section 36 and 37 of P.L. 1997, c.278 (C.58:10B-28 and 58:10B-29). In estimating the amount of State taxes that are anticipated to be derived from a redevelopment project, the Director of the Division of Taxation shall only consider tax revenues generated subsequent to the date of the redevelopment agreement. The bill also requires that in order to be eligible for the reimbursement of remediation costs, the developer has entered into a memorandum of agreement or other oversight document with the Commissioner of Environmental Protection for the remediation of a contaminated site located on the site of the redevelopment project and the developer is in compliance with the memorandum of agreement or oversight document. Finally, the bill provides that a no further action letter need not be obtained by the developer for remediation of groundwater beneath the subject real property prior to reimbursement of the remediation costs, provided that the developer has completed any capital construction or infrastructure required for the remediation of ground water on the site.

ASSEMBLY ENVIRONMENT AND SOLID WASTE  
COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 4383**

**STATE OF NEW JERSEY**

DATED: DECEMBER 8, 2005

The Assembly Environment and Solid Waste Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 4383.

This committee substitute would authorize the State and a developer to enter into a redevelopment agreement for a project that was commenced prior to the effective date of P.L.1997, c.278 (C.58:10B-26 et seq.) in which the State may agree to reimburse a developer for 75% of remediation costs incurred subsequent to entering into the redevelopment agreement, provided that the Chief Executive Officer and Secretary of the Commerce and Economic Growth Commission, in consultation with the State Treasurer, finds that the remediation of the subject real property is necessary to ensure that the public health and safety and the environment are protected, and: (1) the cost or extent of remediation was unanticipated at the time the redevelopment project was commenced; (2) changes to the rules and regulations governing site remediation were adopted after the redevelopment project was commenced; (3) principles of fairness and consistency indicate that the reimbursement of remediation costs provided by P.L.1997, c.278 should be made available to the developer who agreed to remediate and redevelop a brownfield prior to the enactment of P.L.1997, c.278; (4) an estimate of the cost of the remediation to be performed subsequent to entry into the redevelopment agreement as approved by the Department of Environmental Protection exceeds \$10 million; (5) the subject real property is situated within a Planning Area 1 as designated in the State Development and Redevelopment Plan; and (6) a phase of the redevelopment project has not been commenced.

The committee substitute provides that a developer that enters into a redevelopment agreement pursuant to the provisions of this bill would be eligible for reimbursement of remediation costs pursuant to sections 36 and 37 of P.L.1997, c.278 (C.58:10B-28 and 58:10B-29). In estimating the amount of State taxes that are anticipated to be derived from a redevelopment project, the Director of the Division of

Taxation would only consider tax revenues generated subsequent to the date of the redevelopment agreement from a phase of the redevelopment project that has not generated tax revenues prior to January 1, 2006.

The committee substitute also requires that in order to be eligible for the reimbursement of remediation costs, the developer must have entered into a memorandum of agreement or other oversight document with the Commissioner of Environmental Protection for the remediation of a contaminated site located on the site of the redevelopment project and the developer must be in compliance with the memorandum of agreement or oversight document.

Finally, the committee substitute provides that a no further action letter need not be obtained by the developer for groundwater remediation beneath the subject real property prior to reimbursement of the remediation costs, provided that the developer has completed any capital construction or infrastructure required for the groundwater remediation on the site.

As reported by the committee, this Assembly Committee Substitute for Assembly Bill No. 4383 is identical to Senate Bill No. 2907 as amended and reported by the Senate Environment Committee on December 8, 2005.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

### ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, No. 4383**

# **STATE OF NEW JERSEY**

DATED: JANUARY 5, 2006

The Assembly Appropriations Committee reports favorably Assembly Bill No. 4383 (ACS).

Assembly Bill No. 4383 (ACS) authorizes redevelopment agreements for State reimbursement of development remediation costs for projects that have already begun.

