

**CHAPTER 35**  
**(CORRECTED COPY)**

**AN ACT** increasing the amount of tax credits authorized to be issued under the Urban Transit Hub Tax Credit program, extending the application deadline, and amending various parts of the statutory law.

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

1. Section 3 of P.L.2007, c.346 (C.34:1B-209) is amended to read as follows:

C.34:1B-209 Credit for qualified business facilities, conditions for eligibility; allowance.

3. a. (1) A business, upon application to and approval from the authority, shall be allowed a credit of 100 percent of its capital investment, made after the effective date of P.L.2007, c.346 (C.34:1B-207 et seq.) but prior to its submission of documentation pursuant to subsection c. of this section, in a qualified business facility within an eligible municipality, pursuant to the restrictions and requirements of this section. To be eligible for any tax credits authorized under this section, a business shall demonstrate to the authority, at the time of application, that the State's financial support of the proposed capital investment in a qualified business facility will yield a net positive benefit to both the State and the eligible municipality. The value of all credits approved by the authority pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) shall not exceed \$1,750,000,000.

(2) A business, other than a tenant eligible pursuant to paragraph (3) of this subsection, shall make or acquire capital investments totaling not less than \$50,000,000 in a qualified business facility, at which the business shall employ not fewer than 250 full-time employees to be eligible for a credit under this section. A business that acquires a qualified business facility shall also be deemed to have acquired the capital investment made or acquired by the seller.

(3) A business that is a tenant in a qualified business facility, the owner of which has made or acquired capital investments in the facility totaling not less than \$50,000,000, shall occupy a leased area of the qualified business facility that represents at least \$17,500,000 of the capital investment in the facility at which the tenant business and up to two other tenants in the qualified business facility shall employ not fewer than 250 full-time employees in the aggregate to be eligible for a credit under this section. The amount of capital investment in a facility that a leased area represents shall be equal to that percentage of the owner's total capital investment in the facility that the percentage of net leasable area leased by the tenant is of the total net leasable area of the qualified business facility. Capital investments made by a tenant shall be deemed to be included in the calculation of the capital investment made or acquired by the owner, but only to the extent necessary to meet the owner's minimum capital investment of \$50,000,000. Capital investments made by a tenant and not allocated to meet the owner's minimum capital investment threshold of \$50,000,000 shall be added to the amount of capital investment represented by the tenant's leased area in the qualified business facility.

(4) A business shall not be allowed tax credits under this section if the business participates in a business employment incentive grant relating to the same capital and employees that qualify the business for this credit, or if the business receives assistance pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.). A business that is allowed a tax credit under this section shall not be eligible for incentives authorized pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.). A business shall not qualify for a tax credit under this section, based upon capital investment and employment of full-time employees, if that capital investment or

employment was the basis for which a grant was provided to the business pursuant to the "InvestNJ Business Grant Program Act," P.L.2008, c.112 (C.34:1B-237 et seq.).

(5) Full-time employment for an accounting or privilege period shall be determined as the average of the monthly full-time employment for the period.

(6) The capital investment of the owner of a qualified business facility is that percentage of the capital investment made or acquired by the owner of the building that the percentage of net leasable area of the qualified business facility not leased to tenants is of the total net leasable area of the qualified business facility.

(7) A business shall be allowed a tax credit of 100 percent of its capital investment, made after the effective date of P.L.2011, c.89 but prior to its submission of documentation pursuant to subsection c. of this section, in a qualified business facility that is part of a mixed use project, provided that (a) the qualified business facility represents at least \$17,500,000 of the total capital investment in the mixed use project, (b) the business employs not fewer than 250 full-time employees in the qualified business facility, and (c) the total capital investment in the mixed use project of which the qualified business facility is a part is not less than \$50,000,000. The allowance of credits under this paragraph shall be subject to the restrictions and requirements, to the extent that those are not inconsistent with the provisions of this paragraph, set forth in paragraphs (1) through (6) of this subsection, including but not limited to the requirement that the business shall demonstrate to the authority, at the time of application, that the State's financial support of the proposed capital investment in a qualified business facility will yield a net positive benefit to both the State and the eligible municipality.

