

Financial Incentives & Economic Development

Economic development initiatives and financial incentives often go hand in hand, as these tools are a critical mechanism for bridging funding gaps and managing both short and long-term project costs. In order to maximize opportunities and minimize risk by avoiding pitfalls and complying with applicable laws, regulations and timelines, it is crucial to seek guidance from experienced professional advisors when considering the numerous incentives and financial assistance programs available at the municipal, state and federal levels.

The attorneys in our Financial Incentives & Economic Development Practice Group have a recognized track record of keeping projects moving forward by using our broad knowledge and toolkit of resources to solve problems and tackle complex challenges related to project finance. Our efforts have successfully facilitated business growth and real estate development throughout New Jersey, providing the firm's clients with a competitive edge in this unique market environment while doing our part to fortify New Jersey's capacity to retain and expand its vibrant business community.

The firm's experience encompasses a wide range of real estate and community development initiatives, including those focused on urban revitalization, downtown redevelopment, transit-oriented communities, renewable energy initiatives, brownfields and environmental remediation, historic preservation, special improvement districts, and affordable housing developments.

The scope of our team's involvement is comprehensive. We deliver strategic support from initial incentive eligibility counseling through navigating the intricacies of the application process, on compliance matters and reporting requirements, through zealous advocacy in negotiations, to the creative structuring of transactions. We provide guidance on an expansive range of legal issues, from green building standards to prevailing wage issues to tax-related support.

Clients in this area of our practice have included for-profit and non-profit businesses, real estate developers and redevelopers, property owners, entrepreneurs, investors, lenders, community development entities, and

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the end-users of industrial, commercial and residential developments. We have represented the interests of New Jersey-based colleges and universities, healthcare entities, manufacturers, and clients operating in the hospitality, transportation and sports industries, among many others. We have also been retained as local counsel by out-of-state national and international clients engaged in New Jersey transactions who are seeking to grow their footprint in the state.

The Financial Incentives & Economic Development Practice Group assists clients in achieving their business objectives by targeting and leveraging all available avenues of financial assistance. This includes governmental partnerships, subsidized loans and grants, bond financing, income tax credits, property tax abatements and tax exemption programs. We take a multi-disciplinary approach to anticipating and addressing our clients' needs and goals, drawing upon the experience of colleagues with relevant skills within numerous areas of the firm's practice, including our Real Estate, Redevelopment & Land Use, Environmental, Corporate and Tax, Trusts & Estates Departments. Our work is further bolstered by our practical expertise in dealing with New Jersey governmental agencies such as the Economic Development Authority (EDA), the Department of Environmental Protection (NJDEP), the Department of Community Affairs (DCA), and the Department of Taxation, and through our working relationships with numerous elected officials throughout the state.

We provide counseling and representation related to a broad array of governmental programs, a number of which were created or modified by the transformative \$14 billion New Jersey Economic Recovery Act of 2020, signed into law in January 2021:

New Jersey

- New Jersey Aspire Program – provides tax credits to redevelopers to cover certain project financing gap costs.
- New Jersey Emerge Program – provides tax credits to encourage economic development, job creation and the retention of significant numbers of jobs in imminent danger of leaving New Jersey.
- Historic Property Reinvestment Program – provides tax credits for a portion of the cost of rehabilitating historic properties.
- Brownfields Redevelopment Incentive Program – provides tax credits to reimburse redevelopers for remediation costs related to projects located on brownfield sites.
- New Jersey Community-Anchored Development Program – provides tax credits to “anchor institutions” to incentivize the expansion of targeted industries in certain areas of New Jersey. Anchor institutions include those in education, healthcare, culture, community development and economic development.
- Food Desert Relief Program – provides tax credits, grants, and/or loans to businesses that establish and retain new supermarkets/grocery stores in areas determined to be a “food desert community.”
- New Jersey Film & Digital Media Tax Credit Program – provides a credit against the corporation business tax and the gross income tax for certain expenses incurred for the production of certain films

and digital media content in New Jersey.

- New Jersey Innovation Evergreen Act – allows qualified venture firms to purchase tax credits for cash at an auction, which may then be used to invest in innovation programs designed to advance the competitiveness of the state.
- Main Street Recovery Finance Program – provides grants, loans, and loan guarantees to small businesses.
- New Jersey Ignite Program – provides grants for start-up rents to collaborative workspaces to support the early months of an early-stage innovation business.
- New Jersey Angel Investor Tax Credit Program – provides credits against corporation business or gross income taxes for qualified investments in a NJ emerging technology business, with a new classification for minority and women-owned businesses.
- Personal Protective Equipment Manufacturing Tax Credit Program – provides tax credits to qualified facilities manufacturing personal protective equipment (PPE).
- Economic Recovery and Growth Program – This existing program was expanded with an additional \$220 million in tax credits.
- Offshore Wind Tax Credit Program – incentivizes developers of offshore wind facilities through Offshore Wind Renewable Energy Certificates (ORECs).
- Entrepreneur Zones – creates a “Working Group” within the NJ EDA to investigate the establishment of entrepreneur zones throughout New Jersey, which are areas in which the state will provide tax incentives, regulation relief and financial support to qualified local entrepreneurs.
- Technology Business Tax Certificate Transfer (NOL) Program – enables technology and life science companies to sell their New Jersey net operating losses and research and development (R&D) tax credits for cash.
- The Long-Term Tax Exemption Law – incentivizes property owners and redevelopers by providing a tax exemption of up to thirty years in exchange for annual service charges or Payment in Lieu of Taxes (PILOT) agreements.
- The 5-Year Tax Abatement & Exemption Law – incentivizes property owners and redevelopers making improvements to a property by providing a tax abatement and/or exemption for a period of five years.
- Redevelopment Area Bond (RAB) Financing – provides financing for public improvement components of a redevelopment project, often with the added benefit of reducing minimum annual service charge percentage in a PILOT agreement.

Federal

- Opportunity Zone Program – provides capital gain tax incentives to qualified private investments in an Opportunity Zone, an economically-distressed community.

Practices (Cont.)

- Historic Tax Credits – provides federal tax credits for the rehabilitation of historic, income-producing buildings.
- New Markets Tax Credits (NMTC) – provides federal tax credits for investment in certain low-income communities.
- Low Income Housing Tax Credit Program (LIHTC) – provides federal and state tax credits to encourage the development of low-income housing.

Public Private Partnerships

The Financial Incentives & Economic Development Practice Group provides counsel to private developers, investors and governmental entities including municipalities, counties, school districts and educational institutions in the formation of public-private partnerships (PPP or P3). These partnerships foster the economic feasibility of many projects through both the availability of bond financing and the eligibility to structure projects in alternative ways under New Jersey's Public Private Partnership (PPP) laws and regulations. Our work here includes the preparation and negotiation of PPP agreements, applications to the state, project labor agreements, and public-private lease and leaseback agreements, as well as overall counseling related to the negotiation of such partnerships.