

**CHAPTER 31**

**AUTHORITY ASSISTANCE PROGRAMS**

**Authority**

N.J.S.A. 34:1B-1 et seq.

**Source and Effective Date**

R.2005 d.274, effective July 22, 2005.  
See: 37 N.J.R. 1714(a), 37 N.J.R. 3058(a).

**Chapter Expiration Date**

Chapter 31, Authority Assistance Programs, expires on July 22, 2010.

**Chapter Historical Note**

Chapter 31, Authority Assistance Programs, was adopted as R.1990 d.410, effective August 20, 1990. See: 22 N.J.R. 1545(a), 22 N.J.R. 2536(a).

Subchapter 7, Local Development Financing Fund, was adopted as R.1992 d.421, effective October 19, 1992. See: 24 N.J.R. 2534(a), 24 N.J.R. 3735(a).

Subchapter 8, Hazardous Discharge Site Remediation Fund, was adopted as R.1994 d.192, effective April 18, 1994. See: 25 N.J.R. 4468(a), 26 N.J.R. 1706(c).

Subchapter 9, New Jersey Boat Industry Loan Guarantee Fund, was adopted as R.1994 d.376, effective July 18, 1994. See: 26 N.J.R. 1613(a), 26 N.J.R. 2919(a).

Pursuant to Executive Order No. 66(1978), Chapter 31, Authority Assistance Programs, was readopted as R.1995 d.435, effective July 20, 1995. See: 27 N.J.R. 2377(a), 27 N.J.R. 3216(a).

Subchapter 10, Business Employment Incentive Program, was adopted as R.1996 d.470, effective October 7, 1996. See: 28 N.J.R. 3058(a), 28 N.J.R. 4510(b).

Subchapter 11, Petroleum Underground Storage Tank Remediation, Upgrade and Closure Fund, was adopted as R.1998 d.151, effective March 16, 1998. See: 29 N.J.R. 5236(b), 30 N.J.R. 1054(a).

Subchapter 12, Technology Business Tax Certificate Transfer Program, was adopted as R.1999 d.381, effective November 1, 1999. See: 31 N.J.R. 2522(a), 31 N.J.R. 3525(a).

Pursuant to Executive Order No. 66(1978), Chapter 31, Authority Assistance Programs, was readopted as R.2000 d.297, effective June 16, 2000. See: 32 N.J.R. 1705(a), 32 N.J.R. 2602(c).

Chapter 31, Authority Assistance Programs, was readopted as R.2005 d.274, effective July 22, 2005. Subchapter 5, Export Revolving Line of Credit; Subchapter 6, New Jersey Trade Adjustment Assistance Center; Subchapter 9, New Jersey Boat Industry Loan Guarantee Fund and Subchapter 13, Rules for Implementation of an Act Concerning the Restructuring of Certain Solid Waste Facility Bonds, and Providing for the Financing Thereof through the New Jersey Economic Development Authority, P.L.2001, c.401 were repealed by R.2005 d.274, effective August 15, 2005. See: Source and Effective Date. See, also, section annotations.

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#### SUBCHAPTER 1. BOND FINANCING PROGRAM

##### 19:31-1.1 Program description

(a) The Authority is empowered to issue tax-exempt and taxable bonds, the proceeds of which can be used to provide low-interest loans to businesses, governmental entities and certain nonprofit organizations to finance projects which provide or maintain employment and/or tax ratables.

(b) Most bond financings are not guaranteed by the Authority or the State, and are payable solely from revenues generated by the project being financed.

(c) The general credit of neither the Authority nor the State is pledged to secure the bonds.

Amended by R.2000 d.297, effective July 17, 2000.

See: 32 N.J.R. 1705(a), 32 N.J.R. 2602(c).

In (a), inserted a reference to governmental entities.

##### 19:31-1.2 Bond purchaser

(a) The applicant shall secure a written commitment from a bond purchaser.

(b) A bond purchaser shall be:

1. A commercial bank or other institutional lender;
2. An underwriter or placement agent;
3. A privately owned entity; or
4. An individual.

(c) A bond purchaser other than a commercial bank or institutional lender must submit an Application to Purchase Bonds, which will be reviewed by the Authority to determine acceptability to purchase a bond. This application includes requests for identification of, or information about:

1. The officers, directors, partners, owners and stockholders of the applicant;
2. Litigation involving the applicant;
3. Applicant's counsel, principal banks of account, and accountant; and
4. Financial statements of applicant.

(d) The bond purchaser establishes the amount, term, interest rate, collateral, etc., for the bond in negotiation with the applicant.

Amended by R.1997 d.270, effective July 7, 1997.

See: 29 N.J.R. 1485(b), 29 N.J.R. 2844(b).

Deleted (c), barring bond purchaser from being substantial owner or user of project; and recodified former (d) and (e) as (c) and (d).

##### 19:31-1.3 Bond financing

(a) Typically, the bonds are secured by a loan agreement and a mortgage on project assets.

(b) The funds raised by the bond issue are loaned by the Authority to pay for eligible project costs. The borrower signs an agreement with the Authority pledging to make payments sufficient to cover principal and interest on the bond. This agreement is then assigned to the bond purchaser.

(c) The borrower makes payments directly to the bond purchaser or trustee.

##### 19:31-1.4 Eligibility standards

(a) Generally, to be eligible for bond financing:

1. A project must serve a public purpose; that is, maintain or expand employment in New Jersey, assist in the economic development or redevelopment of a municipality, maintain or increase the tax base of the municipality, and maintain or diversify business and industry in the State; and

2. Applicants must represent to the Authority that they would not proceed with their project in the present time, place, or scope without the Authority's assistance.

the relationship being continued, and possibly an opinion of applicant's management;

6. Contact with applicant's bank(s) to ascertain credit history and an opinion of the applicant's management;

7. An analysis of collateral available to secure the requested financing as to adequacy of amount, quality, condition and marketability;

8. Independent credit investigations of the applicant and its principals, which may include real estate searches, financing statement searches, and judgment and lien searches; and

9. For projects funded under the Film Industry Production Assistance Guarantee Program, the Authority may utilize a consultant or subject matter experts such as the staff of the New Jersey Motion Picture and Television Commission to review each application and its technical elements for the purpose of assisting the Authority in an investigation and analysis of the financial soundness of the film project or film production company. This review will be considered by the Authority in addition to its own credit evaluation based on the criteria in (a)1 through 8 above.