(8) In determining whether a proposed capital investment will yield a net positive benefit, the authority shall not consider the transfer of an existing job from one location in the State to another location in the State as the creation of a new job, unless (a) the business proposes to transfer existing jobs to a municipality in the State as part of a consolidation of business operations from two or more other locations that are not in the same municipality whether in-State or out-of-State, or (b) the business's chief executive officer, or equivalent officer, submits a certification to the authority indicating that the existing jobs are at risk of leaving the State and that the business's chief executive officer, or equivalent officer, has reviewed the information submitted to the authority and that the representations contained therein are accurate, and the business intends to employ not fewer than 500 full-time employees in the qualified business facility. In the event that this certification by the business's chief executive officer, or equivalent officer, is found to be willfully false, the authority may revoke any award of tax credits in their entirety, which revocation shall be in addition to any other criminal or civil penalties that the business and the officer may be subject to. When considering an application involving intra-State job transfers, the authority shall require the company to submit the following information as part of its application: a full economic analysis of all locations under consideration by the company; all lease agreements, ownership documents, or substantially similar documentation for the business's current in-State locations; and all lease agreements, ownership documents, or substantially similar documentation for the potential out-of-State location alternatives, to the extent they exist. Based on this information, and any other information deemed relevant by the authority, the authority shall independently verify and confirm, by way of making a factual finding by separate vote of the authority's board, the business's assertion that the jobs are actually at risk of leaving the State, before a business may be awarded any tax credits under this section.

b. A business shall apply for the credit prior to July 1, 2014, and shall submit its documentation for approval of its credit amount no later than July 28, 2017.

c. (1) The amount of credit allowed shall, except as otherwise provided, be equal to the capital investment made by the business, or the capital investment represented by the business' leased area, or area owned by the business as a condominium, and shall be taken over a 10-year period, at the rate of one-tenth of the total amount of the business' credit for each tax accounting or privilege period of the business, beginning with the tax period in which the business is first certified by the authority as having met the investment capital and employment qualifications, subject to any reduction or disqualification as provided by subsection d. of this section as determined by annual review by the authority. In conducting its annual review, the authority may require a business to submit any information determined by the authority to be necessary and relevant to its review.

The credit amount for any tax period ending after July 28, 2017 during which the documentation of a business' credit amount remains uncertified shall be forfeited, although credit amounts for the remainder of the years of the 10-year credit period shall remain available to it.

The credit amount that may be taken for a tax period of the business that exceeds the final liabilities of the business for the tax period may be carried forward for use by the business in the next 20 successive tax periods, and shall expire thereafter, provided that the value of all credits approved by the authority against tax liabilities pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) in any fiscal year shall not exceed \$150,000,000.

The amount of credit allowed for a tax period to a business that is a tenant in a qualified business facility shall not exceed the business' total lease payments for occupancy of the qualified business facility for the tax period.

(2) A business that is a partnership shall not be allowed a credit under this section directly, but the amount of credit of an owner of a business shall be determined by allocating to each owner of the partnership that proportion of the credit of the business that is equal to the owner of the partnership's share, whether or not distributed, of the total distributive income or gain of the partnership for its tax period ending within or with the owner's tax period, or that proportion that is allocated by an agreement, if any, among the owners of the partnership that has been provided to the Director of the Division of Taxation in the Department of the Treasury by such time and accompanied by such additional information as the director may require.

(3) The amount of credit allowed may be applied against the tax liability otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), pursuant to section 1 of P.L.1950, c.231 (C.17:32-15), or pursuant to N.J.S.17B:23-5.

d. (1) If, in any tax period, fewer than 200 full-time employees of the business at the qualified business facility are employed in new full-time positions, the amount of the credit otherwise determined pursuant to final calculation of the award of tax credits pursuant to subsection c. of this section shall be reduced by 20 percent for that tax period and each subsequent tax period until the first period for which documentation demonstrating the restoration of the 200 full-time employees employed in new full-time positions at the qualified business facility has been reviewed and approved by the authority, for which tax period and each subsequent tax period the full amount of the credit shall be allowed; provided, however, that for businesses applying before January 1, 2010, there shall be no reduction if a business relocates to an urban transit hub from another location or other locations in the same municipality. For the purposes of this paragraph, a "new full-time position" means a position created by the business at the qualified business facility that did not previously exist in this State.

