

CHAPTER 30

AN ACT authorizing the creation of a sports and entertainment district, the imposition of additional taxes within that district to promote the development of certain sports and entertainment facilities, and supplementing Title 34 of the Revised Statutes.

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

C.34:1B-190 Short title.

1. This act shall be known and may be cited as the "Sports and Entertainment District Urban Revitalization Act."

C.34:1B-191 Findings, declarations relative to sports and entertainment districts.

2. The Legislature finds and declares that:

a. The blighted condition of the land and buildings in certain areas of the State discourages serious private investment, therein, a situation which is often exacerbated by the onerous tax rates which beset those municipalities.

b. The development and expansion of significant commercial and entertainment establishments can generate tangible long-term benefits for the State, its local political subdivisions, its businesses and its citizens. These benefits include increases in State sales and use tax revenues, employment and local property tax revenues, and new employment opportunities.

c. It is in the public interest to provide the means to finance certain costs of development and redevelopment in order to promote private investment, to create jobs, stimulate commercial, recreational, cultural, entertainment, civic and educational enterprises, and otherwise create favorable conditions for increases in economic activity, property values and employment opportunities.

d. The potential for substantial gains in new tax revenues, job creation, economic activity, increased recreational opportunities, and the enhancement of the quality of life in the State justifies the use of public financing to encourage private investment and to promote development and redevelopment projects that would be spurred by such State assistance.

e. It is appropriate to authorize the issuance of bonds and other notes and obligations and to provide the basis upon which to secure contract bonds, notes or other financial obligations issued in accordance with P.L.2007, c.30 (C.34:1B-190 et seq.) with respect to financing or refinancing the project costs authorized in P.L.2007, c.30 (C.34:1B-190 et seq.).

C.34:1B-192 Definitions relative to sports and entertainment districts

3. As used in this act:

"Authority" means the New Jersey Economic Development Authority established pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.).

"Developer" means any person or entity, whether public or private, including a State entity, that proposes to undertake a project pursuant to a development agreement.

"District" or "sports and entertainment district" means a geographic area which includes a project as set forth in the ordinance pursuant to section 4 of P.L.2007, c.30 (C.34:1B-193).

"Eligible municipality" means a municipality: (1) in which is located part of an urban enterprise zone that has been designated pursuant to P.L.1983, c.303 (C.52:27H-60 et seq.) or any supplement thereto; and (2) which has a population greater than 25,000 and less than 29,000 according to the latest federal decennial census in a county of the third class with a population density greater than 295 and less than 304 persons per square mile according to the latest federal decennial census.

"Infrastructure improvements" means the construction or rehabilitation of any street, highway, utility, transportation or parking facilities, or other similar improvements; the acquisition of any interest in land as necessary or convenient for the acquisition of any right-of-way or other easement for the purpose of constructing infrastructure improvements; the acquisition, construction or reconstruction of land and site improvements, including demolition, clearance, removal, construction, reconstruction, fill, environmental enhancement or abatement, or other site preparation for development of a sports and entertainment district.

"Project" means a sports and entertainment facility and may include infrastructure

improvements that are associated with the sports and entertainment facility.

"Project cost" means the cost of a project, including the financing, acquisition, development, construction, redevelopment, rehabilitation, reconstruction and improvement costs thereof, financing costs and the administrative costs, including any administrative costs of the authority if bonds are issued pursuant to section 16 of P.L.2007, c.30 (C.34:1B-205) and incurred in connection with a sports and entertainment facility which is financed, in whole or in part, by the revenues dedicated by a municipality to a project as authorized pursuant to section 5 of P.L.2007, c.30 (C.34:1B-194).

"Sports and entertainment facility" means any privately or publicly owned or operated facility located in a sports and entertainment district that is used primarily for sports contests, entertainment, or both, such as a theater, stadium, museum, arena, automobile racetrack, or other place where performances, concerts, exhibits, games or contests are held.

