

The New Jersey Economic Recovery Act of 2020: An Overview of the Relaunch of the Economic Redevelopment and Growth (ERG) Program

Client Alert

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The New Jersey Economic Recovery Act of 2020 (ERA), a seven-year, \$14 billion package of incentive programs intended to encourage New Jersey job growth, property development and redevelopment, community partnerships, and numerous other economic development initiatives, was signed into law by Governor Phil Murphy on January 7, 2021.

This Client Alert focuses on the Economic Redevelopment and Growth (ERG) Program. The New Jersey Economic Development Authority (EDA) recently announced that the residential component of the once popular ERG program will be revitalized and relaunched under a provision of the ERA that will enable the EDA to award up to \$50 million in new residential ERG tax credits.

Background

The ERG program was a state incentive program providing annual grants equal to certain incremental taxes generated from a development project, allowing the developers to address financing gaps for proposed development projects. The program was originally established as part of the New Jersey Economic Stimulus Act of 2009 but expired in July 2019 after Governor Murphy and state lawmakers failed to reach an agreement on either a short-term extension or replacement program.

The New ERG - Eligibility & Application

The revitalized phase of the ERG program will be administered based upon the pre-existing ERG regulations and statutes, as amended by the ERA, which added prevailing wage and minimum wage requirements. Under the ERA, residential ERG projects can receive tax credits of up to 30% of total eligible project costs. Projects in five cities - Atlantic City, Camden, Paterson, Passaic, and Trenton - can receive tax credits of up to 40% of eligible project costs.

Eligible residential projects include redevelopment projects that are predominantly residential, multi-family residential units for purchase or lease, or dormitory units for purchase or lease. Under the pre-existing ERG

residential eligibility requirements, which are still applicable, residential projects must:

- be located in a qualifying incentive area and have project costs totaling \$5 million, \$10 million or \$17.5 million, depending on location;
- not have commenced any construction at the site of a proposed redevelopment project prior to submitting an application, except when the EDA determines that the project would not be completed otherwise, or in the event that the project is to be undertaken in phases;
- demonstrate that a project financing gap exists; and
- reserve at least 20% of units constructed for occupancy by low or moderate income households with affordability controls as required under the rules of the Council on Affordable Housing, unless the municipality in which the property is located has received substantive certification from the council and such a reservation is not required under the approved affordable housing plan, or the municipality has been given a judgment of repose or a judgment of compliance by the court, and such a reservation is not required under the approved affordable housing plan.

The EDA will accept applications based upon the new ERA funding starting June 1, 2021 and will consider any applications submitted prior to December 31, 2021.

The EDA anticipates issuing guidance with further information about the ERG program application process in early April. We will keep you updated on this forthcoming guidance and other developments related to the New Jersey Economic Recovery Act of 2020.

Please contact the author of this Alert, **Hunain Sarwar** hsarwar@greenbaumlaw.com | 973.577.1782 with questions concerning the incentives outlined in this overview or to discuss your specific business circumstances. Mr. Sarwar is a member of the firm's **Financial Incentives & Economic Development Practice Group**.

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