

CHAPTER 47**NEIGHBORHOOD REVITALIZATION
STATE TAX CREDIT****Authority**

N.J.S.A. 52:27D-498.

Source and Effective Date

R.2009 d.106, effective March 9, 2009.
See: 40 N.J.R. 6505(a), 41 N.J.R. 1399(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 47, Neighborhood Revitalization State Tax Credit, expires on March 9, 2016. See: 43 N.J.R. 1203(a).

Chapter Historical Note

Chapter 47, Neighborhood Revitalization State Tax Credit, was adopted as R.2004 d.103, effective March 15, 2004. See: 35 N.J.R. 4208(a), 36 N.J.R. 1367(a).

Chapter 47, Neighborhood Revitalization State Tax Credit, was re-adopted as R.2009 d.106, effective March 9, 2009. See: Source and Effective Date.

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SUBCHAPTER 1. GENERAL PROVISIONS**5:47-1.1 Statement of purpose**

(a) The purpose of these rules is to implement the provisions of the Neighborhood Revitalization State Tax Credit Act, P.L. 2001, c.415 (N.J.S.A. 52:27D-490 et seq.).

(b) The purpose of the Neighborhood Revitalization State Tax Credit Act is to foster the revitalization of New Jersey's low-and moderate-income neighborhoods through comprehensive strategies driven by residents and other public and private stakeholders within the neighborhood; specifically:

1. To encourage community-based neighborhood planning;
2. To provide flexible resources for community-based organizations to carry out strategies established in neighborhood plans;
3. To build the capacity of local and community-based organizations to carry out neighborhood revitalization activities;

4. To attract private investment into New Jersey's low-and moderate-income neighborhoods; and
5. To foster ongoing partnerships between private corporations and community-based development organizations.

5:47-1.2 Definitions

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

"Assistance" means the contribution of moneys to aid in the provision of neighborhood preservation and revitalization services or community services.

"Business entity" means any business firm or individual which is authorized to conduct or operate a trade or business in the State and is subject to taxes on business related income.

"Certificate for neighborhood revitalization State tax credits" means the certificate in the form prescribed by the Treasurer and issued by the Commissioner to a business entity that specifies the dollar amount of neighborhood preservation and revitalization State tax credits that that business entity may take as an annual credit against certain State taxes pursuant to P.L. 2001, c.415 (N.J.S.A. 52:27D-490 et seq.).

"Commissioner" means the Commissioner of Community Affairs, and shall include any staff member authorized by the Commissioner to act on his or her behalf with respect to any matter contained within these rules.

"Department" means the Department of Community Affairs, and shall include any staff member, consultant or advisor authorized to act on behalf of the Department with respect to any matter contained within these rules.

"Eligible neighborhood" means a contiguous area located in one or more municipalities that, at the time of the application to the Department for approval of a neighborhood preservation and revitalization plan, are all either eligible to receive aid under the "Special Municipal Aid Act," P.L. 1987, c.75 (N.J.S.A. 52:27D-118.24 et seq.) or coextensive with a school district which qualified for designation as a Special Needs district pursuant to the "Comprehensive Educational Improvement and Financing Act of 1996," P.L. 1996, c.138 (N.J.S.A. 18A:7F-1 et seq.), and as further defined in N.J.A.C. 5:47-3.2.

"Housing and economic development activities" means those activities carried out in furtherance of a neighborhood preservation and revitalization plan in an eligible neighbor-

hood approved pursuant to P.L. 2001, c.415 (N.J.S.A. 52:27D-490 et seq.), to improve the housing and economic conditions of the neighborhood; and shall include, without limitation, measures to foster the rehabilitation and construction of housing affordable to low-and moderate-income households within the neighborhood, including planning, design, rehabilitation, construction, and management of low-and moderate-income housing, home buyer counseling, and related activities needed to effectuate the rehabilitation and construction of housing affordable to low-and moderate-income households; measures to increase business activity within the neighborhood, including the rehabilitation and construction of commercial facilities and the provision of assistance to small business entities; measures to increase the income and labor force participation of neighborhood residents, including provision of education, training, child care and transportation assistance to enable low-income neighborhood residents to obtain or retain employment; and measures to foster the creation of sustainable and economically integrated neighborhoods and communities, as further defined in N.J.A.C. 5:47-5.

"Low-income household" means a household whose gross household income is less than 50 percent of the median gross household income for the region in which the neighborhood is located for households of similar size as determined by the Department.

"Moderate-income household" means a household whose gross household income is greater than or equal to 50 percent but less than 80 percent of the median gross household income of the region in which the neighborhood is located for households of similar size as determined by the Department.

"Neighborhood preservation and revitalization activities" means housing and economic development activities and other neighborhood preservation and revitalization activities.