(b) After completing (a) above, a determination is made as to the merits of the request, the likelihood of repayment, and the adequacy of the collateral available to secure the requested financing.

(c) If a positive determination is made, the requested financing is presented to the Members for approval.

Amended by R.2004 d.139, effective April 5, 2004.  
See: 36 N.J.R. 143(a), 36 N.J.R. 1787(b).

Added (a)9.

### 19:31-2.5 Approval process

(a) Only the Members can approve a guarantee, either directly or through delegation.

(b) When the Members approve a request, the minutes of the meeting at which such approval occurs are submitted to the Governor.

(c) The Members' approval is effective 10 working days after the Governor's receipt of the minutes, provided no gubernatorial veto of this action has occurred.

(d) If there has been no veto, a formal commitment letter is issued to the applicant and the bank which will be providing the loan.

1. The commitment letter incorporates the bank's commitment, and contains all terms, conditions and collateral required by the Authority.

2. Except for the Angel Investor Program guarantee and the Structured Finance Program, usually, life insurance on the applicant's principal officer(s) is required in an amount equal to the Authority's guarantee. The life insurance must name the Authority as collateral assignee.

3. Except for the Angel Investor Program guarantee and the Structured Finance Program, personal guarantees of owners of 10 percent or more of the applicant are usually required, and there may be a requirement for collateral apart from the applicant's collateral to secure the personal guarantees.

(e) When the commitment letter has been accepted by the applicant and the bank, and returned to the Authority, a list of closing instructions is mailed to the attorneys for the applicant and bank.

(f) When all required documentation is prepared, in form and content satisfactory to the Authority, a loan closing is scheduled and the guarantee is delivered to the lender.

Amended by R.1995 d.435, effective August 21, 1995.

See: 27 N.J.R. 2377(a), 27 N.J.R. 3216(a).

Amended by R.2005 d.274, effective August 15, 2005.

See: 37 N.J.R. 1714(a), 37 N.J.R. 3058(a).

Rewrote (a) and (d).

### 19:31-2.6 Attorney General review

All financing documents, including the Application, are subject to review by the Attorney General's Office.

Amended by R.1995 d.435, effective August 21, 1995.

See: 27 N.J.R. 2377(a), 27 N.J.R. 3216(a).

## SUBCHAPTER 3. DIRECT LOAN PROGRAM

### 19:31-3.1 Program description

(a) The Authority is empowered to make direct loans to applicants which are unable to obtain funding from conventional sources even with the help of an Authority guarantee.

(b) Except as otherwise provided in this subsection, direct loans are available in a maximum amount of \$750,000 for fixed asset financing and \$500,000 for working capital.

1. For the Smart Growth Pre-development Loan Program, the maximum loan amount will be \$1 million.

2. For the Brownfields Redevelopment Loan Program, the maximum loan amount will be \$750,000.

3. The maximum amount of combined total financing under the Smart Growth Pre-development and Brownfield Redevelopment loan program(s) is \$1.0 million.

4. The maximum amount of total financing for the New Jersey Growth Fund Program shall be \$1 million per transaction.

5. The maximum amount of total financing for a New Markets Credit program transaction may be \$10 million but shall not exceed 50 percent of the total project cost.

(c) Proceeds of fixed asset loans can be used for the acquisition of land, buildings, machinery and equipment, the

expansion of an existing building or the renovation of machinery, equipment, and buildings.

(d) Proceeds of working capital loans can be used for refinancing of existing debt, purchase of inventory, or operating expenses.

(e) Proceeds of Smart Growth Pre-development loans shall be used for the purposes of pre-development site preparation costs to be determined by the Authority. Such costs may include, but are not limited to, land assemblage, demolition, removal of materials and debris and engineering costs.

(f) Proceeds of Brownfield Redevelopment loans shall be used for financing those remediation costs deemed eligible by the New Jersey Department of Environmental Protection pursuant to the Municipal Landfill Site Closure, Remediation and Redevelopment Agreement that has been entered into by the applicant with the New Jersey Department(s) of Environmental Protection and Treasury, and the New Jersey Commerce and Economic Growth Commission.

(g) For the Authority's Direct Loan Program, the applicant shall elect in writing, at or prior to the time of closing, a fixed interest rate as set forth in (g)1 below or a variable interest rate as provided in (g)2 below.

1. Fixed Rate Interest:

i. Interest on Smart Growth Predevelopment, Brownfield Redevelopment, fixed asset or working capital loans will be fixed at the time of closing and shall be indexed to the United States Treasury Bill of like term plus any additional basis points to be determined by the Authority pursuant to the criteria set forth herein; with a floor of four percent and no more than a maximum of the highest Prime Rate as published in the Wall Street Journal plus three percent. Factors to be considered when calculating the additional interest basis points may include the applicant's creditworthiness, quality of collateral, the project's location-municipality, whether the applicant is locating to a former brownfield site, the industry type, the leveraging of total project costs to public dollars, whether the business is new to the State or expanding operation in the State, and the increase in tax ratable values.

ii. The Loans to Lenders component of the Fund for Community and Economic Development will charge an interest rate to be fixed at three percent for the first five years. For those loans that extend beyond five years, the rate will adjust to four percent on the first day of the sixth year. For those loans that extend beyond seven years, the rate will adjust to five percent on the first day of the eighth year. The maximum term of a Loans to Lenders Loan will be 10 years.

iii. The rate to be charged for the New Jersey Growth Fund Program is fixed at four percent plus any additional basis points to be determined by the Authority

pursuant to the criteria set forth herein; with a floor of four percent and no more than two times the highest Prime Rate as published in the Wall Street Journal. Factors to be considered when calculating the additional interest basis points may include the special criteria detailed in N.J.A.C. 19:31-3.2(f).

iv. The rate for loans under the New Markets Tax Credit program will be fixed at three percent and will be interest only for at least the first seven years of the term of the loan.

2. Variable Rate Interest: Interest on fixed asset and working capital loans is at a rate no less than three percent or the Federal Discount Rate, whichever is greater, and no more than one percent below the highest Prime Rate as published in the Wall Street Journal at the time of closing. The interest rate will be variable, adjusted on the first business day of each calendar quarter in accordance with the relationship of the original calculated interest rate to the Prime Rate or the Federal Discount rate. The maximum increase in the variable interest rate over a five year period will be five percentage points greater than the original calculated interest rate. Factors to be considered when calculating the interest rate are as set forth in (g)1 above.