"State Treasurer" or "treasurer" means the treasurer of the State of New Jersey.

C.34:1B-193 Establishment of a sports and entertainment district.

4. The governing body of any eligible municipality may, by ordinance, establish a sports and entertainment district in order to encourage and promote the development of a project within the district. A sports and entertainment district shall consist of an area of the municipality designated in a project plan prepared by the developer. The project plan shall be approved by municipal ordinance, duly adopted by the governing body.

The ordinance shall include or incorporate:

- a. a description of the proposed project, the anticipated period of construction, and a description and map of the proposed sports and entertainment district;
- b. an estimate of the amount of tax revenues that are anticipated to be generated annually within the sports and entertainment district for that period of time covered by the project plan and an estimate of those revenues to be allocated to the project;
- c. an assessment of the economic benefits of the project, including a projection of the value of private investment that is anticipated to be generated, directly or indirectly, in the sports and entertainment district as a result of the undertaking of the project or other proposed development within the sports and entertainment district;
- d. documentation as to the necessary approvals relating to the project;
- e. demonstration that at least \$20 million in private investment has been committed to the project; and
- f. documentation that the district has been identified in the appropriate plan.

C.34:1B-194 Tax revenues dedicated to sports and entertainment district; imposition of taxes.

5. The governing body of a municipality that establishes a sports and entertainment district may, as part of the ordinance establishing the district: impose one or more of the taxes enumerated in subsection a. of this section; dedicate some or all of those taxes; and dedicate some or all of the taxes enumerated in subsection b. of this section solely for the purposes of financing the project costs of a sports and entertainment facility for the life of the project, as appropriate, except that none of the taxes enumerated in subsection a. or b. of this section shall be imposed or dedicated for a period of more than 30 years.

a. The municipality may, by ordinance, impose any or all of the following:

- (1) a tax at the rate of 2% on the receipts from every sale within the district of tangible personal property subject to taxation pursuant to subsection (a) of section 3 of P.L.1966, c.30 (C.54:32B-3);
- (2) a tax at the rate of 2% on the receipts from every sale within the district of food and drink subject to taxation pursuant to subsection (c) of section 3 of P.L.1966, c.30 (C.54:32B-3);
- (3) a tax at the rate of 2% on charges of rent for every occupancy of a room or rooms in a hotel located within the district and subject to taxation pursuant to subsection (d) of section 3 of P.L.1966, c.30 (C.54:32B-3); or
- (4) a tax at the rate of 2% on the admission charge to a place of amusement within the district and subject to taxation pursuant to subsection (e) of section 3 of P.L.1966, c.30 (C.54:32B-3).

b. The municipality may dedicate, by ordinance, any hotel and motel occupancy tax

revenues collected within the district that the municipality is authorized to impose pursuant to section 3 of P.L.2003, c.114 (C.40:48F-1) and, at the discretion of the municipality, an additional charge of 2%.

c. A tax imposed under subsection a. of this section shall be in addition to any other tax or fee imposed pursuant to statute or local ordinance or resolution by any governmental entity upon the same transaction.

d. A copy of an ordinance adopted pursuant to section 4 of P.L.2007, c.30 (C.34:1B-193) shall be transmitted upon adoption or amendment thereof to the State Treasurer. An ordinance so adopted or any amendment thereto shall provide that the tax provisions of the ordinance or any amendment to the tax provisions shall take effect on the first day of the first full month occurring 90 days after the date of transmittal to the State Treasurer.

e. A municipality that creates a district pursuant to section 4 of P.L.2007, c.30 (C.34:1B-193), which overlaps, in whole or in part, with an urban enterprise zone in which the receipts of certain sales are exempt to the extent of 50% of the tax imposed under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), pursuant to section 21 of P.L.1983, c.303 (C.52:27H-80), shall continue to administer those sales tax revenues collected within the designated urban enterprise zone as otherwise provided pursuant to P.L.1983, c.303 (C.52:27H-60 et seq.).

