P.L. 2019, CHAPTER 144, ***approved June 30, 2019***
Senate, No. 3599

AN ACT concerning the neighborhood revitalization tax credit program and amending P.L.2001, c.415.

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

1. Section 2 of P.L.2001, c.415 (C.52:27D-491) is amended to read as follows:

2. As used in **[**this act**]** <u>P.L.2001, c.415 (C.52:27D-490 et seq.)</u>:

"Assistance" means the contribution of moneys to aid in the provision of neighborhood preservation and revitalization services or community services.

"Business entity" means any business firm or individual which is authorized to conduct or operate a trade or business in the State and is subject to taxes on business related income.

"Certificate for neighborhood revitalization State tax credits" means the certificate in the form prescribed by the Treasurer and issued by the commissioner to a business entity that specifies the dollar amount of neighborhood preservation and revitalization State tax credits that business entity may take as an annual credit against certain State taxes pursuant to P.L.2001, c.415 (C.52:27D-490 et seq.).

"Commissioner" means the Commissioner of Community Affairs.

"Department" means the Department of Community Affairs.

"Eligible neighborhood" means: a. a contiguous area located in one or more municipalities that, at the time of the application to the department for approval of a neighborhood preservation and revitalization plan, **[**are either eligible to receive aid under the "Special Municipal Aid Act," P.L.1987, c.75 (C.52:27D-118.24 et seq.) or coextensive with a school district which qualified prior to the effective date of P.L.2007, c.260 (C.18A:7F-43 et al.) for designation as an "Abbott district" pursuant to the "Comprehensive Educational Improvement and Financing Act of 1996," P.L.1996, c.138 (C.18A:7F-1 et al.)**]** <u>shall be designated by the commissioner based on factors including, but not limited to, population change, non-seasonal housing vacancy rates, total household and child recipients of the Temporary Assistance for Needy Families or a successor program, poverty levels, unemployment rates, high school completion rates, median household income, property tax rates, and equalized property</u>

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 <u>thus</u> is new matter.

<u>valuation per capita</u>; or b. an area that (1) is adjacent to a neighborhood that fulfills the requirements of subsection a. of this definition, and has received approval of a neighborhood preservation and revitalization plan pursuant to section 5 of P.L.2001, c.415 (C.52:27D-494); (2) increases the area of the adjacent eligible neighborhood by no more than 25 percent; and (3) shares similar characteristics as determined by the commissioner or the commissioner's designee.

"Housing and economic development activities" means those activities carried out in furtherance of a neighborhood preservation and revitalization plan in an eligible neighborhood approved pursuant to P.L.2001, c.415 (C.52:27D-490 et seq.), to improve the housing and economic conditions of the neighborhood; and shall include, without limitation, measures to foster the rehabilitation and construction of housing affordable to low and moderate income households within the neighborhood, including planning, design, rehabilitation, construction, and management of low and moderate income housing, home buyer counseling, and related activities needed to effectuate the rehabilitation and construction of housing affordable to low and moderate income households; measures to increase business activity within the neighborhood, including the rehabilitation and construction of commercial facilities and the provision of assistance to small business entities; and measures to increase the income and labor force participation of neighborhood residents, including provision of education, training, child care and transportation assistance to enable low income neighborhood residents to obtain or retain employment.

"Low income household" means a household whose gross household income is less than 50 percent of the median gross household income for the region in which the neighborhood is located for households of similar size as determined by the department.

"Moderate income household" means a household whose gross household income is greater than or equal to 50 percent but less than 80 percent of the median gross household income of the region in which the neighborhood is located for households of similar size as determined by the department.

"Neighborhood preservation and revitalization activities" means housing and economic development activities and other neighborhood preservation and revitalization activities.

"Neighborhood Revitalization Plan" means a plan for the preservation or revitalization of an eligible neighborhood.

"Nonprofit organization" means a private nonprofit corporation that has been determined by the Internal Revenue Service of the United States Department of the Treasury to be exempt from income taxation under 26 U.S.C.s.501(c)(3).

"Other Neighborhood Revitalization Activities" means those activities, other than housing and economic development activities, carried out in furtherance of a State-approved neighborhood preservation and revitalization plan in a qualified low and moderate income neighborhood, and may include, without limitation, improvements to infrastructure, street scape, public open space, and transportation systems; provision of social and community services, health care, crime prevention, recreation activities, community and environmental health services; and community outreach and organizing activities.