3. In addition to any interest charged on a New Jersey Growth Fund loan, the Authority may also require the payment of additional fees, including, but not limited to, warrants, stock, stock options, a percentage of royalties, and a percentage of sales proceeds.

(h) The term of a fixed asset or working capital loan is a maximum of 10 years, although the repayment schedule is usually for a shorter time based on the applicant's ability to repay. Smart Growth Predevelopment and Brownfield Redevelopment loans will have a maximum term of three years. The New Jersey Growth Fund term is a maximum of 10 years, and may allow for interest only payments for a portion of the term, or for interest and payment deferrals, with the repayment schedule to be determined on revenue and operational milestone achievement. New Markets Tax Credit loans will have terms of no less than seven years.

(i) The Authority may make direct loans in excess of \$750,000 and up to \$2 million for fixed assets. An applicant for a direct loan in excess of \$750,000 shall:

1. Be in an industry or municipality that is targeted by the Authority as set forth in N.J.A.C. 19:30-5 or located in the Port District;

2. Demonstrate to the Authority that it has viable options to vacate the State, has been offered economic incentives by the competing state and, without the special guarantee, the applicant shall not undertake the relocation or expansion in the State; and

3. Create or maintain a minimum of 200 permanent full-time jobs in the State. The Authority's assistance shall not exceed \$50,000 per job created and/or maintained.

(j) Notwithstanding (i) above, an existing New Jersey company that is not targeted by the Authority as set forth in N.J.A.C. 19:30-5, but can meet the criteria set forth in (i)2 above shall be eligible for a direct loan in excess of \$750,000 if it can demonstrate that at least 400 permanent full-time jobs shall be maintained in New Jersey and the Authority's exposure shall be maintained in New Jersey and the Authority's exposure shall not exceed \$50,000 per job maintained.

(k) For purposes of (i) and (j) above, the direct loan term shall not exceed 10 years.

Amended by R.1992 d.126, effective March 16, 1992.  
See: 24 N.J.R. 177(b), 24 N.J.R. 970(b).

Revised (e).

Amended by R.1995 d.435, effective August 21, 1995.

See: 27 N.J.R. 2377(a), 27 N.J.R. 3216(a).

Amended by R.1997 d.270, effective July 7, 1997.

See: 29 N.J.R. 1485(b), 29 N.J.R. 2844(b).

Added (g) through (i).

Amended by R.2000 d.297, effective July 17, 2000.

See: 32 N.J.R. 1705(a), 32 N.J.R. 2602(c).

In (g)1, substituted "or" for "and" following "industry".

Amended by R.2001 d.242, effective July 16, 2001.

See: 33 N.J.R. 1567(a), 33 N.J.R. 2495(b).

In (b), substituted "\$750,000" for "\$500,000" and "\$500,000" for "\$250,000"; in (g) and (h), substituted "\$750,000" for "\$500,000".

Amended by R.2002 d.223, effective July 15, 2002.

See: 34 N.J.R. 1247(a), 34 N.J.R. 2469(a).

Rewrote (e).

Amended by R.2002 d.333, effective October 7, 2002.

See: 34 N.J.R. 2412(a), 34 N.J.R. 3531(a).

Rewrote (e).

Amended by R.2004 d.94, effective March 1, 2004.

See: 35 N.J.R. 5047(a), 35 N.J.R. 5369(a), 36 N.J.R. 1198(b).

Rewrote (e).

Amended by R.2004 d.346, effective September 20, 2004.

See: 36 N.J.R. 2305(a), 36 N.J.R. 4321(a).

Rewrote the section.

Amended by R.2005 d.274, effective August 15, 2005.

See: 37 N.J.R. 1714(a), 37 N.J.R. 3058(a).

In (b), added 4; rewrote (g) and (h).

Amended by R.2005 d.319, effective September 19, 2005.

See: 37 N.J.R. 2153(a), 37 N.J.R. 3722(a).

In (b), added 4; in (g)1 added iv.

Amended by R.2006 d.242, effective July 3, 2006.

See: 38 N.J.R. 1563(a), 38 N.J.R. 2887(c).

Inserted "at least the first seven years of" in (g)iv.

### 19:31-3.2 Eligibility standards

(a) Generally, preference for direct loans is given to projects which:

1. Are job intensive;
2. Will create or maintain tax ratables;
3. Are located in an economically-distressed area; and/or
4. Represent an important economic sector of the State.

(b) For fixed asset loans, the applicant will be required to invest at least 10 percent equity into the project.

(c) The applicant must demonstrate to the Authority that it is unable to obtain conventional, affordable financing on its own or with the availability of an Authority guarantee.

(d) For Smart Growth Pre-development loans, projects must be located in Planning Areas 1 and 2, designated centers or in municipalities with endorsed plans as defined by the State Redevelopment Plan, must evidence municipal support and be part of a local redevelopment plan.

(e) For Brownfield Redevelopment Loans, project sites must be the subject of a Municipal Landfill Site Closure, Remediation and Redevelopment Agreement that has been entered into by the applicant with the New Jersey Departments of Environmental Protection, Treasury and the New Jersey Commerce, Economic Growth and Tourism Commission.

(f) For New Jersey Growth Fund loans, projects will be considered eligible if they have the following characteristics:

1. Technology that has a strong likelihood and clear timeline to achieve commercialization;
2. A meaningful and defined market and customer base for the technology;
3. A management team possessing appropriate skill sets, capacity and financial resources and willingness to strengthen management through other means such as advisory or consultant services;
4. A meaningful customer base, partners, strategic alliances and professional relationships;
5. An ability to leverage the Authority's resources by evidence of other fund raising and need for future capital requirements;
6. A clear record of specific operational and research milestones achieved to date and proposed schedule and means to achieve future milestones;
7. A current and complete business plan including a detailed financial model; and
8. Location of the business in either an Innovation Zone, Urban Enterprise Zone or area targeted for smart growth redevelopment as determined by the New Jersey Development and Redevelopment Plan; or
9. A Business that is located in a targeted industry.

(g) For New Markets Tax Credit loans, the projects must be located within areas designated for smart growth land use development and designated by the New Jersey Development and Redevelopment Plan as in Planning Areas One or Two or is a designated center. Additionally, projects must be located in communities and census tracts as approved by the Community Development Financial Institutions Fund (CDFI) as described in (g)1 through 3 below and must have at least one of the characteristics described in (h) below.