"Neighborhood Revitalization Non-lapsing Trust Fund" means the non-lapsing trust fund established in the State Treasury into which all assistance from business entities receiving certificates under the provisions of N.J.A.C. 5:47-7 shall be deposited.

"Neighborhood revitalization plan" means a plan for the preservation or revitalization of an eligible neighborhood, as further defined in N.J.A.C. 5:47-5.

"Nonprofit organization" means a private nonprofit corporation that has been determined by the Internal Revenue Service of the United States Department of the Treasury to be exempt from income taxation under 26 U.S.C. § 501(c)(3).

“Other neighborhood revitalization activities” means those activities, other than housing and economic development activities, carried out in furtherance of a State-approved neighborhood preservation and revitalization plan in a qualified low-and moderate-income neighborhood, and may include, without limitation, improvements to infrastructure, streetscape, public open space, and transportation systems; provision of social and community services, health care, crime prevention, recreation activities, community and environmental health services; and community outreach and organizing activities, as further defined in N.J.A.C. 5:47-5.

“Qualified nonprofit organization” means a nonprofit organization that has demonstrated a commitment to the neighborhood for which it is submitting a plan or project, as reflected in its past activities or proposed activities in a preservation and revitalization plan, and which has the capacity to carry out activities in furtherance of such a plan, consistent with the provisions of N.J.A.C. 5:47-4.4.

“Qualified project” means one or more housing and economic development activities and/or other neighborhood revitalization activities to be carried out in accordance with a neighborhood revitalization plan as approved by the Commissioner with funds provided by a business entity eligible to receive a certificate for neighborhood revitalization State tax credits.

SUBCHAPTER 2. ELIGIBILITY OF BUSINESS ENTITIES FOR TAX CREDIT

5:47-2.1 Eligibility for tax credits

A business entity shall be eligible for a certificate for neighborhood revitalization State tax credits if it agrees to provide funding for a qualified project that has been approved in accordance with sections 4 and 5 of P.L. 2001, c.415 (N.J.S.A. 52:27D-493 and 494) and complies with the provisions of N.J.A.C. 5:47-6.

5:47-2.2 Tax credit allowable

(a) Credits may be granted in an amount up to 100 percent of the approved assistance provided to a nonprofit organization to implement a qualified neighborhood preservation and revitalization project.

(b) The credit may be applied by the business entity receiving the certificate as credit against tax imposed on business related income, other than tax imposed under the New Jersey Gross Income Tax, including, but not limited to, business income subject to the provisions of the Corporation Business Tax Act (1945), P.L. 1945, c.162 (N.J.S.A. 54:10A-1 et seq.), the Savings Institution Tax Act, P.L. 1973, c.31 (N.J.S.A. 54:10D-1 et seq.), the tax imposed on marine insurance companies pursuant to N.J.S.A. 54:16-1 et seq., the tax imposed on insurers generally, pursuant to P.L. 1945,

c.132 (N.J.S.A. 54:18A-1 et seq.), the sewer and water utility excise tax imposed pursuant to section 6 of P.L. 1940, c.5 (N.J.S.A. 54:30A-54) and the petroleum products gross receipts tax imposed pursuant to section 3 of P.L. 1990, c.42 (N.J.S.A. 54:15B-3).

(c) The credit allowed to a business entity under this section may not exceed for any taxable year \$1,000,000 or the total amount of tax otherwise payable by the business entity for the taxable year, whichever is less, and, in addition, shall not exceed limitations placed on the amounts of credits or carry forward credits allowed, if any, under the relevant statute as enumerated in (b) above concerning the tax for which a credit is being claimed.

(d) Credit shall not be allowed for activities for which the business entity is receiving credit under any other provision against any tax on business related income other than the New Jersey Gross Income Tax, including, but not limited to, the corporate business tax, corporate income tax, insurance premiums tax, petroleum products gross receipts tax, public utilities franchise tax, public utilities gross receipts tax, public utility excise tax, railroad franchise tax, and the saving institution tax.

(e) The tax credit shall be awarded only for assistance provided within the same tax year as that in which the Commissioner issued the certificate, or if the Commissioner approved assistance for more than one year, within each following tax year as set forth in the schedule that shall be attached to the certificate issued by the Commissioner. This provision may be waived for good cause shown.

(f) Assistance may be approved for the current tax year and up to four additional years in the future.

(g) The Department will grant priority in awarding tax credits to business entities that identify a nonprofit organization partner in its application, pursuant to P.L. 2001, c.415 (N.J.S.A. 52:27D-496).

(h) Failure by the business entity to provide assistance as set forth above in this section shall lead to revocation of the certificate by the Commissioner.

Amended by R.2008, d.28 effective January 22, 2008.

See: 39 N.J.R. 4374(a), 40 N.J.R. 615(a).