(2) If, in any tax period, the business reduces the total number of full-time employees in its Statewide workforce by more than 20 percent from the number of full-time employees in its Statewide workforce in the last tax accounting or privilege period prior to the credit amount approval under subsection a. of this section, then the business shall forfeit its credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the business' Statewide workforce to the threshold levels required by this paragraph has been reviewed and approved by the authority, for which tax period and each subsequent tax period the full amount of the credit shall be allowed.

(3) If, in any tax period, (a) the number of full-time employees employed by the business at the qualified business facility located in an urban transit hub within an eligible municipality drops below 250, or (b) the number of full-time employees, who are not the subject of intra-State job transfers, pursuant to paragraph (8) of subsection a. of this section, employed by the business at any other business facility in the State, whether or not located in an urban transit hub within an eligible municipality, drops by more than 20 percent from the number of full-time employees in its workforce in the last tax accounting or privilege period prior to the credit amount approval under this section, then the business shall forfeit its credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the number of full-time employees employed by the business at the qualified business facility to 250 or an increase above the 20 percent reduction has been reviewed and approved by the authority, for which tax period and each subsequent tax period the full amount of the credit shall be allowed.

(4) (i) If the qualified business facility is sold in whole or in part during the 10-year eligibility period the new owner shall not acquire the capital investment of the seller and the seller shall forfeit all credits for the tax period in which the sale occurs and all subsequent tax periods, provided however that any credits of tenants shall remain unaffected.

(ii) If a tenant subleases its tenancy in whole or in part during the 10-year eligibility period the new tenant shall not acquire the credit of the sublessor, and the sublessor tenant shall forfeit all credits for the tax period of its sublease and all subsequent tax periods.

e. (1) The Executive Director of the New Jersey Economic Development Authority, in consultation with the Director of the Division of Taxation in the Department of the Treasury, shall adopt rules in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as are necessary to implement this act, including but not limited to: examples of and the determination of capital investment; the enumeration of eligible municipalities; specific delineation of urban transit hubs; the determination of the limits, if any, on the expense or type of furnishings that may constitute capital improvements; the promulgation of procedures and forms necessary to apply for a credit, including the enumeration of the certification procedures and allocation of tax credits for different phases of a qualified business facility or mixed use project; and provisions for credit applicants to be charged an initial application fee, and ongoing service fees, to cover the administrative costs related to the credit.

(2) Through regulation, the Economic Development Authority shall establish standards based on the green building manual prepared by the Commissioner of Community Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6), regarding the use of renewable energy, energy-efficient technology, and non-renewable resources in order to reduce environmental degradation and encourage long-term cost reduction.

2. Section 35 of P.L.2009, c.90 (C.34:1B-209.3) is amended to read as follows:

## C.34:1B-209.3 Developer allowed certain tax credits.

35. a. (1) A developer, upon application to and approval from the authority, shall be allowed a credit of up to 35 percent of its capital investment, made after the effective date of P.L.2009, c.90 (C.52:27D-489a et al.) but prior to its submission of documentation pursuant to subsection c. of this section, in a qualified residential project, pursuant to the restrictions and requirements of this section. To be eligible for any tax credits authorized under this section, a developer shall demonstrate to the authority, through a project pro forma analysis at the time of application, that the qualified residential project is likely to be realized with the provision of tax credits at the level requested but is not likely to be accomplished by private enterprise without the tax credits. The value of all credits approved by the authority pursuant to P.L.2009, c.90 (C.52:27D-489a et al.) for qualified residential projects may be up to \$150,000,000, except as may be increased by the authority as set forth below; provided, however, that the combined value of all credits approved by the authority pursuant to both P.L.2007, c.346 (C.34:1B-207 et seq.) and P.L.2009, c.90 (C.52:27D-489a et al.) shall not exceed \$1,750,000,000. The authority shall monitor application and allocation activity under P.L.2007, c.346 (C.34:1B-207 et seq.), and if sufficient credits are available after taking into account allocation under P.L.2007, c.346 (C.34:1B-207 et seq.) to those qualified business facilities for which applications have been filed or for which applications are reasonably anticipated, and if the executive director judges certain qualified residential projects to be meritorious, the aforementioned \$150,000,000 cap may, in the discretion of the executive director, be exceeded for allocation to qualified residential projects in such amounts as the executive director deems reasonable, justified, and appropriate. In allocating all credits to qualified residential projects under this section, the executive director shall take into account, together with other factors deemed relevant by the executive director: input from the municipality in which the project is to be located, whether the project furthers specific State or municipal planning and development objectives, or both, and whether the project furthers a public purpose, such as catalyzing urban development or maximizing the value of vacant, dilapidated, outmoded, government-owned, or underutilized property, or both.

