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American Recovery and Reinvestment Act

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In the \$787 billion stimulus package, officially titled the, "American Recovery and Reinvestment Act," commercial real estate is supported through provisions that focus on green building and energy plus tax incentives. Such incentives will support commercial property owners' investment in energy efficiency upgrades and alternative energy systems.

Commercial real estate is impacted in primarily three areas of the bill: green building and energy efficiency, business tax incentives and investment in transportation and infrastructure.

Green Building and Energy Efficiency: State Energy Program Funds: Commercial property owners seeking funds or tax breaks to offset the cost of energy efficiency upgrades will need to apply through city and state government programs, which will receive funds under the stimulus bill. States receiving funds are "encouraged to use federal funds for existing energy efficiency and renewable energy programs".

Renewable Energy Loan Guarantees: Creates a temporary program to provide loan guarantees for renewable energy systems, electric power transmission systems that begin construction by September 30, 2011. This Department of Energy loan guaranty program for renewable energy projects would benefit commercial property owners seeking to invest in alternative energy systems for onsite power generation.

Brownfields: \$100 million for competitive grants for evaluation and cleanup of former industrial and commercial sites - turning them from problem properties to productive community use.

Business Tax Incentives: (Of benefit to commercial real estate in as much as these provisions are intended to support those small businesses that occupy office space, retail space, warehouse space, etc.)

Extension of Bonus Depreciation: Businesses are allowed to recover the cost of capital expenditures over time according to a depreciation schedule. Last year, Congress temporarily allowed businesses to recover the costs of capital expenditures made in 2008 faster than the ordinary depreciation schedule would allow by permitting these businesses to immediately write-off 50% of the cost of depreciable property acquired in 2008 for use in the United States. The bill would extend this temporary benefit for capital expenditures incurred in 2009.

Extension of Enhanced Small Business Expensing: In order to help small businesses quickly recover the cost of certain capital expenses, small business taxpayers may elect to write-off the cost of these expenses in the year of acquisition in lieu of recovering these costs over time through depreciation. Until the end of 2010, small business taxpayers are allowed to write-off up to \$125,000 (indexed for inflation) of capital expenditures subject to a phase-out once capital expenditures exceed \$500,000 (indexed for inflation). Last year, Congress temporarily increased the amount that small businesses could write-off for capital expenditures incurred in 2008 to \$250,000 and increased the phase-out threshold for 2008 to \$800,000. The bill would extend these temporary increases for

capital expenditures incurred in 2009.

5-Year Carry-back of Net Operating Losses for Small Businesses: Under current law, net operating losses may be carried back to the two taxable years before the year that the loss arises and carried forward to each of the succeeding twenty taxable years after the year that the loss arises. For 2008, the bill would extend the maximum NOL carry-back period from two years to five years for small businesses with gross receipts of \$15 million or less.

Infrastructure Investment: Owners and investors in commercial real estate recognize the importance of infrastructure investment and included language to this effect in their recently passed "Commercial Economic Stimulus Plan".

"Provide federal funding for capital improvements to our nation's infrastructure (transportation, roads, energy grids, etc)."

Arthur Slattery is president of the NH CIBOR, Concord, NH.

New England Real Estate Journal - 17 Accord Park Drive #207, Norwell MA 02061 - (781) 878-4540