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Brownfield financing opportunities in New Jersey

Regulatory authorities in the State of New Jersey have adopted and are in the process of adopting laws and regulations to direct development away from most suburban and rural communities. These laws and regulations include enhanced and stricter wetlands regulations, enhanced and stricter water quality regulations, limitations on access to State and county roadways, a series of antidevelopment decisions by the State Courts and the proposed Highlands bill, which the Legislature will likely have enacted by the time this article is published. These laws seek to redirect development into the cities and their older ring suburbs.

However, many properties in these urban and older suburban communities are contaminated. They are often referred to as "Brownfields." The New Jersey Brownfield and Contaminated Site Remediation Act defines a Brownfield as "any former or current commercial or industrial site, currently vacant or underutilized and on which there has been, or there is suspected to have been a discharge of contaminant." The Legislature enacted this Brownfield law to encourage the development of Brownfield properties. Under certain circumstances, the



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Brownfield law protects developers of Brownfield properties against New Jersey Department of Environmental Protection enforcement actions and against civil liability to third parties arising from the contamination of Brownfield properties.

Additionally, several State agencies provide low cost and low-interest loan programs for the remediation and redevelopment of Brownfields. For example, the New Jersey Economic Development Authority ("EDA") administers the Hazardous Discharge and Site Remediation Loan and Grant Program. This program provides low-interest loans and grants for site assessments, remedial investigation and remediation. The EDA

also provides "Smart Growth Predevelopment Funding" which provides low-cost loans and guaranties for pre-development site preparation costs associated with land assemblage, demolition, removal of materials and debris and engineering. This program benefits commercial, industrial, office and mixed use projects in urban, developed suburban and rural communities.

The EDA also provides loan and guaranty programs for businesses planning to locate on former Brownfield sites. These loans and guaranties are available for buildings and equipment or for working capital to meet operating expenses. Finally, the EDA operates the Fund for Community Economic Development, which provides assistance to finance feasibility studies and other predevelopment costs to determine if real estate based economic development projects involving profit or non-profit organizations are viable. Projects will receive higher priority if they take place within the context of a redevelopment plan, community planning process or other planning effort. The feasibility assistance must involve an identifiable project and the loan must be for a specific financing need.

The Urban Site Acquisition Program of the New Jersey

Redevelopment Authority ("NJRA") provides funds for acquisition, site assembly and redevelopment of properties that are part of an urban redevelopment plan. The NJRA Loan Guarantee Program provides credit enhancements through loan guaranties for projects unable to obtain conventional financing. The NJRA's New Jersey Pre-Development Loan Program provides funding for predevelopment costs associated with non-housing related redevelopment projects.

Finally, the Department of the Treasury and the New Jersey Commerce and Economic Growth Commission administer the Brownfields and Contaminated Site Remediation and Reimbursement Program, which allows qualified developers to obtain reimbursement of up to 75% of their authorized remediation costs. Thus, while State authorities are making it much more difficult to build in the undeveloped portions of New Jersey, they are providing valuable incentives to encourage the redevelopment of the urban core and the older suburbs surrounding it.

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