

CHAPTER 77**TRANSFER OF DEVELOPMENT RIGHTS****Authority**

N.J.S.A. 4:1C-49 et seq., specifically 4:1C-52f.

Source and Effective Date

R.2006 d.268, effective July 17, 2006.
See: 38 N.J.R. 363(a), 38 N.J.R. 3009(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 77, Transfer of Development Rights, expires on July 17, 2013. See: 43 N.J.R. 1203(a).

Chapter Historical Note

Chapter 77, Transfer of Development Rights, was adopted as R.2000 d.448, effective November 6, 2000. See: 32 N.J.R. 184(a), 32 N.J.R. 3974(b).

Chapter 77, Transfer of Development Rights, expired on November 6, 2005.

Chapter 77, Transfer of Development Rights, was adopted as new rules by R.2006 d.268, effective July 17, 2006. See: Source and Effective Date.

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Unless otherwise provided by rule or statute, this chapter shall constitute the rules of the Board of Directors of the State Transfer of Development Rights Bank governing the procedures and standards for carrying out the duties and responsibilities of the Board pursuant to the State Transfer of Development Rights Bank Act, N.J.S.A. 4:1C-49 et seq., and the State Transfer of Development Rights Act, N.J.S.A. 40:55D-137 et seq.

2:77-1.2 Purpose

(a) The purpose of this chapter is to:

1. Facilitate the effective operation of the Board, and its participation in the acquisition and transfer of development potential;
2. Establish a registry of development potential credits and transfers, and procedures for its operation;

3. Establish standards and procedures for the Board's purchase of development potential;
4. Establish standards and procedures for the Board's approval of loan guarantees secured with development potential as collateral;
5. Establish standards and procedures by which the Board can convey development potential; and
6. Establish standards and procedures for the application, approval and issuance of planning assistance grants to a municipality by the Board.

2:77-1.3 Applicability

The rules contained in this chapter shall apply to all sales, transfers, conveyances, encumbrances and redemptions of development potential credits, any loan guarantees provided by the Board, which are secured with development potential as collateral, and the issuance of planning assistance grants, as authorized under N.J.S.A. 40:55D-113 et seq. and 4:1C-49 et seq.

2:77-1.4 Construction

These rules shall be liberally construed to permit the bank to effectuate the purposes of the law.

2:77-1.5 Severability

In any section, part, phrase, or provision of these rules or the application thereof to any person be adjudged invalid by any court of competent jurisdiction, such judgement shall be confined in its operation to the section, part, phrase, provision or application directly involved in the controversy in which such judgement shall have been rendered and it shall not affect or impair the validity of the remainder of these rules or the application thereof to other persons.

SUBCHAPTER 2. INTERPRETATIONS AND DEFINITIONS

2:77-2.1 Word usage

(a) In the interpretation of these rules, the provisions of this section shall be observed and applied, except when the context clearly requires otherwise:

1. Words used or defined in one tense or form shall include other tenses and derivative forms.
2. Words in the singular shall include plural and words in the plural shall include the singular.
3. The word "shall" indicates mandatory.
4. The word "may" indicates permissive.

5. In case of any difference of meaning or implication between the text of these rules and any caption, the text shall control.

2:77-2.2 Definitions

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

"Act" means the State Transfer of Development Rights Bank Act, P.L. 1993, c. 339, N.J.S.A. 4:1C-49 et seq.

"Application" as relates to the purchase of development potential or the securing of a loan using development potential as collateral means a standard form adopted by the State Transfer of Development Rights Bank.

"Board" means the Board of Directors of the State Transfer of Development Rights Bank established pursuant to P.L. 1993, c. 339, N.J.S.A. 4:1C-49 et seq.

"Committee" means the State Agriculture Development Committee established pursuant to N.J.S.A. 4:1C-4.

"Credit" or "TDR credit" is a measured amount of development potential that allows one or more units of development.

"Development potential" means the maximum number of dwelling units or square feet of nonresidential floor area that may be constructed on a specified lot or in a specified zone under the master plan and land use regulations in effect on the date of the adoption of the development transfer ordinance, and in accordance with recognized environmental constraints.

"Development transfer" means the conveyance of development potential, or the permission for development, from one or more lots to one or more other lots by deed, easement, or other means as authorized by ordinance adopted pursuant to N.J.S.A. 40:55D-113 et seq. or 40:55D-137 et seq.

"Instrument" means the easement, credit, or other deed restriction used to record a development transfer.

"Municipal or county development transfer bank" means a development transfer bank established pursuant to N.J.S.A. 40:55D-159.

"Ordinance" means development transfer ordinance adopted by a municipality pursuant to N.J.S.A. 40:55D-113 et seq. or N.J.S.A. 40:55D-137 et seq. that allows for the transfer of development within its jurisdiction.

"Receiving area" or "receiving zone" means an area or areas designated in a master plan and zoning ordinance, adopted pursuant to N.J.S.A. 40:55D-1 et seq., within which development may be increased, and which is otherwise consistent with the provisions of N.J.S.A. 40:55D-145.