

NJBA-Backed Legislation Could Facilitate Post-Sandy Rebuilding Efforts By Amending Existing NJ Redevelopment Law (S2447)

It is no understatement to say that Superstorm Sandy has been the most catastrophic natural disaster to impact New Jersey in our lifetimes. Seven months have passed since the storm wreaked unprecedented havoc across the state. Many communities and individuals continue to grapple with profound damage and extreme financial hardships, having been warned that property and flood insurance, as well as the state's share of approximately \$60 billion in federal funding, may still not provide adequate resources to fund the rebuilding that must take place.

At the local municipality level, it should be noted that long-term tax abatements and Redevelopment Area Bonds (RABs) may be helpful tools to address these financing gaps, and on a long-term basis may help assure the re-establishment of the real property ratable base in impacted municipalities. S2447, a proposed piece of legislation that has received bi-partisan support and is moving through the Legislature (with vigorous support from the New Jersey Builders Association) may facilitate these efforts.

The proposed bill creates two tracks to achieve redevelopment area status. In the first track, the municipality decides at the beginning of the process that eminent domain will not be authorized or used. The second track parallels the existing structure, where eminent domain is preserved for use by the municipality.

This dual-track approach eliminates the controversy of eminent domain, which has become a highly contentious element of redevelopment. By allowing a municipality to proceed without invoking the specter of condemnation, it provides affected parties with the comfort of knowing that no property will be taken to effectuate much-needed redevelopment projects. Those who have suffered losses that are in some cases beyond comprehension are spared further anguish.

The value of S2447 is that for an area declared "in need of redevelopment," the proposed bill provides the municipality with tools to be utilized as effective gap financing measures, in the form of Payments In Lieu Of Taxes (PILOT payments), as well as the ability to issue RABs. Municipalities, through these tools, may be able to facilitate rebuilding in those areas where it is necessitated by storm-related damages.

RABs could be issued by municipalities, secured by the real property, to make loans available to cover the cost of elevating homes to the new FEMA flood hazard levels, a significant option in circumstances where funding might not otherwise be available. This could, in turn, allow those property owners to avoid drastic increases in flood insurance costs by alternatively meeting new code requirements. RABs could also be utilized to fund loans for enhancing other building elements in an effort to better secure homes from future wind and water damage. PILOTs or RABs might also provide funding for broader based programs such as sand dunes, erosion control or seawalls.

Extreme circumstances call for decisive action and creative solutions. The wounds inflicted by Superstorm Sandy are historic in nature, and recovery from the storm will continue to be an expensive and arduous process. From our perspective, anything that can facilitate rebuilding and bring a measure of financial relief into the mix is of great value. For that reason, we applaud the NJBA's support of S2447 and urge the state's legislators to embrace the proposed bill without undue delay.

Disclaimer: This article is for general information only and is not legal advice or counsel.



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