1. A poverty rate of at least 20 percent;
2. In the case of a tract not located within a Metropolitan area as defined by the United States Census, where the median

income family income for such tract does not exceed 80 percent of the Statewide median family income; or

3. In the case of a tract located within a Metropolitan area, where the median family income for such tract does not exceed 80 percent of the greater of Statewide median family income or the Metropolitan area median family income.

(h) Additionally, New Markets Tax Credit projects must be located in at least one of the following types of designated areas:

1. CDFI Hot Zone, Empowerment Zone, Renewal Community, HOPE VI Redevelopment area, or Small Business Administration HUB Zone;

2. A brownfield redevelopment area, locally designated redevelopment area, or New Jersey Urban Enterprise Zone;

3. A census tract with an unemployment rate of 1.5 times the national average; or

4. A census tract with a poverty rate greater than 30 percent or with median incomes of less than 60 percent of the area median income.

Amended by R.2004 d.346, effective September 20, 2004.

See: 36 N.J.R. 2305(a), 36 N.J.R. 4321(a).

Added (d) and (e).

Amended by R.2005 d.274, effective August 15, 2005.

See: 37 N.J.R. 1714(a), 37 N.J.R. 3058(a).

In (e) substituted “,” for “and” following “Commerce”, added “and Tourism” following “Growth”; added (f).

Amended by R.2005 d.319, effective September 19, 2005.

See: 37 N.J.R. 2153(a), 37 N.J.R. 3722(a).

Added (g) and (h).

### 19:31-3.3 Application procedures

(a) The prospective applicant should consult with the Authority to determine if the project is eligible for consideration.

(b) To apply, a completed Application for Financial Assistance (Application) concerning the project must be submitted to the Authority for review, together with the Application fee.

(c) A completed Application includes:

1. A history and description of the applicant's business;

2. A description of the proposed project and a detailed breakdown of the use of the loan proceeds;

3. Annual financial statements for the three most recent years, including the balance sheets, operating statements and reconciliations of the source and application of funds;

4. A current interim statement, if the most recent annual financial statement is more than six months old;

5. Three years of projections, including the balance sheets, operating statements, reconciliation of the source and application of funds, and a detailing of the assumptions used in preparing the projections;

6. A list of the applicant's five largest customers, including the customer name, address, telephone number, and contact person;

7. A list of the applicant's five largest suppliers, including the supplier name, address, telephone number, and contact person; and

8. A schedule of all officers, directors and stockholders (owning 10 percent or more of the stock), including resumes and signed, dated personal financial statements.

(d) The Authority may also require:

1. Appraisal(s) on real property and/or machinery and equipment;

2. Aging of accounts receivable;

3. Aging of accounts payable; and/or

4. Any additional information deemed necessary to evaluate the Application.

(e) Applications are processed through several layers of staff review, and may then be recommended for consideration and official action of the Members at a public meeting. The applicant has no right to have its Application presented to the Members.

### 19:31-3.4 Evaluation process

(a) When all of the required information is received, the Authority will perform its own credit evaluation based on the following:

1. Visitation to the applicant's place of business, which may take place prior to the Application as part of the meeting to determine eligibility;

2. An analysis of historic and projected financial statements and a comparison to industry peers;

3. An independent industry study using source material such as the U.S. Department of Commerce's Industrial Outlook and the Standard & Poor's Industry survey, comparing the applicant's projections to the study, and considering the short term and long term outlook for the industry;

4. Contact with applicant's customers to ascertain the quality of the product or service provided, the competitiveness of the pricing, reliability and timeliness of delivery, length of the relationship, likelihood of the relationship being continued, and the customers' opinions of the applicant's management;

5. Contact with applicant's suppliers to ascertain the length of the relationship, the amount of credit extended, the amount of purchases, payment history, the likelihood of the relationship being continued, and possibly an opinion of applicant's management;

6. Contact with applicant's bank(s) to ascertain credit history and an opinion of the applicant's management;

7. An analysis of collateral available to secure the requested financing as to adequacy of amount, quality, condition and marketability; and

8. Independent credit investigations of the applicant and its principals, which may include real estate searches, financing statement searches, and judgment and lien searches.

(b) After completing (a) above, a determination is made as to the merits of the request, the likelihood of repayment, and the adequacy of the collateral available to secure the requested financing.

(c) If a positive determination is made, the requested financing is presented to the Members for approval.

#### 19:31-3.5 Approval process

(a) Only the Members can approve a direct loan, either directly or through delegation.

(b) When the Members approve a request, the minutes of the meeting at which such approval occurs are submitted to the Governor.

(c) The Members' approval is effective 10 working days after the Governor's receipt of the minutes, provided no gubernatorial veto of this action has occurred.

(d) If there has been no veto, a formal commitment letter is issued to the applicant.

1. The commitment letter contains all terms, conditions and collateral required by the Authority.

2. With the exception of the New Jersey Growth Fund, usually, life insurance on the applicant's principal officer(s) is required in an amount equal to the Authority's guarantee. The life insurance must name the Authority as a collateral assignee.

3. With the exception of the New Jersey Growth Fund, personal guarantees of owners of 10 percent or more of the applicant are usually required, and there may be a requirement for collateral apart from the applicant's collateral to secure the personal guarantees.

(e) When the commitment letter has been accepted by the applicant and returned to the Authority, a list of closing instructions is mailed to the attorney for the applicant.

(f) When all required documentation is prepared, in form and content satisfactory to the Authority, a loan closing is scheduled and the funds are made available to the applicant.

Amended by R.1995 d.435, effective August 21, 1995.  
See: 27 N.J.R. 2377(a), 27 N.J.R. 3216(a).  
Amended by R.2005 d.274, effective August 15, 2005.  
See: 37 N.J.R. 1714(a), 37 N.J.R. 3058(a).  
Rewrote (a) and (d)2 and 3.

#### 19:31-3.6 Attorney General review

All financing documents, including the Application, are subject to review by the Attorney General's Office.

Amended by R.1995 d.435, effective August 21, 1995.  
See: 27 N.J.R. 2377(a), 27 N.J.R. 3216(a).

### SUBCHAPTER 4. DOWNTOWN BEAUTIFICATION PROGRAM

#### 19:31-4.1 Program description

(a) The Authority is empowered to make direct loans to owners and operators of retail and commercial businesses located in downtown urban areas who are unable to obtain funding from conventional sources to upgrade their properties and to remain in such areas.