"Qualified nonprofit organization" means a nonprofit organization that has demonstrated a commitment to the neighborhood for which it is submitting a plan or project, as reflected in its past activities or proposed activities in a preservation and revitalization plan.

"Qualified project" means one or more housing and economic development activities and which may also include one or more other neighborhood revitalization activities to be carried out in accordance with a neighborhood revitalization plan as approved by the commissioner with funds provided by a business entity eligible to receive a certificate for neighborhood revitalization State tax credits.

"Similar characteristics" means comparable socioeconomic qualities as determined by the commissioner or his designee, using the smallest Census unit for which data are available.

(cf: P.L.2009, c.120, s.1)

2. Section 3 of P.L.2001, c.415 (C.52:27D-492) is amended to read as follows:

3. A business entity shall be eligible for a certificate for neighborhood revitalization State tax credits if it has provided funding for a qualified project that has been approved in accordance with sections 4 and 5 of P.L.2001, c.415 (C.52:27D-493 and C.52:27D-494).

a. Credits may be granted in an amount up to 100 percent of the approved assistance provided to a nonprofit organization to implement a qualified neighborhood preservation and revitalization project.

b. The credit may be applied by the business entity receiving the certificate as credit against tax imposed on business related income including, but not limited to, business income subject to the provisions of the Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et al.), "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., 【"The Savings Institution Tax Act," P.L.1973, c.31 (C.54:10D-1 et seq.),】 the tax imposed on marine insurance companies pursuant to R.S.54:16-1 et seq., the tax imposed on insurers generally, pursuant to P.L.1945, c.132 (C.54:18A-1 et seq.), the sewer and water utility excise tax imposed pursuant to section 6 of P.L.1940, c.5 (C.54:30A-54) and the petroleum products gross receipts tax imposed pursuant to section 3 of P.L.1990, c.42 (C.54:15B-3).

For a taxpayer applying credit to liability due pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., the credit allowed pursuant to this section shall only be applied to the amount of gross income tax liability for the taxable year, which as a percentage of gross income tax liability, is equal to the percentage of the taxpayer's gross income that is attributable to the taxpayer's business entity through which the taxpayer provided the funding for the qualified project. For purposes of determining the amount of gross income tax liability to which a credit allowed pursuant to this section may be applied, gross income shall be calculated without the application of exclusions or deductions.

c. The credit allowed to a business entity under this section may not exceed for any taxable year $1,000,000 or the total amount of tax otherwise payable by the business entity for the taxable year and, in addition, shall not exceed limitations placed on the amounts of credits or carryforward credits allowed, if any, under the relevant statute as enumerated in subsection b. of this section concerning the tax for which a credit is being claimed.

d. Credit shall not be allowed for activities for which the business entity is receiving credit under any other provision against any tax on business related income including, but not limited to, the corporation business tax, New Jersey gross income tax, corporate income tax, insurance premiums tax, petroleum products gross receipts tax, public utilities franchise tax, public utilities gross receipts tax, public utility excise tax, railroad franchise tax, and the saving institution tax.

e. The tax credit shall be awarded only for assistance provided within the same year in which the commissioner issued the certificate, or if the commissioner approved assistance for more than one year, within the year in which payment was scheduled and made. The provisions of this subsection may be waived for good cause shown.

f. The total tax credits certified for all qualified projects proposed in a fiscal year shall not exceed ⟦$10,000,000⟧ <u>$15,000,000</u>.

(cf: P.L.2013, c.61, s.1)

3. Section 5 of P.L.2001, c.415 (C.52:27D-494) is amended to read as follows:

5. a. The department shall determine whether a neighborhood preservation and revitalization plan should be approved. The department shall approve a neighborhood preservation and revitalization plan if it satisfies the following standards:

(1) the plan designates an eligible neighborhood; and

(2) The plan was developed through a process that

(a) gave written notice to the municipality in which the neighborhood is located of its intention to develop a plan and utilized reasonable means to inform residents, property owners, and businesses in the neighborhood of its intention to develop a plan and provided opportunities for them to participate in the development of the plan;

(b) gave written notice to the municipality in which the neighborhood is located of the proposed plan and provided an opportunity for it to comment upon it orally and in writing, complied with all of the requirements of the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) concerning the plan, utilized reasonable means to inform residents, property owners, and businesses in the neighborhood of the proposed plan and provided an opportunity for them to comment upon it orally and in writing; and