C.34:1B-195 Provisions of ordinance imposing tax.

6. An ordinance imposing a tax pursuant to subsection a. of section 5 of P.L.2007, c.30 (C.34:1B-194) shall contain the following provisions:

- a. All taxes imposed by the ordinance shall be paid by the purchaser;
- b. A vendor shall not assume or absorb any tax imposed by the ordinance;
- c. A vendor shall not in any manner advertise or hold out to any person or to the public in general, in any manner, directly or indirectly, that the tax will be assumed or absorbed by the vendor, that the tax will not be separately charged and stated to the customer, or that the tax will be refunded to the customer;
- d. Each assumption or absorption by a vendor of the tax shall be deemed a separate offense and each representation or advertisement by a vendor for each day the representation or advertisement continues shall be deemed a separate offense; and
- e. Penalties as fixed in the ordinance, for violation of the foregoing provisions.

C.34:1B-196 Collection of tax.

7. a. A tax imposed pursuant to a municipal ordinance adopted under the provisions of subsection a. of section 5 of P.L.2007, c.30 (C.34:1B-194) shall be collected on behalf of the municipality by the person collecting the receipts, charges or rent from the customer.

b. Each person required to collect a tax imposed by the ordinance shall be personally liable for the tax imposed, collected or required to be collected hereunder. Any such person shall have the same right in respect to collecting the tax from a customer as if the tax were a part of the rent and payable at the same time; provided, however, that the chief fiscal officer of the municipality shall be joined as a party in any action or proceeding brought to collect the tax.

C.34:1B-197 Forwarding of tax collected to Director.

8. a. A person required to collect a tax imposed pursuant to the provisions of subsection a. of section 5 of P.L.2007, c.30 (C.34:1B-194) shall, on or before the dates required pursuant to section 17 of P.L.1966, c.30 (C.54:32B-17), forward to the Director of the Division of Taxation in the Department of the Treasury the tax collected in the preceding month and make and file a return for the preceding month with the director on any form and containing any information as the director shall prescribe as necessary to determine liability for the tax in the preceding month during which the person was required to collect the tax.

b. The director may permit or require returns to be made covering other periods and upon any dates as the director may specify. In addition, the director may require payments of tax liability at any intervals and based upon any classifications as the director may designate. In prescribing any other periods to be covered by the return or intervals or classifications for payment of tax liability, the director may take into account the dollar volume of tax involved as well as the need for ensuring the prompt and orderly collection of the tax imposed.

c. The director may require amended returns to be filed within 20 days after notice and to contain the information specified in the notice.

C.34:1B-198 Submission of application to State Treasurer; criteria for approval.

9. When an ordinance establishing or amending a district has passed first reading, it shall be submitted to the State Treasurer as an application, together with all included and incorporated certificates and documents and such additional documentation as the treasurer shall require.

The treasurer shall approve the ordinance if it is determined that:

a. the planned sports and entertainment facility is likely to be realized and would not likely be accomplished by private enterprise without the creation of the district and the financing of the proposed project or projects;

b. the \$20 million commitment of private investment is assured;

c. the creation of the district will contribute to the economic development of the municipality; and

d. the size of the proposed district, the financial needs in order to accomplish the project and the amount of the revenues anticipated to be raised from the discretionary taxes do not exceed the size and amount necessary to accomplish the purposes of the plan.

C.34:1B-199 Treasurer's recommendations; approval; adoption of ordinance.

10. a. The treasurer may make written recommendations as to any aspect of the ordinance and the plan and any related fiscal matters which in the opinion of the treasurer shall be changed in order to effectuate the plan. The treasurer may condition the approval of the ordinance upon the adoption of the treasurer's recommendations by the municipality.

b. The treasurer shall approve, approve with conditions, or disapprove the ordinance within 60 days of receipt of an application which the treasurer has deemed to be complete. If the treasurer disapproves the ordinance the treasurer shall, within 30 days of signifying disapproval thereof, set forth reasons in writing for the disapproval. The municipality may amend the ordinance and resubmit it to the treasurer.

c. Upon receipt of the approved ordinance from the treasurer, the municipal governing body may adopt the ordinance at a meeting of the governing body by a majority of the authorized membership thereof in the same manner as the adoption of other ordinances of the governing body.