(b) Applicants may be eligible for loans in amounts ranging from \$5,000 to \$100,000.

(c) Proceeds of loans are to be used primarily to renovate, remodel or expand the interior and/or exterior of the facility, but a limited amount of the funds can be used for working capital.

(d) Interest on these loans is equal to one percent below the Federal Discount Rate at the time of loan closing, with a minimum of three percent and a maximum of 10 percent.

(e) The term of the loan is a maximum of 10 years, although the repayment schedule is usually for a shorter term based on the applicant's ability to repay.

Amended by R.1995 d.435, effective August 21, 1995.  
See: 27 N.J.R. 2377(a), 27 N.J.R. 3216(a).  
Amended by R.2001 d.242, effective July 16, 2001.  
See: 33 N.J.R. 1567(a), 33 N.J.R. 2495(b).  
In (b), substituted "\$100,000" for "\$50,000".

**19:31-7.8 Rescission of financial assistance from the Fund**

(a) The Authority may at its discretion rescind part or all of the financial assistance from the Fund when it has become evident after the granting of financial assistance that:

1. The commitment of other financial resources from private sources has been withdrawn;
2. The project is judged no longer capable of repaying the Fund for the financial assistance it has received;
3. The project is judged incapable of achieving its target requirement, pursuant to N.J.A.C. 19:31-7.7, or that the project is not employing good faith efforts to achieve the requirements under N.J.A.C. 19:31-7.7; or
4. The participants in the project are found not to be of a good moral character. Such a finding may be based on convictions of felony offenses or any other conduct of the applicant which may be viewed in a nonfavorable light by a reasonable person.

(b) Upon determination of the Authority that financial assistance from the Fund shall be rescinded, the Authority shall send a certified letter to the applicant and the sponsor informing them of the rescission.

## SUBCHAPTER 8. HAZARDOUS DISCHARGE SITE REMEDATION FUND

**19:31-8.1 Applicability and scope**

The rules in this subchapter are promulgated by the New Jersey Economic Development Authority to implement those sections of P.L. 1993, c.139 which pertain to the Hazardous Discharge Site Remediation Fund. This Act established the Hazardous Discharge Site Remediation Fund, a special, revolving fund for the purpose of financing remediation activities at sites at which there is, or is suspected of being, a discharge of hazardous substances or hazardous waste.

**19:31-8.2 Definitions**

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise:

“Act” means P.L. 1993, c.139.

“Applicant” means a municipal governmental entity, the New Jersey Redevelopment Authority, an individual, corporation, partnership, or other private business entity which has been determined by the Department to be eligible for financial assistance or a grant under the Fund.

“Authority” means the New Jersey Economic Development Authority.

“Department” means the Department of Environmental Protection and Energy.

“Discharge” shall have the same meaning as set forth at N.J.A.C. 7:26E.

“Eligible project” means a project determined by the Department to be eligible to apply to the Authority to receive financial assistance or a grant from the Hazardous Discharge Site Remediation Fund.

“Financial assistance” means loans and loan guarantees.

“Fund” means the Hazardous Discharge Site Remediation Fund.

“Innocent party” means a person who:

1. Acquired the property prior to December 31, 1983;
2. Who can demonstrate that the hazardous substance or hazardous waste that was discharged at the property was not used by that person, or by any person that had permission to use the site from the person applying for an innocent party grant; and
3. Who can certify that he or any person that had permission to use the site from the person applying for the innocent party grant did not discharge any hazardous substance or hazardous waste at an area where a discharge is discovered.

“Members” means the members of the Authority.

“Municipal governmental entity” means any agency, board, governing body, bureau, division, office, commission or other instrumentality within a municipality, but shall not include a school board.

“NJRA” means the New Jersey Redevelopment Authority.

“Person” shall not include any municipal governmental entity.

“Preliminary assessment” shall have the same meaning as set forth at N.J.A.C. 7:26E.

“Qualifying person” means any person who has a net worth of not more than \$2 million.

“Remediation” shall have the same meaning as set forth at N.J.A.C. 7:26E.

“Remediation funding source” means the methods of financing the remediation of a discharge.

“Site investigation” shall have the same meaning as set forth at N.J.A.C. 7:26E.

Amended by R.1994 d.375, effective July 18, 1994.

See: 26 N.J.R. 1612(b), 26 N.J.R. 2918(a).

Amended by R.2000 d.297, effective July 17, 2000.

See: 32 N.J.R. 1705(a), 32 N.J.R. 2602(c).

Rewrote “Applicant”; and inserted “Municipal governmental entity”, “NJRA” and “Qualifying person”.

**19:31-8.3 Eligibility**

(a) Financial assistance from the Fund may be made for eligible projects to:

1. Owners or operators of industrial establishments who are required to perform remediation activities pursuant to N.J.S.A. 13:1K-6 et seq., upon closing operations or prior to the transfer of ownership or operations of an industrial establishment;

2. Persons who have discharged a hazardous substance or who are in any way responsible for a hazardous substance pursuant to N.J.S.A. 58:10-23.11 et seq.;

3. Persons who voluntarily undertake the remediation of a discharge of a hazardous substance or hazardous waste, pursuant to the Department's voluntary cleanup program, and who have not been ordered or directed to perform the remediation by the Department or by a court pursuant to section 27b(3) of the Act; or

4. Municipal governmental entities or the NJRA that hold a tax sale certificate on, have acquired through foreclosure or other similar means, or have acquired through, or have passed a resolution or ordinance or other appropriate document to acquire, by voluntary conveyance for the purpose of redevelopment, real property on which there has been a discharge or on which there is a suspected discharge of a hazardous substance or hazardous waste pursuant to section 27c of the Act. The real property shall not have been used by that entity for the conduct of its official business.

(b) Financial assistance from the Fund may only be rendered to persons who cannot establish a remediation funding source for the full amount of the remediation and may be rendered only for that amount of the cost of remediation for which the person cannot establish a remediation funding source. This limitation shall not apply to the NJRA, municipal governmental entities, or to persons who are not required to establish a remediation funding source for the part of the remediation involving an innovative technology, an unrestricted use remedial action or a limited restricted use remedial action, persons performing a remediation in an environmental opportunity zone, or persons who voluntarily perform a remediation.