(c) involved consultation with nonprofit organizations located within the neighborhood or providing services to residents of the neighborhood;

(3) The plan is not inconsistent with

[(a)] any redevelopment plan adopted pursuant to the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et seq.), and currently being implemented [; or

(b) any neighborhood empowerment plan approved by the State pursuant to section 49 of P.L.1996, c.62 (C.55:19-64)];

(4) The plan sets forth an overall concept of the future of the neighborhood; one or more strategies to foster preservation and revitalization of the neighborhood in accordance with that concept; one or more activities, including housing and economic development activities and other preservation and revitalization activities proposed within the neighborhood to foster preservation and revitalization of the neighborhood in furtherance of those strategies, including a description of funding sources obtained or to be sought for the planned activities and a timetable for the conduct of those activities; and

(5) The plan covers a period of [no less than two and] no more than ten years.

b. A nonprofit organization may, in submitting a proposed plan pursuant to P.L.2001, c.415 (C.52:27D-490 et seq.), adopt a redevelopment plan adopted pursuant to the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et seq.), and currently being implemented [; or a State-approved neighborhood empowerment plan pursuant to section 49 of P.L.1996, c.62 (C.55:19-64)] , as its neighborhood preservation and revitalization plan or a neighborhood preservation and revitalization plan previously approved by the department.

c. A nonprofit organization that has submitted a neighborhood preservation and revitalization plan to the department may seek to amend it at any time. The department shall approve amendments if they comply with the standards set forth in subsection a. of this section.

(cf: P.L.2003, c.59, s.2)

4. Section 7 of P.L.2001, c.415 (C.52:27D-496) is amended to read as follows:

7. a. The commissioner shall determine, in accordance with law and regulation, whether to issue a certificate based upon proposed assistance by a business entity to a nonprofit organization to implement a qualified project.

b. The commissioner shall issue a certificate if the proposed assistance satisfies the following standards:

(1) The assistance is to be used for a qualified neighborhood preservation and revitalization project;

(2) The assistance is not less than $25,000 in each tax year for which credit is sought. Assistance may be approved for the current tax year and up to four additional years in the future. If assistance is approved for years other than the current tax year, the approval shall include a schedule showing the amount of assistance to be provided in each year;

(3) Neither the business entity nor any wholly owned subsidiary has previously failed to provide assistance to a nonprofit organization for which approval was granted. This requirement may be waived by the department upon a showing of good cause; and

(4) The total of all assistance approved on behalf of a nonprofit organization per project does not exceed $1,000,000.

c. Within [60] 30 days from the date of issuance of the certificate, the business entity shall pay the amount specified in the certificate that is due in the current tax year to the department for deposit into the Neighborhood Revitalization Non-lapsing Trust Fund created pursuant to section 5 of P.L.2003, c.59 (C.52:27D-500). In the case of assistance approved for years other than the current tax year, the business entity shall pay the amount specified no later than the anniversary of the date on which the first payment is due. The commissioner may extend the date payment is due for good cause shown, but no extension shall be granted where the business entity did not submit a written request for the extension at least [fifteen] seven days prior to the date payment is due.

d. The commissioner shall issue certificates to business entities applying for certificates and meeting the requirements of this section, up to the maximum amount of tax credits permitted under section 3 of P.L.2001, c.415 (C.52:27D-492), in the following order:

(1) those business entities specifying a project which has been approved by the department and providing assistance which is equal

to the amount requested by the nonprofit organization submitting the project.

(2) those business entities not specifying a particular project, but which are willing to provide assistance for approved projects seeking assistance. The commissioner shall issue each business entity providing assistance with a certificate specifying the project to which the assistance will be provided and shall pool applications by business entities in order to provide the amount of assistance requested by each nonprofit organization submitting each project.