(2) A developer shall make or acquire capital investments totaling not less than \$50,000,000 in a qualified residential project to be eligible for a credit under this section. A developer that acquires a qualified residential project shall also be deemed to have acquired the capital investment made or acquired by the seller.

(3) The capital investment requirement may be met by the developer or by one or more of its affiliates.

(4) A developer of a mixed use project shall be allowed a credit pursuant to subparagraph (a) or (b) of this paragraph, but not both.

(a) A developer shall be allowed a credit in accordance with this section for a qualified residential project that includes a mixed use project.

(b) A developer shall be allowed a credit of up to 35 percent of its capital investment, made after the effective date of P.L.2011, c.89 but prior to its submission of documentation pursuant to subsection c. of this section, in a qualified residential project that is part of a mixed use project, provided that: (a) the capital investment in the qualified residential project represents at least \$17,500,000 of the total capital investment in the mixed use project; and (b) the total capital investment in the mixed use project of which the qualified residential project is a part is not less than \$50,000,000. The allowance of credits under this paragraph shall be subject to the restrictions and requirements, to the extent that those are not inconsistent with the provisions of this paragraph, set forth in paragraphs (1) through (3) of this subsection, including but not limited to the requirement prescribed in paragraph (1) of

this subsection that the developer shall demonstrate to the authority, through a project pro forma analysis at the time of application, that the qualified residential project is likely to be realized with the provision of tax credits at the level requested but is not likely to be accomplished by private enterprise without the tax credits.

As used in this subparagraph:

"Mixed use project" means a project comprising both a qualified residential project and a qualified business facility.

b. A developer shall apply for the credit prior to July 1, 2014, and a developer shall submit its documentation for approval of its credit amount no later than July 28, 2017.

c. The credit shall be administered in accordance with the provisions of subsections c. and e. of section 3 of P.L.2007, c.346 (C.34:1B-209), as amended by section 32 of P.L.2009, c.90, and section 33 of P.L.2009, c.90 (C.34:1B-209.1), except that (1) all references therein to "business" and "qualified business facility" shall be deemed to refer respectively to "developer" and "qualified residential project," as such terms are defined in section 34 of P.L.2009, c.90 (C.34:1B-209.2) and (2) all references therein to credits claimed by tenants and to reductions or disqualifications in credits as determined by annual review of the authority shall be disregarded. Provided however, for purposes of a "mixed use project" as that term is used and defined pursuant to subparagraph (b) of paragraph (4) of subsection a. of this section, "qualified business facility" means that term as defined pursuant to section 2 of P.L.2007, c.346 (C.34:1B-208).

3. Section 6 of P.L.2010, c.57 (C.34:1B-209.4) is amended to read as follows:

C.34:1B-209.4 Credit to business for wind energy facility; eligibility.

6. a. (1) A business, upon application to and approval from the authority, shall be allowed a credit of 100 percent of its capital investment, made after the effective date of P.L.2010, c.57 (C.48:3-87.1 et al.) but prior to its submission of documentation pursuant to subsection c. of this section, in a qualified wind energy facility located within an eligible wind energy zone, pursuant to the restrictions and requirements of this section. To be eligible for any tax credits authorized under this section, a business shall demonstrate to the authority, at the time of application, that the State's financial support of the proposed capital investment in a qualified wind energy facility will yield a net positive benefit to the State. The value of all credits approved by the authority pursuant to this section may be up to \$100,000,000, except as may be increased by the authority as set forth below; provided, however, that the combined value of all credits approved by the authority pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.), P.L.2009, c.90 (C.52:27D-489a et al.), and P.L.2010, c.57 (C.48:3-87.1 et al.) shall not exceed \$1,750,000,000. The authority shall monitor application and allocation activity under P.L.2007, c.346 after taking into account the allocation under P.L.2007, c.346 and if sufficient credits are available to those qualified business facilities for which applications have been filed or for which applications are reasonably anticipated, and if the chief executive officer judges certain qualified offshore wind projects to be meritorious, the aforementioned cap may, in the discretion of the chief executive officer, be exceeded for allocation to qualified wind energy facilities in such amounts as the chief executive officer deems reasonable, justified and appropriate.