(c) Grants from the fund may be made to:

1. Municipal governmental entities or the NJRA that hold tax sale certificate on, have acquired through foreclosure or other similar means, or have acquired through, or have passed a resolution or ordinance or other appropriate document to acquire by, voluntary conveyance for the purpose of redevelopment, real property on which there has been a discharge or on which there is a suspected discharge of a hazardous substance or hazardous waste. These grants may be utilized to perform preliminary assessments and site investigations on these properties;

i. Notwithstanding (c)1 above, no grant shall be awarded for purposes of remedial investigation until the municipal governmental entity or the NJRA actually owns the real property, or to a municipal governmental entity unless that entity has adopted, by ordinance or resolution, a comprehensive plan specifically for the development or redevelopment of contaminated or potentially contaminated real property in that municipality or the entity can demonstrate to the Authority that a realistic opportunity exists that the property will be developed or redeveloped within a three year period from the completion of the remediation.

2. Persons, excluding municipal governmental entities and the NJRA, that own real property on which there has been a discharge of a hazardous substance or a hazardous waste and that person and the NJRA qualifies for an innocent party grant pursuant to section 28 of the Act; and

3. Qualifying persons who propose to perform a remedial action that uses an innovative technology or that would result in an unrestricted use remedial action or a limited restricted use remedial action.

(d) The determination of eligibility will be made by the Department in accordance with sections 28 through 31 of the Act.

(e) No financial assistance or grant from the Remediation Fund shall be rendered to a person or any municipal governmental entity that is currently in violation of an administrative or judicial order, judgment or consent agreement regarding violation or threatened violation of an environmental law regarding the subject property, unless the violation, fee, penalty or assessment is currently being contested by the applicant in a manner prescribed by law or unless the violation resulted from a lack of sufficient money to perform the required remediation activities.

(f) An applicant for financial assistance or a grant shall certify to the Department and to the Authority that they cannot establish a remediation funding source for all or part of the remediation costs. This requirement does not apply to grants to innocent parties, grants for the use of innovative technologies, grants for the implementation of unrestricted use, remedial actions or limited restricted use remedial actions, or to financial assistance or grants to municipal governmental entities.

Amended by R.1994 d.375, effective July 18, 1994.

See: 26 N.J.R. 1612(b), 26 N.J.R. 2918(a).

Amended by R.2000 d.297, effective July 17, 2000.

See: 32 N.J.R. 1705(a), 32 N.J.R. 2602(c).

Rewrote the section.

**19:31-8.4 Terms of financial assistance**

(a) Loans from the Fund or loans guaranteed by the Fund shall be for a term of not more than 10 years.

(b) Loans to municipal governmental entities and the NJRA shall bear an interest rate equal to two points below the

Federal Discount Rate at the time of approval or at the time of loan closing, whichever is lower, except that the rate shall be no lower than three percent. Interest on all other loans from the Fund shall be equal to the Federal Discount Rate at the time of approval (see N.J.A.C. 19:31-8.10) or at the time of the loan closing, whichever is lower, with a minimum of five percent.

(c) Upon transfer of ownership of any real estate for which a loan was made from the Fund or a loan was guaranteed by the Fund, the unpaid balance of the loan shall become immediately due and payable.

Amended by R.1995 d.435, effective August 21, 1995.

See: 27 N.J.R. 2377(a), 27 N.J.R. 3216(a).

Amended by R.2000 d.297, effective July 17, 2000.

See: 32 N.J.R. 1705(a), 32 N.J.R. 2602(c).

Rewrote (b).

### 19:31-8.5 Amount of financial assistance and grants

(a) Financial assistance and grants may be for up to 100 percent of the estimated applicable Remediation costs, except that the cumulative maximum amount of financial assistance to a person other than a municipal governmental entity in any calendar year, for one or more properties, shall be \$1,000,000.

(b) Financial assistance and grants to any one municipal governmental entity or NJRA shall not exceed \$2,000,000 in any calendar year.

(c) Grants to an innocent party may be for up to 50 percent of the remediation costs except that no grant may exceed \$1,000,000.

(d) The amount of financial assistance or grant shall be based upon a scope of work for remediation which is in compliance with N.J.A.C. 7:26D, 7:26E, 7:26B and 7:14B as applicable.

Amended by R.2000 d.297, effective July 17, 2000.

See: 32 N.J.R. 1705(a), 32 N.J.R. 2602(c).

In (a), deleted "and grants" following "assistance"; and in (b), inserted "or NJRA" following "entity".

### 19:31-8.6 Priority system for financial assistance and grants

(a) An eligible proposal, as determined by the Department, for financial assistance or a grant from the Fund shall be given priority for financial assistance or a grant by the Authority based on the date of receipt by the Authority of a completed application and the availability of sufficient moneys in the Fund for the purpose of the financial assistance or grant, subject to credit approval by the Authority and other criteria as established by this rule.

1. Availability of sufficient moneys in the Fund will be determined in accordance with the allocation method required by section 28(a) of the Act.

2. The Chief Executive Officer of the Authority and the Commissioner of the Department, or their designees, shall, from time to time review the allocation of moneys in the Fund and the requirements of applicants for money from the fund and reallocate the moneys to the extent permissible under section 28(a) of the Act.

(b) Notwithstanding (a) above, top priority for financial assistance or grants will be given to persons, municipal governmental entities or the NJRA for remediation activities at sites which involve an imminent and significant threat of a discharge of a hazardous substance or hazardous waste and the discharge or threatened discharge poses an imminent and significant threat to a public water source, to human health or to a sensitive and significant ecological area as determined by the Department in accordance with section 28(a)3 of the Act.

Amended by R.2000 d.297, effective July 17, 2000.

See: 32 N.J.R. 1705(a), 32 N.J.R. 2602(c).

In (b), inserted a reference to the NJRA.

Amended by R.2005 d.274, effective August 15, 2005.

See: 37 N.J.R. 1714(a), 37 N.J.R. 3058(a).

In (a)2, substituted "Chief Executive Officer" for "Executive Director".

### 19:31-8.7 Application for financial assistance and grants

(a) Upon determination of eligibility by the Department, the Department will notify the Authority of the eligibility of the applicant, and the total amount of remediation costs and the amount of remediation costs for which the applicant is unable to establish a remediation funding source.