C.34:1B-200 Amending ordinance required for changing district boundaries, pledged revenues.

11. After adoption of the ordinance establishing a district, there shall be no expansion or contraction of the boundaries of the district or the designation of the pledged revenues without adoption of an amending ordinance approved by the treasurer as provided in sections 9 and 10 of P.L.2007, c.30 (C.34:1B-198 and 34:1B-199).

C.34:1B-201 Preparation of final financial plan by developer.

12. Before any tax revenues are made available to the developer for the purposes of undertaking the sports and entertainment facility, the developer shall prepare a final financial plan for that project, which shall be consistent with the project plan prepared by the developer and approved by the treasurer pursuant to section 9 of P.L.2007, c.30 (C.34:1B-198), which shall be submitted to the governing body pursuant to section 13 of P.L.2007, c.30 (C.34:1B-202). That plan shall include:

a. a description of the project or projects to be financed, including the projected cost and construction schedule;

b. a description of any development to be undertaken by any developer in connection with the project, including an estimate of the eligible revenues anticipated from the development;

c. demonstration that the developer has complied with the investment commitment required pursuant to subsection e. of section 4 of P.L.2007, c.30 (C.34:1B-193);

d. a description of the eligible revenues to be pledged to the support of the project, or to the bonds or other obligations to be issued or incurred; and

e. a description of other anticipated projects for the district and the anticipated means of

financing those projects.

C.34:1B-202 Submission of final financial plan to municipality, approval by treasurer.

13. The final financial plan prepared pursuant to section 12 of P.L.2007, c.30 (C.34:1B-201) shall be submitted to the governing body of the municipality for approval by ordinance. When an ordinance approving a final financial plan has been introduced in writing at a meeting of the governing body and passed first reading, which may be by title, by a majority of the authorized membership thereof, it shall be submitted to the treasurer, together with all included and incorporated certificates and documents and such additional supporting documentation as the treasurer may by rule prescribe.

The treasurer shall approve the plan if the treasurer determines that:

a. the project is likely to be realized and would not be accomplished by private enterprise without the public support authorized pursuant to P.L.2007, c.30 (C.34:1B-190 et seq.);

b. the pledged revenues will be sufficient to assist in the financing of the sports and entertainment facility, as anticipated in the financial forecasts;

c. eligible revenues to be made available for project costs will be sufficient to back the bonds or other obligations to be issued or incurred pursuant to subsection a. of section 16 of P.L.2007, c.30 (C.34:1B-205) or to otherwise fulfill any financial commitments made by the developer to the State pursuant to subsection c. of section 16 of P.L.2007, c.30 (C.34:1B-205);

d. the developer has demonstrated, to the satisfaction of the treasurer, that the commitment of private funds required pursuant to subsection e. of section 4 of P.L.2007, c.30 (C.34:1B-193) has been satisfied; and

e. there are no other factors which, in the determination of the treasurer, should prevent the undertaking of the project.

C.34:1B-203 Treasurer's recommendations relative to final financial plan.

14. a. The treasurer may make written recommendations as to any aspect of the final financial plan and any related fiscal matters which, in the determination of the treasurer, must be addressed in order to effectuate the plan, and the treasurer may condition approval of the plan upon the adoption of the treasurer's recommendations.

b. The treasurer shall approve, approve with conditions, or disapprove the plan within 60 days of the receipt of an application which the treasurer has deemed to be complete. If the treasurer disapproves the plan, the treasurer shall set forth the reasons in writing within 30 days of the disapproval thereof. The governing body may amend the ordinance and resubmit it to the treasurer.

c. Upon receipt of the approved ordinance from the treasurer, the municipal governing body may adopt the ordinance at a meeting of the governing body by a majority of the authorized membership thereof. Any changes to the plan as embodied in the ordinance, including the pledge or utilization of eligible revenues subject, however, to any rights of bondholders shall be by amendment of the ordinance adopted and approved by the same method as the ordinance was initially approved in connection with the proposed final financial plan included in the ordinance establishing the district.