In (a), substituted “100” for “50”; and in (c), substituted “\$1,000,000” for “\$500,000”.

SUBCHAPTER 3. NEIGHBORHOOD REVITALIZATION PLAN

5:47-3.1 Submission of plan

In order for an entity to be eligible to receive a tax credit pursuant to P.L. 2001, c.415 (N.J.S.A. 52:27D-490 et seq.), the nonprofit organization which is to be the recipient of funding provided by the entity shall submit a neighborhood

revitalization plan to the Department for approval which shall meet the requirements of this subchapter.

5:47-3.2 Eligible neighborhood

(a) The neighborhood and revitalization plan shall be for an eligible neighborhood as defined in this section. No more than one plan shall be approved by the Department for any neighborhood or part of a neighborhood, and no areas shall be subject to more than one approved neighborhood plan. If a plan is submitted for a neighborhood which contains within its boundaries all or part of any other neighborhood for which a plan has already been submitted and approved by the Department, the entity shall be required to amend and resubmit the plan to exclude that area for which a plan has already been submitted and approved by the Department. In the event that the area of duplication is de minimis, that is, contains less than 10 percent of the area covered by either plan, the Department will conduct its review of the plan, but will withhold final action to approve the plan until it has been modified to remove the duplication.

(b) An eligible neighborhood shall be located within an eligible municipality, or in parts of two or more municipalities, all of which shall be eligible municipalities, and shall have boundaries that are, to the extent reasonably feasible, recognized by the municipality and/or by the residents of the neighborhood, and incorporate to the extent reasonably feasible clearly defined lines of demarcation such as railroad lines, streams, major streets, or industrial areas.

(c) At least 50 percent of the households in the neighborhood as determined by the most recent Census of Population shall be of low and moderate income and at least 25 percent of the households in the neighborhood shall be of low income, as defined in N.J.A.C. 5:47-1.2. For purposes of making this determination, the entity preparing the plan may use Census median household income data without respect to household size.

(d) The plan shall provide written justification for the definition of the neighborhood, including the size of the neighborhood.

5:47-3.3 Planning process

(a) The process by which the neighborhood revitalization plan is developed must be one in which residents, property owners, and businesspersons within the neighborhood, other nonprofit organizations within the neighborhood or providing services to neighborhood residents, and the municipal government, are fully informed and all given a meaningful opportunity to participate in the development of the plan. The provisions set forth in this section shall govern plans initiated after March 15, 2004; plans already completed or underway prior to that date are governed by the provisions of N.J.A.C. 5:47-3.5.

(b) The nonprofit organization responsible for developing the plan shall notify the municipal government of its intention to develop a neighborhood plan prior to, or simultaneously with, the initial written notice to neighborhood residents, property owners and businesspersons. Notice shall be provided in writing to the municipal clerk, with copies to the municipal business administrator and the municipal official responsible for planning activities. The nonprofit organization responsible for developing the plan shall provide the municipal official responsible for planning activities with copies of materials prepared by the entity on an ongoing basis during the development of the plan, and shall provide the municipality with the opportunity to comment upon said materials. Wherever reasonably feasible, the nonprofit organization responsible for developing the plan shall obtain a letter from the municipality indicating its support for the plan or, in lieu of a letter, shall submit any comments provided by the municipality on the plan, which shall be attached to the plan submitted to the Department.

(c) The nonprofit organization responsible for developing the plan shall utilize reasonable means to ensure that to the extent reasonably feasible residents, property owners and businesspersons within the neighborhood are informed of the intention to develop the plan. Methods may include flyers, posters, and announcements at community meetings, mailings, direct outreach, and development of a website. In addition, notice shall be provided on a regular basis while the plan is in preparation.

(d) The nonprofit organization responsible for developing the plan shall provide opportunities for residents, property owners, and businesspersons to participate in the development of the plan. Such opportunities may include large-scale public events such as community meetings, workshops and charrettes, smaller events such as focus groups, as well as formal and informal one-on-one surveys. To the extent that the preparation of the plan involves community meetings, workshops, charrettes, and other public activities, the nonprofit organization shall ensure that residents and other neighborhood stakeholders are provided with adequate notice of such activities.

(e) The nonprofit organization responsible for developing the plan shall reach out to other nonprofit organizations, such as housing development entities, health care providers, educational institutions, and religious institutions located within the neighborhood or, if located outside the neighborhood, providing services to a substantial number of neighborhood residents, and shall solicit their input in the development of the plan. Wherever reasonably feasible, the nonprofit organization responsible for developing the plan shall obtain letters from such nonprofit organizations indicating their involvement in and support for the plan, which shall be attached to the plan submitted to the Department. Collaboration between two or more nonprofit organizations in preparing a plan is encouraged.