(b) The Department shall forward the approved application to the Authority for further processing. The Authority shall have the discretion to request any additional information from the applicant and/or from the Department which it deems necessary in order to complete its evaluation of the application. An application shall be deemed to be complete at such time as the Authority has received all required information in the required form.

(c) The applicant will be given priority for financial assistance and grants based on the date of receipt by the Authority of a completed application.

(d) If the application is determined by the Authority to be incomplete, the applicant will have 30 days from receipt of written notice of incompleteness to file any additional information required by the Authority. Notwithstanding anything in this section to the contrary, in the event the applicant submits the additional information in the required form within the 30 day period, the application shall be deemed complete as of the initial application submission date.

(e) If the applicant fails to file the additional information within the 30 day period, the filing date for the application shall be the date the additional information is received by the Authority.

(f) A completed application shall include, if applicable as determined by the Authority:

1. A history and description of the applicant's business;
2. A description of the proposed project and a detailed breakdown of the use of the loan or grant proceeds;
3. Annual financial statements for the three most recent years, including the balance sheets, operating statements and reconciliations of the source and application of funds, or, for an individual, copies of tax returns for the three most recent years.
4. A current interim statement, if the most recent annual financial statement is more than six months old;
5. Three years of projections, including the balance sheets, operating statements, reconciliation of the source and application of funds, and a detailing of the assumptions used in preparing the projections;
6. A list of the applicant's five largest customers, including the customer name, address, telephone number, and contact person;
7. A list of the applicant's five largest suppliers, including the supplier name, address, telephone number and contact person;
8. A schedule of all officers, directors and stockholders (owning 10 percent or more of the stock), including resumes and signed, dated personal financial statements; and
9. In the case of a loan guarantee, a formal commitment letter from the lender providing the loan, including the terms, conditions, collateral and a statement of the requirement for the Authority guarantee.

(g) The Authority may also require:

1. Appraisal(s) on real property and/or machinery and equipment;
2. Aging of accounts receivable;
3. Aging of accounts payable; and/or
4. Any additional information deemed necessary to evaluate the application.

(h) Applications are processed through several layers of staff review, and may then be recommended for consideration and official action of the Authority Members at a public meeting. Within 45 days of the receipt of a completed application, a determination will be made to recommend approval to the Members or deny the application. The applicant has no right to have its application presented to the Members.

Administrative Correction.

See: 26 N.J.R. 2462(b).

Amended by R.2000 d.297, effective July 17, 2000.

See: 32 N.J.R. 1705(a), 32 N.J.R. 2602(c).

Rewrote (b); inserted references to grants in (c) and (f)2; and in (d), added a second sentence.

### 19:31-8.8 Evaluation process for financial assistance and grants

(a) When all of the required information is received, the Authority will perform its own credit evaluation based upon the following:

1. Visitation to the applicant's place of business;
2. An analysis of historic and projected financial statements and a comparison to industry peers;
3. An independent industry study using source material such as the U.S. Department of Commerce's Industrial Outlook and the Standard & Poor's Industry survey, comparing the applicant's projections to the study, and considering the short term and long term outlook for the industry;
4. Contact with applicant's customers to ascertain the quality of the product or service provided, the competitiveness of the pricing, reliability and timeliness of delivery, length of the relationship, likelihood of the relationship being continued, and the customers' opinions of the applicant's management;
5. Contact with applicant's suppliers to ascertain the length of the relationship, the amount of credit extended, the amount of purchases, payment history, the likelihood of the relationship being continued, and possibly an opinion of applicant's management;
6. Contact with applicant's bank(s) to ascertain credit history and an opinion of the applicant's management;
7. An analysis of collateral available to secure the requested financing as to adequacy of amount, quality, condition and marketability;
8. Independent credit investigations of the applicant and its principals, which may include real estate searches, financing statement searches, and judgment and lien searches; and
9. For municipal government entities, all Local Finance Board requirements must be satisfied.

(b) After completing (a) above, a determination shall be made as to the merits of the request, the likelihood of repayment, and the adequacy of the collateral available to secure the requested financial assistance.

(c) If a positive determination is made, the requested financial assistance shall be presented to the Members for approval.

Amended by R.2000 d.297, effective July 17, 2000.

See: 32 N.J.R. 1705(a), 32 N.J.R. 2602(c).

Inserted (a)9.

### 19:31-8.9 Approval process for financial assistance and grants

(a) Only the Members can approve a financial assistance or a grant.

(b) When the Members approve financial assistance or a grant, the minutes of the meeting at which such approval occurs are submitted to the Governor.

(c) The Members' approval is effective 10 working days after the Governor's receipt of the minutes, provided no gubernatorial veto of this action has occurred.

(d) If there has been no veto, a formal commitment letter, award closing package, notice of approval of financial assistance, or grant, is issued to the applicant.

1. The notice of approval will contain all material terms, conditions and collateral required by the Authority and will include personal guarantees of owners of 10 percent or more of the applicant are usually required, and there may be a requirement for collateral apart from the applicant's collateral to secure the personal guarantees.

(e) Within 90 calendar days for a private entity, or within 180 calendar days for a municipal governmental entity or NJRA, of receipt of the notice of approval of financial assistance or grant application, an applicant shall submit to the Authority an executed contract for the remediation activities for which the financial assistance or grant application was made. Failure to submit an executed contract within the time provided, without good cause, shall constitute grounds for alteration of the applicant's priority ranking for the awarding of financial assistance or a grant.

(f) When the notice of approval has been accepted by the applicant and returned to the Authority within the requisite time frame, a list of closing instructions shall be mailed to the municipality or attorney for the applicant. The Authority's commitment shall terminate and the Authority shall have no further obligation in connection with an application if the notice of approval is not signed and returned to the Authority, together with the applicable fees, within 120 days of its delivery or month's end, whichever is later for municipalities and within 30 days of the date of the notice of approval or month's end, whichever is later (acceptance date) for other applicants. In addition, in the event that the financing is not closed on or before 90 days from the date of acceptance for municipalities and 180 days from the acceptance date for other applicants, the Authority's obligation to provide financing shall terminate and the applicant shall be required to submit a new application. Upon receipt of a written request, the Authority, in consultation with the Department of Environmental Protection, may consider an extension of time.

(g) When all required documentation is prepared, in form and content satisfactory to the Authority, a closing shall be scheduled and the funds made available to the applicant subject to approval by the Authority.

Administrative Correction.

See: 26 N.J.R. 2462(b).