(2) (a) A business, other than a tenant eligible pursuant to subparagraph (b) of this paragraph, shall make or acquire capital investments totaling not less than \$50,000,000 in a qualified wind energy facility, at which the business, including tenants at the qualified wind energy facility, shall employ at least 300 new, full-time employees, to be eligible for a credit

under this section. A business that acquires a qualified wind energy facility after the effective date of P.L.2010, c.57 (C.48:3-87.1 et al.) shall also be deemed to have acquired the capital investment made or acquired by the seller.

(b) A business that is a tenant in the qualified wind energy facility, the owner of which has made or acquired capital investments in the facility totaling more than \$50,000,000, shall occupy a leased area of the qualified wind energy facility that represents at least \$17,500,000 of the capital investment in the qualified wind energy facility at which at least 300 new, full-time employees in the aggregate are employed, to be eligible for a credit under this section. The amount of capital investment in a facility that a leased area represents shall be equal to that percentage of the owner's total capital investment in the facility that the percentage of net leasable area leased by the tenant is of the total net leasable area of the qualified business facility. Capital investments made by a tenant shall be deemed to be included in the calculation of the capital investment made or acquired by the owner, but only to the extent necessary to meet the owner's minimum capital investment of \$50,000,000. Capital investments made by a tenant and not allocated to meet the owner's minimum capital investment threshold of \$50,000,000 shall be added to the amount of capital investment represented by the tenant's leased area in the qualified wind energy facility.

(c) The calculation of the number of new, full-time employees required pursuant to subparagraphs (a) and (b) of this paragraph may include the number of new, full-time positions resulting from an equipment supply coordination agreement with equipment manufacturers, suppliers, installers and operators associated with the supply chain required to support the qualified wind energy facility.

For the purposes of this paragraph, "full time employee" shall not include an employee who is a resident of another state and whose income is not subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., unless that state has entered into a reciprocity agreement with the State of New Jersey, provided that any employee whose work is provided pursuant to a collective bargaining agreement with the port district in the wind energy zone may be included.

(3) A business shall not be allowed a tax credit pursuant to this section if the business participates in a business employment incentive grant relating to the same capital and employees that qualify the business for this credit, or if the business receives assistance pursuant to the "Business Retention and Relocation Assistance Act," P.L.1996, c.25 (C.34:1B-112 et seq.). A business that is allowed a tax credit under this section shall not be eligible for incentives authorized pursuant to the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.).

(4) Full-time employment for an accounting or privilege period shall be determined as the average of the monthly full-time employment for the period.

b. A business shall apply for the credit within five years after the effective date of P.L.2007, c.346 (C.34:1B-207 et seq.), and a business shall submit its documentation for approval of its credit amount within eight years after the effective date of P.L.2007, c.346.

c. The credit allowed pursuant to this section shall be administered in accordance with the provisions of subsection c. of section 3 of P.L.2007, c.346 (C.34:1B-209) and section 33 of P.L.2009, c.90 (C.34:1B-209.1), except that all references therein to "qualified business facility" shall be deemed to refer to "qualified wind energy facility," as that term is defined in subsection f. of this section.

d. The amount of the credit allowed pursuant to this section shall, except as otherwise provided, be equal to the capital investment made by the business, or the capital investment represented by the business' leased area, and shall be taken over a 10-year period, at the rate

of one-tenth of the total amount of the business' credit for each tax accounting or privilege period of the business, beginning with the tax period in which the business is first approved by the authority as having met the investment capital and employment qualifications, subject to any disqualification as determined by annual review by the authority. In conducting its annual review, the authority may require a business to submit any information determined by the authority to be necessary and relevant to its review. The credit amount for any tax period ending after the date eight years after the effective date of P.L.2007, c.346 (C.34:1B-207 et seq.) during which the documentation of a business' credit amount remains unapproved shall be forfeited, although credit amounts for the remainder of the years of the 10-year credit period shall remain available. The amount of the credit allowed for a tax period to a business that is a tenant in a qualified wind energy facility shall not exceed the business' total lease payments for occupancy of the qualified wind energy facility for the tax period.