The bill authorizes the State and a developer to enter into a redevelopment agreement for a project that was commenced prior to the effective date of P.L.1997, c.278 (C.58:10B-26 et seq.) in which the State may agree to reimburse a developer for 75% of remediation costs incurred subsequent to entering into the redevelopment agreement, provided that the Chief Executive Officer and Secretary of the Commerce and Economic Growth Commission, in consultation with the State Treasurer, finds that the remediation of the subject real property is necessary to ensure that the public health and safety and the environment are protected, and: (1) the cost or extent of remediation was unanticipated at the time the redevelopment project was commenced; (2) changes to the rules and regulations governing site remediation were adopted after the redevelopment project was commenced; (3) principles of fairness and consistency indicate that the reimbursement of remediation costs provided by P.L.1997, c.278 should be made available to the developer who agreed to remediate and redevelop a brownfield prior to the enactment of P.L.1997, c.278; (4) an estimate of the cost of the remediation to be performed subsequent to entry into the redevelopment agreement as approved by the Department of Environmental Protection exceeds \$10 million; (5) the subject real property is situated within a Planning Area 1 as designated in the State Development and Redevelopment Plan; and (6) a phase of the redevelopment project has not been commenced.

The bill provides that a developer that enters into a redevelopment agreement pursuant to the provisions of this bill would be eligible for reimbursement of remediation costs pursuant to sections 36 and 37 of P.L.1997, c.278 (C.58:10B-28 and 58:10B-29). In estimating the amount of State taxes that are anticipated to be derived from a redevelopment project, the Director of the Division of Taxation would only consider tax revenues generated subsequent to the date of the

redevelopment agreement from a phase of the redevelopment project that has not generated tax revenues prior to January 1, 2006.

The bill also requires that in order to be eligible for the reimbursement of remediation costs, the developer must have entered into a memorandum of agreement or other oversight document with the Commissioner of Environmental Protection for the remediation of a contaminated site located on the site of the redevelopment project and the developer must be in compliance with the memorandum of agreement or oversight document.

The bill provides that a no further action letter need not be obtained by the developer for groundwater remediation beneath the subject real property prior to reimbursement of the remediation costs, provided that the developer has completed any capital construction or infrastructure required for the groundwater remediation on the site.

**FISCAL IMPACT:**

The amount of State revenue redirected to a developer, which is the State cost of the bill, depends on the terms of the redevelopment agreements between developers and the State. These agreements are anticipated to be highly project-specific, and no estimate can be made of the State revenue impact until one is actually entered.

[Corrected Copy]

**LEGISLATIVE FISCAL ESTIMATE**  
**ASSEMBLY COMMITTEE SUBSTITUTE FOR**  
**ASSEMBLY, No. 4383**  
**STATE OF NEW JERSEY**  
**211th LEGISLATURE**

DATED: JANUARY 10, 2006

**SUMMARY**

**Synopsis:** Authorizes redevelopment agreements for reimbursement of remediation costs for projects that have already begun.

**Type of Impact:** Reduction of sales tax revenue to the General Fund.

**Agencies Affected:** Departments of the Treasury and Environmental Protection.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Revenue Decrease (Loss)</b>	Indeterminate - See Comments Below		

- ! The committee substitute amends P.L.1997, c.278 (C.58:10B-26 et seq.) to authorize the State and a developer to enter into a redevelopment reimbursement agreement for a project that was commenced prior to the effective date of that act.
- ! "P.L.1997, c.278, the "Brownfield and Contaminated Site Remediation Act," provides that the State may reimburse a developer for 75 percent of remediation costs of a brownfield property; such costs would be paid from potential State sales tax revenues generated from the property after it is developed.
- ! The Office of Legislative Services estimates that the committee substitute's expansion of reimbursement authority would result in incurred State expenditures.

**BILL DESCRIPTION**

Assembly Committee Substitute for Assembly Bill No. 4383 of 2005 would authorize the State and a developer to enter into a redevelopment agreement for a project that was commenced prior to the effective date of P.L.1997, c.278 (C.58:10B-26 et seq.). The committee

substitute would thereby allow the State to reimburse a developer for 75 percent of remediation costs incurred subsequent to entering into the redevelopment agreement, provided that certain conditions are met as set forth therein. In estimating the amount of State taxes that are anticipated to be derived from a redevelopment project, the Director of the Division of Taxation would only consider tax revenues generated subsequent to the date of the redevelopment agreement from a phase of the redevelopment project that has not generated tax revenues prior to January 1, 2006.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS estimates that the committee substitute would expand reimbursement authority pursuant to P.L.1997, c.278. The OLS, however, cannot estimate at this time the amount of such expenditure due to the lack of pertinent data on this subject.

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

Analyst: *Richard M. Handelman*  
*Senior Fiscal Analyst*

Approved: *David J. Rosen*  
*Legislative Budget and Finance Officer*

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