C.34:1B-204 Collection, administration of tax.

15. a. The Director of the Division of Taxation shall collect and administer any tax imposed pursuant to the provisions of subsection a. of section 5 of P.L.2007, c.30 (C.34:1B-194). In carrying out the provisions of this section, the director shall have all the powers granted in P.L.1966, c.30 (C.54:32B-1 et seq.);

b. The director shall determine and certify to the treasurer on a quarterly or more frequent basis, as prescribed by the treasurer, the amount of revenues collected in each municipality pursuant to subsection a. of section 5 of P.L.2007, c.30 (C.34:1B-194);

c. The treasurer, upon the certification of the director and upon the warrant of the State Comptroller, shall pay and distribute on a quarterly or more frequent basis, as prescribed by the treasurer, those amounts determined and certified under subsection a. of this section into the fund established pursuant to subsection b. of section 16 of P.L.2007, c.30 (C.34:1B-205);

d. A tax imposed pursuant to the provisions of subsection a. of section 5 of P.L.2007,

c.30 (C.34:1B-194) shall be governed by the provisions of the "State Uniform Tax Procedure Law," R.S.54:48-1 et seq.

C.34:1B-205 Use of revenues; fund, uses.

16. a. Revenues collected pursuant to the taxes imposed pursuant to section 5 of P.L.2007, c.30 (C.34:1B-194) shall be used to finance project costs whether those costs are incurred through the issuance of bonds or other financial assistance. In the event that bonds are to be issued to cover project costs, the New Jersey Economic Development Authority may serve as the issuing agent of bonds to finance the undertaking of a project pursuant to P.L.2007, c.30 (C.34:1B-190 et seq.).

b. Upon the approval by the treasurer of a final financial plan pursuant to section 13 of P.L.2007, c.30 (C.34:1B-202), the treasurer shall establish the "(name of municipality) Sports and Entertainment Facility Revenue Fund" into which shall be deposited those revenues collected through the imposition of taxes authorized under section 5 of P.L.2007, c.30 (C.34:1B-194), and any interest or other income earned thereon. Moneys in the "(name of municipality) Sports and Entertainment Facility Revenue Fund" shall be managed and invested by the Division of Investment in the Department of the Treasury. All moneys in the fund shall be disbursed by the treasurer either to be directed toward the repayment of the principal and interest on bonds issued for the purposes of undertaking a project or as financial assistance undertaken pursuant to subsection c. of this section.

c. Moneys deposited in the fund may be used to provide financial assistance to a developer toward the costs of financing the infrastructure improvements of a project, except that such financial assistance shall only be given to a developer for infrastructure improvements that were undertaken after the date of an approval of the ordinance by the treasurer under section 9 of P.L.2007, c.30 (C.34:1B-198). Financial assistance provided from the fund shall be limited to loans, loan guarantees, grants or secondary mortgages and provided solely for the purposes as provided in this subsection. The form, amount and terms of financial assistance provided shall be determined by the treasurer, subject to the availability of funds, the terms of the financial plan, and any other requirements of P.L.2007, c.30 (C.34:1B-190 et seq.).

C.34:1B-206 Bonds not considered debt, liability of State.

17. Bonds issued by the New Jersey Economic Development Authority or other State entity for the purposes as provided in section 16 of P.L.2007, c.30 (C.34:1B-205) shall not be a debt or liability of the State or any agency or instrumentality thereof, except as otherwise provided by section 16 of P.L.2007, c.30 (C.34:1B-205), either legal, moral or otherwise.

18. This act shall take effect immediately.

Approved January 26, 2007.