

[CORRECTED COPY]
CHAPTER 360

AN ACT concerning the remediation of contaminated sites, and amending and supplementing P.L.1997, c.278.

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

C.58:10B-27.2 Entry of State into redevelopment agreement, certain circumstances.

1. a. The provisions of any other law, or rule or regulation adopted pursuant thereto, to the contrary notwithstanding, the State may enter into a redevelopment agreement pursuant to sections 35 and 36 of P.L.1997, c. 278 (C.58:10B-27 and 58:10B-28) for a redevelopment project that was commenced prior to the effective date of sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through 58:10B-31) in which the State may agree to reimburse a developer for 75% of remediation costs incurred subsequent to entering into the redevelopment agreement, provided that the Chief Executive Officer and Secretary of the Commerce and Economic Growth Commission, in consultation with the State Treasurer, finds that:

(1) the remediation that has not yet been performed on the subject real property is necessary to ensure that the public health and safety and the environment are protected; and

(2) (a) the cost or extent of remediation was unanticipated at the time the redevelopment project was commenced; (b) changes to the rules and regulations governing site remediation were adopted after the redevelopment project was commenced; (c) principles of fairness and consistency indicate that the reimbursement of remediation costs provided by P.L.1997, c.278 should be made available to the developer who agreed to remediate and redevelop a brownfield prior to the enactment of P.L.1997, c.278; (d) an estimate of the cost of the remediation to be performed subsequent to entry into the redevelopment agreement as approved by the Department of Environmental Protection exceeds \$10 million; (e) the subject real property is situated within a Planning Area 1 as designated in the State Development and Redevelopment Plan; and (f) a phase of the redevelopment project has not been commenced.

b. A developer that enters into a redevelopment agreement pursuant to this section shall be eligible for reimbursement of remediation costs pursuant to sections 36 and 37 of P.L.1997, c.278 (C.58:10B-28 and 58:10B-29), provided that:

(1) in estimating the amount of State taxes that are anticipated to be derived from a redevelopment project the director shall only consider tax revenues generated subsequent to the date of the redevelopment agreement from a phase of the redevelopment project that has not generated tax revenues prior to January 1, 2006; and

(2) a developer has entered into a memorandum of agreement or other oversight document with the Commissioner of Environmental Protection for the remediation of a contaminated site located on the site of the redevelopment project and the developer is in compliance with the memorandum of agreement or oversight document.

c. Nothing in this section shall require that a no further action letter be obtained by a developer for remediation of groundwater beneath the subject real property prior to reimbursement of the remediation costs, provided that the developer has completed any capital construction or infrastructure required for the remediation of groundwater on the site.

2. Section 39 of P.L.1997, c.278 (C.58:10B-31) is amended to read as follows:

C.58:10B-31 Reimbursement of remediation costs.

39. a. The State Treasurer shall reimburse the developer the amount of the remediation costs agreed upon in the redevelopment agreement, and as provided in sections 35 and 36 of P.L.1997, c.278 (C.58:10B-27 and C.58:10B-28) upon issuance of the certification by the director pursuant to section 36 of P.L.1997, c.278 (C.58:10B-28). The developer shall be entitled to periodic payments from the fund in an amount, in the frequency, and over the time period as provided in the redevelopment agreement. Notwithstanding any other provision of sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through C.58:10B-31), the State Treasurer may not reimburse the developer any amount of the remediation costs from the fund until the State Treasurer is satisfied that the anticipated tax revenues from the redevelopment project have been realized by the State in an amount sufficient to pay for the cost of the reimbursements.

b. A developer shall submit to the director updated remediation costs actually incurred by

the developer for the remediation of the contaminated property located at the site of the redevelopment project as provided in the redevelopment agreement. The reimbursement authorized pursuant to this section shall continue until such time as the aggregate dollar amount of the agreed upon reimbursement. To remain entitled to the reimbursement authorized pursuant to this section, the developer shall perform and complete all remediation activities as may be required pursuant to the memorandum of agreement or other oversight agreement entered into with the Commissioner of Environmental Protection pursuant to section 37 of P.L.1997, c.278 (C.58:10B-29). The Department of Environmental Protection may review the remediation costs incurred by the developer to determine if they are reasonable.

Reimbursable remediation costs shall include costs that are incurred in preparing the area of land whereon the contaminated site is located for remediation and may include costs of dynamic compaction of soil necessary for the remediation.

3. This act shall take effect immediately.

Approved January 12, 2006.