(3) those business entities not specifying a particular project, but which are willing to provide assistance, and for which no project approved by the department is available. The commissioner shall issue the certificate without specifying the project to which the assistance will be provided, and will deposit the amount set forth in the certificate in the Neighborhood Revitalization Non-lapsing Trust Fund created pursuant to section 5 of P.L.2003, c.59 (C.52:27D-500) in accordance with the provisions of this section.

e. In any year that the dollar amount of assistance sought by approved projects shall exceed the amount of assistance available, the department shall allocate any funds in the trust fund for which no project has been specified to provide assistance to such projects. At such time the department will issue the business entity an amended certificate specifying the project for which the assistance is being provided.

f. The department shall use any interest earnings on the funds in the trust fund in any manner that lawfully furthers the purposes of P.L.2001, c.415 (C.52:27D-490 et seq.), including, but not limited to, providing funds to qualified entities to provide training and technical assistance to nonprofit organizations eligible to prepare plans and submit projects under P.L. 2001, c. 415 (C. 52:27D-490 et seq.).

(cf: P.L.2003, c.59, s.3)

5. Section 9 of P.L.2001, c.415 (C.52:27D-498) is amended to read as follows:

9. a. In order to administer the neighborhood preservation and revitalization tax credit program, the department shall establish any necessary forms, procedures or rules to effectuate [this act] <u>P.L.2001, c.415 (C.52:27D-490 et seq.)</u>, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The department shall seek to foster use of the tax credit and to make the tax credit simple to apply for and simple to use.

b. The department shall act as a clearinghouse. It shall maintain lists of qualified projects and of business entities that have expressed a desire to provide assistance to qualified projects. The department shall pool applications from business entities in order to provide assistance to qualified projects as provided in section 7 of P.L.2001, c.415 (C.52:27D-496).

c. The department shall give priority in processing to applications that demonstrate a multi-year commitment by the business entity to implementation of the neighborhood preservation and revitalization plan.

d. The department shall submit to the Governor and Legislature an annual report which shall include at least:

(1) the purpose and effectiveness of the credit;

(2) the benefits of the credit to the State;

(3) any recommendations by the department as to changes in legislation needed to better carry out the purposes of P.L.2001, c.415 (C.52:27D-490 et seq.).

e. For each application by, or on behalf of, a business entity to approve assistance for a project, the department may charge a fee of up to ⟦1.5⟧ <u>five</u> percent of the amount of assistance proposed, or approved, whichever is less, to pay for the administration of this program. The department may require that up to one third of this amount be paid at the time of submission of the application or declaration of intent, and that the balance be taken from the amount deposited into the trust fund upon deposit therein.

(cf: P.L.2003, c.59, s.4)

6. This act shall take effect immediately.

STATEMENT

This bill revises the neighborhood revitalization tax credit program to increase the total amount of tax credits that may be annually awarded, amend the definition of an eligible neighborhood, and provide certain other changes.

The neighborhood revitalization tax credit program provides tax credits to business entities that provide financial assistance to non-profit organizations to support housing and economic development projects in eligible neighborhoods. Under current law, the State may annually allocate a maximum of $10 million in neighborhood revitalization tax credits. The bill increases this amount to $15 million per fiscal year. This revision is intended to allow the State to expend the $15 million in neighborhood revitalization tax credits that were anticipated in the FY2019 budget.

The bill also amends the definition of an “eligible neighborhood” for the purposes of the neighborhood revitalization tax credit program. Provided certain exceptions, an eligible neighborhood is currently required to be located in: (1) a municipality that was previously eligible for “Special Municipal Aid,” or (2) a school district that previously qualified as an “Abbott district.”

The bill instead provides that an eligible neighborhood includes any contiguous area located in one or more municipalities that is designated by the Commissioner of Community Affairs based on factors including, but not limited to: population change, non-seasonal housing vacancy rates, total household and child recipients of the Temporary Assistance for Needy Families or a successor program, poverty levels, unemployment rates, high school completion rates, median household income, property tax rates, and equalized property valuation per capita.

In addition, the bill makes the following revisions to the neighborhood revitalization tax credit program:

(1) reduces the period of time in which a business entity is required to provide program funding from 60 days to 30 days following the receipt of a tax credit certification;

(2) reduces the period of time in which a business entity may request a payment extension from 15 days to seven days prior to the payment due date;

(3) increases the application fee that may be imposed by the Department of Community Affairs to support the administrative costs of the program;

(4) replaces reference to "neighborhood empowerment plans," which are no longer in effect;

(5) removes the requirement that a neighborhood preservation and revitalization plan cover a period of no less than two years; and

(6) removes reference to "The Savings Institution Tax Act," which was repealed in 2002.

Revises neighborhood revitalization tax credit program to increase permitted annual tax credit allocation to $15 million.