e. The authority shall adopt rules in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as are necessary to implement this section, including but not limited to: examples of and the determination of capital investment; nature of businesses and employment positions constituting and participating in an equipment supply coordination agreement; determination of the types of businesses that may be eligible and expenses that may constitute capital improvements; promulgation of procedures and forms necessary to apply for a credit; and provisions for applicants to be charged an initial application fee, and ongoing service fees, to cover the administrative costs related to the credit.

The rules established by the authority pursuant to this subsection shall be effective immediately upon filing with the Office of Administrative Law and shall be effective for a period not to exceed 12 months and may, thereafter, be amended, adopted or readopted in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

f. As used in this section: the terms "authority," "business," and "capital investment" shall have the same meanings as defined in section 2 of the "Urban Transit Hub Tax Credit Act," P.L.2007, c.346 (C.34:1B-208), except that all references therein to "qualified business facility" shall be deemed to refer to "qualified wind energy facility" as defined in this subsection.

In addition, as used in this section:

"Equipment supply coordination agreement" means an agreement between a business and equipment manufacturer, supplier, installer, and operator that supports a qualified offshore wind project, or other wind energy project as determined by the authority, and that indicates the number of new, full-time jobs to be created by the agreement participants towards the employment requirement as set forth in paragraph (2) of subsection a. of this section.

"Qualified offshore wind project" means the same as the term is defined in section 3 of P.L.1999, c.23 (C.48:3-51).

"Qualified wind energy facility" means any building, complex of buildings, or structural components of buildings, including water access infrastructure, and all machinery and equipment used in the manufacturing, assembly, development or administration of component parts that support the development and operation of a qualified offshore wind project, or other wind energy project as determined by the authority, and that are located in a wind energy zone.

"Wind energy zone" means property located in the South Jersey Port District established pursuant to "The South Jersey Port Corporation Act," P.L.1968, c.60 (C.12:11A-1 et seq.).



4. Section 6 of P.L.2011, c.149 (C.34:1B-247) is amended to read as follows:

C.34:1B-247 Limit on value of approved credits.

6. a. (1) The value of all credits approved by the authority pursuant to P.L.2011, c.149 (C.34:1B-242 et al.) shall not exceed \$200,000,000, except that the value of all credits approved by the authority pursuant to this section may exceed \$200,000,000 if the board of the authority determines the credits to be reasonable, justifiable, and appropriate; provided, however, the combined value of all credits approved by the authority pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) and P.L.2011, c.149 (C.34:1B-242 et al.) shall not exceed \$1,750,000,000.

(2) A business, including any affiliate of the business or any business that is a tenant within any qualified business facility, shall make or acquire capital investments totaling not less than \$20,000,000 in a qualified business facility, at which the business shall employ not fewer than 100 full-time employees to be eligible for a credit pursuant to P.L.2011, c.149. A business that acquires or leases a qualified business facility shall also be deemed to have acquired the capital investment made or acquired by the seller or landlord, as the case may be.

(3) A business shall not be allowed tax credits pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.) or P.L.1996, c.26 (C.34:1B-124 et seq.) relating to the same capital and employees that qualify the business for tax credits pursuant to P.L.2011, c.149. A business that is allowed a tax credit under this section shall not be eligible for incentives authorized pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.). A business shall not qualify for a tax credit under this section, based upon capital investment and employment of full-time employees, if that capital investment or employment was the basis for which a grant was provided to the business pursuant to the "Urban Transit Hub Tax Credit Act," P.L.2007, c.346 (C.34:1B-207 et seq.).

(4) Full-time employment for an accounting or privilege period shall be determined as the average of the monthly full-time employment for the period.