Amended by R.1995 d.435, effective August 21, 1995.

See: 27 N.J.R. 2377(a), 27 N.J.R. 3216(a).

Amended by R.2000 d.297, effective July 17, 2000.

See: 32 N.J.R. 1705(a), 32 N.J.R. 2602(c).

Rewrote (d) and (f); in (e), inserted a reference to grants; and in (g), substituted a reference to closings for a reference to loan closings, and deleted a reference to sponsors.

Amended by R.2000 d.482, effective December 4, 2000.

See: 32 N.J.R. 3555(a), 32 N.J.R. 4275(b).

In (f), added "for municipalities and within 30 days of the date of the notice of approval or month's end, whichever is later (acceptance date) for other applicants" at the end of the second sentence, and inserted "for municipalities and 180 days from the acceptance date for other applicants" following "acceptance" in the third sentence.

#### 19:31-8.10 Disbursement of financial assistance and grants

(a) All requests for disbursements of the financial assistance or grant must be submitted by the applicant with a certification from the contractor or consultant that the requested moneys will be spent in accordance within a Department approved scope of work and a certification from the applicant that it is in full compliance with all of the terms and conditions of the assistance agreement. Disbursements are subject to certain preconditions, including, among other things, approval by the Department of the remediation contracts and all previously performed work.

(b) The recipient of the financial assistance or grant must provide access, by the Authority and the Department, at reasonable times to the subject property to determine compliance with the terms and conditions of the financial assistance or grant.

(c) In the case of a grant, payment will be conditioned upon the subrogation to the Department of all rights of the recipient to recover remediation costs from the discharger or other liable party. All moneys collected in a cost recovery subrogation action shall be deposited into the Fund.

(d) Where financial assistance to a person other than a municipal governmental entity or the NJRA is for a portion of the remediation cost, the applicant will be required to provide evidence that all moneys for which a remediation funding source has been established, have been expended, before the proceeds of the financial assistance will be disbursed.

Amended by R.2000 d.297, effective July 17, 2000.

See: 32 N.J.R. 1705(a), 32 N.J.R. 2602(c).

Rewrote (a); in (c), substituted a reference to liable parties for a reference to responsible parties, and added a second sentence; and in (d) inserted a reference to the NJRA.

#### 19:31-8.11 Attorney General review

All financing documents, including the Application, are subject to review by the Attorney General's Office.

Amended by R.1995 d.435, effective August 21, 1995.

See: 27 N.J.R. 2377(a), 27 N.J.R. 3216(a).

#### 19:31-8.12 Fees

Fees for financial assistance and grants will be charged in accordance with the Authority's fee rules (see N.J.A.C. 19:30-6).

Amended by R.2000 d.297, effective July 17, 2000.  
See: 32 N.J.R. 1705(a), 32 N.J.R. 2602(c).  
Rewrote the section.

### 19:31-8.13 Public record

All information submitted to the Department and/or the Authority as part of an application for financial assistance or grant shall be deemed a public record subject to the provisions of P.L. 1963, c.73 (N.J.S.A. 47:1A-1 et seq.).

## SUBCHAPTER 9. (RESERVED)

## SUBCHAPTER 10. BUSINESS EMPLOYMENT INCENTIVE PROGRAM

### 19:31-10.1 Applicability and scope

The rules in this subchapter are promulgated by the New Jersey Economic Development Authority to implement P.L. 1996, c.26, as amended by P.L. 2003, c.166. This Act establishes the Business Employment Incentive Program, a special business assistance program to provide grants to businesses located in, or relocating to, New Jersey that create new jobs in New Jersey.

Amended by R.2004 d.94, effective March 1, 2004.  
See: 35 N.J.R. 5047(a), 35 N.J.R. 5369(a), 36 N.J.R. 1198(b).

Added “, as amended by P.L. 2003, c.166” at the end of the first sentence.

### 19:31-10.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

“Act” means the New Jersey Economic Development Authority Act, N.J.S.A. 34:1B-1 et seq. as amended and supplemented.

“Advanced computing” means a technology used in the designing and developing of computing hardware and software, including innovations in designing the full spectrum of hardware from hand-held calculators to super computers, and peripheral equipment.

“Advanced computing company” means a person, whose headquarters or base of operations is located in New Jersey, engaged in the research, development, production, or provision of advanced computing for the purpose of developing or providing products or processes for specific commercial or public purposes.

“Advanced materials” means materials with engineered properties created through the development of specialized processing and synthesis technology, including ceramics,

high value-added metals, electronic materials, composites, polymers, and biomaterials.

“Advanced materials company” means a person, whose headquarters or base of operations is located in New Jersey, engaged in the research, development, production, or provision of advanced materials for the purpose of developing or providing products or processes for specific commercial or public purposes.

“Authority” means the New Jersey Economic Development Authority.

“Base employment number” shall mean the number of employees the business has employed in the State of New Jersey at the time of application for the grant.

“Base years” means the first two complete calendar years following the effective date of an agreement, except that in those instances where significant construction/renovation of the project requires a certificate of occupancy to be awarded prior to occupancy of the project site, the base years will commence upon the issuance of a certificate of occupancy by the municipality.

“Biotechnology” means the continually expanding body of fundamental knowledge about the functioning of biological systems from the macro level to the molecular and subatomic levels, as well as novel products, services, technologies and sub-technologies developed as a result of insights gained from research advances which add to that body of fundamental knowledge.

“Biotechnology company” means a person, whose headquarters or base of operations is located in New Jersey, engaged in the research, development, production, or provision of biotechnology for the purpose of developing or providing products or processes for specific commercial or public purposes, including, but not limited to, medical, pharmaceutical, nutritional, and other health-related purposes, agricultural purposes, and environmental purposes, or a person, whose headquarters or base of operations is located in New Jersey, engaged in providing services or products necessary for such research, development, production, or provision.

“Bonds” means bonds, notes, or other obligations issued by the Authority pursuant to the Act.

“Business” means a corporation, sole proprietorship; partnership, corporation that has made an election under Subchapter S corporation, or any other business entity through which income flows as a distributive share to its owners; limited liability company; a nonprofit corporation; or any other form of business organization located within or outside this State. A grant received by a partnership, Subchapter S corporation, or other such business entity shall be apportioned among the persons to whom the income or profit of the partnership, Subchapter S corporation, or other entity is distributed, in the same proportions as those in which the