STATEMENT TO

[First Reprint]
SENATE, No. 1323

with Assembly Floor Amendments
(Proposed by Assemblywoman PINTOR MARIN)

ADOPTED: DECEMBER 19, 2024

These floor amendments make the bill identical to Assembly Bill No. 2076 (3R).

Specifically, the amendments remove "an Endorsed Plan" from the list of areas that may qualify as an "incentive area" under the bill. The bill would have added this term to the list of areas in the definition of "incentive area." The amendments also remove the definitions of "mixed-use project," "stranded asset," and "targeted industry" that the bill would have added to current law. Additionally, the amendments provide that the term "commercial project" also includes any industrial space that is predominantly used for warehouse distribution or fulfillment centers if the eligible project cost includes at least $10,000,000 in environmental remediation costs.

The amendments reduce the maximum eligibility period for all redevelopment projects to 10 years, as specified in an incentive award agreement, provided that a developer may elect a period not to exceed five years for a project in a government-restricted municipality or for a special mission non-profit project. The amendments also allow the authority to approve, in its discretion, an eligibility period that is shorter than the applicable maximum period, rather than require the authority to reduce the eligibility period under certain circumstances, as previously provided in the bill.

The amendments expand the definition of the term "government-restricted municipality" to include any municipality that: (1) has a population greater than 50,000 and less than 60,000 according to the latest federal decennial census, is designated as the county seat of a county of the second class with a population greater than 800,000 according to the latest federal decennial census, and has an MRI distress score of 62.1; (2) has a population greater than 70,000 and less than 100,000 according to the latest federal decennial census, is designated as the county seat of a county of the second class with a population greater than 515,000 and less than 525,000 according to the latest federal decennial census, and has an MRI distress score of 100; or (3) contains the intersection of Interstate 280 and the Garden State Parkway, and corresponding land areas occupied by such highways under the ownership or control of the federal government of the United States or of this State within its municipal boundary, and has an MRI distress score of 55.5. The amendments also add a definition for "MRI distress score."

The amendments provide that for a development project located in a government-restricted municipality, "eligible project cost" also includes land costs in an amount up to 20 percent of the eligible project cost. Previously, the bill would have allowed various other costs to be included for these projects. The amendments also clarify references to "project cost," "eligible project cost," and "total project cost" throughout the bill.

The amendments change the definition of a "special mission non-profit project" to require the inclusion of up to 100 units of 100 percent supportive housing units for tenants requiring special needs or social services, which social services may include licensed social workers, and no more than 25,000 square feet of commercial space within the project for the provision of on-site social service programs that require a license from the Department of Children and Families as a licensed child care center. Previously, the bill would have required these types of projects to include 100 units of 100 percent affordable housing and would have limited commercial space to 10,000 square feet within the project. In addition, the amendments exempt special mission non-profit projects from the net benefit test requirement, affordable housing requirements, and the requirement to provide a market study as part of an application to the authority and provide that a special mission non-profit project is not required to be located in an incentive area in order to qualify for an incentive award.

The amendments remove an exception from bedroom distribution requirements, which the bill would have provided with respect to affordability controls on residential units constructed for occupancy by low- and moderate-income households under the program.

The amendments remove certain provisions of the bill related to the requirement to pay prevailing wage for certain construction workers. The amendments also clarify that the residential tenants or residential subtenants of a redevelopment project are not subject to the prevailing wage requirements applied to commercial tenants, commercial subtenants, or other commercial occupants who hold certain leasehold interests or other occupancy rights in a redevelopment project.

The amendments clarify that the average occupancy rate requirements apply beginning on the fourth year of the eligibility period, rather than beginning after the third year following the date of issuance of a final certificate of occupancy for a commercial project.

The amendments permit a developer to sell one or more buildings during the eligibility period, subject to such rules and regulations as may be adopted by the authority, rather than subject to additional provisions previously included in the bill.

The amendments prohibit the authority from resizing or reducing the tax credit at project completion based on the executed financing commitments or the updated projected cash flow, except that the authority is required to use the commitments and cash flow to calculate the return on investment required under the program.

The amendments require the authority to evaluate the developer's rate of return on investment and compare that rate of return on investment to the reasonable and appropriate rate of return at the time

of board approval at project certification, in addition to at the end of the seventh year of the eligibility period, as required under current law.

The amendments provide that, for any year during the eligibility period in which the director purchases a tax credit certificate or tax credit transfer pursuant to the provisions of the bill, the developer is required to make a payment to the authority, if the actual rate of return on investment exceeds the reasonable and appropriate rate of return on investment at the time of board approval by more than 10 percent. The required payment is to equal 20 percent of the excess rate of return if the application is submitted to the director before the seventh year of the eligibility period, or 50 percent of the excess rate of return if the application is submitted after the sixth year of the eligibility period.

The amendments require a developer, for any payment amount calculated at project certification, to make equal annual payments, which in aggregate equal the calculated payment amount, with each annual report for the first seven years of the eligibility period. At the end of the seventh year of the eligibility period, the developer is required to pay the authority any additional amount required.