(5) The capital investment of the owner of a qualified business facility is that percentage of the capital investment made or acquired by the owner of the building that the percentage of net leasable area of the qualified business facility not leased to tenants is of the total net leasable area of the qualified business facility. For a business that is a tenant, the amount of capital investment in a facility that a leased area represents shall be equal to that percentage of the owner's total capital investment in the facility that the percentage of net leasable area leased by the tenant is of the total net leasable area of the qualified business facility. Capital investments made by a tenant shall be deemed to be included in the calculation of the capital investment made or acquired by the owner, but only to the extent necessary to meet the owner's minimum capital investment of \$20,000,000. Capital investments made by a tenant and not allocated to meet the owner's minimum capital investment threshold of \$20,000,000 shall be added to the amount of capital investment represented by the tenant's leased area in the qualified business facility.

b. A business shall apply for the tax credit prior to July 1, 2014, and shall submit its documentation indicating that it has met the capital investment and employment specified in the project agreement for certification of its credit amount no later than July 28, 2017.

c. (1) The amount of credit allowed shall not exceed the capital investment made by the business or the capital investment represented by the business' leased area, as certified by the authority pursuant to subsection b. of this section, as having met the investment capital and employment qualifications, subject to any reduction or disqualification as provided by

subsection d. of this section as determined by annual review by the authority. In conducting its annual review, the authority may require a business to submit any information determined by the authority to be necessary and relevant to its review.

The credit amount for any tax period ending after July 28, 2017, during which the documentation of a business' credit amount remains uncertified shall be forfeited, although credit amounts for the remainder of the years of the 10-year credit period shall remain available to it.

The credit amount that may be taken for a tax period of the business that exceeds the final liabilities of the business for the tax period may be carried forward for use by the business in the next 20 successive tax periods, and shall expire thereafter, provided that the value of all credits approved by the authority against tax liabilities pursuant to P.L.2011, c.149, in any fiscal year shall not exceed \$150,000,000 and the combined value of all credits approved by the authority pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) and P.L.2011, c.149 (C.34:1B-242 et al.) shall not exceed \$1,750,000,000.

The amount of credit allowed for a tax period to a business that is a tenant in a qualified business facility shall not exceed the business' total lease payments for occupancy of the qualified business facility for the tax period.

(2) A business that is a partnership shall not be allowed a credit under this section directly, but the amount of credit of an owner of a business shall be determined by allocating to each owner of the partnership that proportion of the credit of the business that is equal to the owner of the partnership's share, whether or not distributed, of the total distributive income or gain of the partnership for its tax period ending within or with the owner's tax period, or that proportion that is allocated by an agreement, if any, among the owners of the partnership that has been provided to the Director of the Division of Taxation in the Department of the Treasury by such time and accompanied by such additional information as the director may require.

(3) The amount of credit allowed may be applied against the tax liability otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), pursuant to section 1 of P.L.1950, c.231 (C.17:32-15), or pursuant to N.J.S.17B:23-5.

d. (1) If, in any tax period, the business reduces the total number of full-time employees in its Statewide workforce by more than 20 percent from the number of full-time employees in its Statewide workforce in the last tax period prior to the credit amount approval under section 3 of P.L.2011, c.149 (C.34:1B-244), then the business shall forfeit its credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the business' Statewide workforce to the threshold levels required by this paragraph has been reviewed and approved by the authority, for which tax period and each subsequent tax period the full amount of the credit shall be allowed.

(2) If, in any tax period, the number of full-time employees employed by the business at the qualified business facility located within a qualified incentive area drops below 100 or 80 percent of the number of new and retained full-time jobs specified in the project agreement, then the business shall forfeit its credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the number of full-time employees employed by the business at the qualified business facility to 100.

(3) (a) If the qualified business facility is sold in whole or in part during the 10-year eligibility period the new owner shall not acquire the capital investment of the seller and the

seller shall forfeit all credits for the tax period in which the sale occurs and all subsequent tax periods, provided however that any credits of tenants shall remain unaffected.

(b) If a tenant subleases its tenancy in whole or in part during the 10-year eligibility period the new tenant shall not acquire the credit of the sublessor, and the sublessor tenant shall forfeit all credits for the tax period of its sublease and all subsequent tax periods.

5. This act shall take effect immediately.

Approved August 7, 2012.