The amendments revise the requirements of law concerning the execution of community benefits agreements. The amendments exempt the developers of a special mission non-profit project from this requirement. The amendments also provide that the county or municipality in which a development project is located is required to hold at least one previously advertised public hearing at which testimony is taken from residents, community groups, and other stakeholders that are required to have an opportunity to be heard concerning the needs of the community that a community benefits agreement should address. Under current law, these public hearings are not required to have been previously advertised. Furthermore, the amendments require the inclusion of the minutes of the meeting in the resolution of the governing body of the municipality or county adopting the community benefits agreement. The amendments also require the developer and the municipality or county to submit the executed community benefits agreement, redevelopment agreement, or approved resolution to the authority within the same time as all other conditions subsequent required in the approval letter. Lastly, the amendments restore certain requirements of existing law concerning the certification of an approval letter by a municipality, which requirements would have changed under the bill.

The amendments remove the allowance for enhancements to certain developers' total tax credit awards based on a project meeting certain conditions.

The amendments remove a provision of the bill that would have limited the total tax credits awarded for certain redevelopment projects, other than those located in government-restricted municipalities, to 90 percent of the project costs for projects receiving federal low-income housing tax credits or 80 percent of the project costs for all other projects.

The amendments provide that a mixed-use residential project containing fewer than 700 new residential units is required to contain the following elements to qualify as a transformative project: (1) the

construction of 30,000 square feet or more of commercial space, which commercial space may include retail space; and (2) certain minimum amounts of new residential units, based on the location of the project.

The amendments remove a provision of the bill that would have revised current law concerning the applicability of terms and conditions during the entire transformative project until the end of the eligibility period for each completed phase.

The amendments remove the provisions of the bill that would have established the "Redevelopment Project Bridge Financing Program."

The amendments remove provisions that would have limited the fees that may be charged by the authority to the coverage of certain actual direct costs under the Aspire Program. The amendments also remove a requirement for any fees charged by the authority under the program to be proportional to the tax credit amount awarded for a redevelopment project.

The amendments provide that the authority may not require a developer to include a permanent certificate of occupancy in the first annual report submitted during the eligibility period. The amendments require the developer to include the certificate in the next annual report after it is received.

The amendments extend the period of time, from 90 days to 120 days after preliminarily determining that a developer's annual report is complete, in which the authority is required, subject to forfeiture, reduction, or other action for failure to comply with a program requirement, to either approve the annual report and notify the director to issue the tax credit certificate or request more information from the developer to finalize approval. The amendments also provide that the report is to be deemed approved if no action is taken within 120 days of the submission, rather than 90 days as previously provided in the bill.

The amendments remove provisions of that bill that would have amended current law to exclude gains from the transfer of tax credits issued pursuant to the "New Jersey Economic Recovery Act of 2020" from taxable income under the New Jersey Corporate Business Tax and New Jersey Gross Income Tax.

The amendments specify that the holder of a tax credit certificate issued under the Aspire Program may apply the credit in the tax period for which it was issued, in the tax period in which it was issued, or in any tax period during the eligibility period, but not in any successive tax period after the credit was issued.

The amendments clarify that the holder of a tax credit certificate may transfer all or part of the tax credit amount on or after the date of issuance of the tax credit transfer certificate, for use by the transferee in the tax period for which it was issued, in the tax period in which it was issued, or in any of the next three successive tax periods. The amendments also limit the tax periods in which the transferee may first use the credit to include the tax period in which it was issued, or any of the next three succeeding tax periods, rather than any successive tax period.

The amendments revise the provisions of the bill concerning the surrender of unused tax credits under the Aspire Program with an

authorization for the director to purchase such credits for an amount equal to 85 percent of the credit amount, provided that the issuance date of the credits occurred at least one year prior to the date of application to the director, and further provided that, if the application to the director is submitted after the sixth year of the eligibility period, the amount in excess of the reasonable and appropriate rate of return on investment that the developer is required to is increased to 50 percent.

The amendments authorize the director to purchase unused tax credits awarded under the "Cultural Arts Incentives Program Act" for an amount equal to 85 percent of the credit amount, provided that the issuance date of the credits occurred at least one year prior to the date of application to the director.

The amendments provide that any project approved by the authority after the effective date of P.L.2020, c.156 (i.e., January 7, 2021) are subject to the following provisions of the bill: (1) the average occupancy rate requirements of commercial projects; (2) any lower fees promulgated by the authority on or after this bill's effective date, except that such lower fees do not apply to any fees already paid to the authority; (3) certain requirements concerning the execution of community benefits agreements; (4) certain requirements concerning the authority's review of annual reports submitted by developers; (5) certain requirements related to the entrance and review of incentive award agreements; and (6) any other terms and conditions that the authority determines will make the administration of the program consistent with the provisions of the program, as amended and supplemented this bill, provided that terms and conditions may not have a materially adverse impact on a project approved before the enactment of this bill.

The amendments prohibit the proration of Aspire Program tax credits.

The amendments also make technical corrections to the bill, including updating the title and synopsis to reflect changes to the bill.