

CHAPTER 65

**CASINO REINVESTMENT DEVELOPMENT
AUTHORITY**

Authority

N.J.S.A. 5:12-144.1(j) and 5:12-161(f).

Source and Effective Date

R.2003 d.101, effective February 5, 2003.
See: 34 N.J.R. 3177(a), 35 N.J.R. 1274(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1d, the expiration date of Chapter 65, Casino Reinvestment Development Authority, was extended by gubernatorial directive from August 3, 2008 to October 2, 2008. See: 40 N.J.R. 5070(b).

Chapter Historical Note

Chapter 65, Casino Reinvestment Development Authority, was filed and became effective as an Emergency New Rule on April 3, 1986 (expired June 2, 1986). See: 18 N.J.R. 852(a).

Chapter 65, Casino Reinvestment Development Authority, was adopted as R.1986 d.256, effective July 7, 1986. See: 18 N.J.R. 852(a), 18 N.J.R. 1405(a). Pursuant to Executive Order No. 66(1978), Chapter 65, Casino Reinvestment Development Authority, expired on July 7, 1991.

Chapter 65, Casino Reinvestment Development Authority, was adopted as R.1992 d.383, effective October 5, 1992. See: 24 N.J.R. 1692(b), 24 N.J.R. 3535(a).

Pursuant to Executive Order No. 66(1978), Chapter 65, Casino Reinvestment Development Authority, was readopted as R.1997 d. 452, effective September 26, 1997. As part of R.1997 d.452, effective October 20, 1997, Subchapter 4, Female and Minority Targets in Authority Financed Construction Projects and Licensee's Direct Investment Construction Projects, was renamed Female and Minority Percentage Goals in Authority Financed Construction Projects and Licensee's Direct Investment Construction Projects; and Subchapter 9, Miscellaneous, was adopted as new rules. See: 29 N.J.R. 3708(a), 29 N.J.R. 4562(b).

Subchapter 8, Contracts for Architectural, Engineering and Land Surveying Services, was adopted as new rules, and former Subchapter 8, Waivers, was recodified as Subchapter 9, Waivers. Subchapter 9, Miscellaneous, was recodified as Subchapter 10, Miscellaneous, by R.1999 d.326, effective September 20, 1999. See: 31 N.J.R. 1455(a), 31 N.J.R. 2759(a).

Chapter 65, Casino Reinvestment Development Authority, was readopted as R.2003 d.101, effective February 5, 2003. See: Source and Effective Date. See, also, section annotations.

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 65, Casino Reinvestment Development Authority, was scheduled to expire on August 3, 2008. See: 40 N.J.R. 1632(a).

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SUBCHAPTER 1. GENERAL PROVISIONS

19:65-1.1 Purpose and objectives

(a) The rules contained in this chapter are established to effectuate, and shall be applied so as to accomplish the general purposes of the Act, including, without limitation:

1. To assist in the development or redevelopment of political subdivisions within the State in the manner and priority set forth in the Act; and
2. To increase opportunities for gainful employment and to improve living conditions in such political subdivisions; and
3. To foster and promote the economy of the State generally.

19:65-1.2 Definitions

As used in this chapter, the following words and terms shall have the following meanings unless a different meaning clearly appears from the context.

“Acquisition value” means the value at a time within a reasonable period of time prior to the approval of the project in accordance with N.J.A.C. 19:65-2.4(b) as determined by an appraisal of such property in form and substance acceptable to the Authority undertaken on a fair market value basis by an appraiser appointed by the Authority.

“Act” means P.L. 1984, c.218, as amended and supplemented, and as the same may be further amended or supplemented from time to time.

“Applicant” means any person, entity, licensee, prospective licensee, government, governmental agency, authority, or instrumentality, municipality or political subdivision of the State permitted under the provisions of the Act or these rules to apply for review and approval and/or a determination of eligibility of or with respect to a project by the Authority under the Act and these rules.

“Application” means a fully completed and signed application submitted pursuant to the provisions of N.J.A.C. 19:65-2.3 in such form or forms as may be prescribed from time to time by the Authority.

“Approved project” means a project which satisfies the provisions of the Act and these rules and is approved by the Authority.

“Appurtenant facilities” shall mean facilities which are necessary or convenient to facilities with units for overnight visitors, including, but not limited to, parking facilities and recreational and park facilities to the extent reasonably commensurate in size for use by the overnight visitors of such units. In no event shall appurtenant facilities include casino space or facilities related thereto.

Atlantic City Expansion Fund means the fund created by Section 5 of P.L. 2004, c.129 (N.J.S.A. 5:12-173.22(a)).

“Authority” means the Casino Reinvestment Development Authority.

“Bonds” means bonds, notes or evidences of Authority debt issued to licensees pursuant to N.J.S.A. 5:12-162 (section 14 of P.L. 1984, c.218).

Casino Capital Construction Fund means the fund created by Section 13 of P.L. 2003, c.116 (N.J.S.A. 5:12-173.22).

“Contract” means a written contract between the Authority and a Licensee to purchase Bonds pursuant to N.J.A.C. 19:65-3.

“Corridor Region” shall mean and include:

1. The area bounded as follows:

i. Having as its southern boundary the Boardwalk between Texas Avenue and the point of intersection between the Boardwalk and an imaginary line extending southerly from the Southeasternmost point of Mt. Vernon Avenue (hereinafter “Mt. Vernon/Boardwalk Intersection”);

ii. Having as its eastern boundary a line running north from the Mt. Vernon/Boardwalk Intersection to the Southeasternmost point of Mt. Vernon Avenue and continuing along Mt. Vernon Avenue north to Arctic Avenue and thence easterly to the point of intersection of Arctic Avenue with Bacharach Boulevard;

iii. Having as its northeastern border Bacharach Boulevard from Arctic Avenue and extended to Beach Thorofare;

iv. Having as its northwestern border the southern side of Beach Thorofare from the intersection of the southern side of Beach Thorofare with Bacharach Boulevard, so extended, to Texas Avenue;

v. Having as its western border Texas Avenue from Beach Thorofare to the Boardwalk; and

2. The following additional areas:

i. Albany Avenue (U.S. Route 40) from Beach Thorofare to the Boardwalk;

ii. The Atlantic City Expressway from the Pleasantville Toll Plaza to Arkansas and Missouri Avenues;

iii. Absecon Boulevard (U.S. Route 30) from Beach Thorofare to Delaware Avenue;

iv. Delaware Avenue to Pacific Avenue;

v. Arctic Avenue from Delaware Avenue westerly to Bacharach Boulevard;

vi. Boardwalk from Albany Avenue (U.S. Route 40) easterly to Caspian Avenue;

ii. At the election of the licensee at the end of the eighth calendar year from commencement (for example, at the end of calendar year 1991 if the year of commencement was 1984) and thereafter by the licensee at the end of subsequent calendar years, upon not less than three years prior written notice by the licensee in any case; or

iii. In any event at any time by the Authority upon not less than one year prior written notice to the licensee by the Authority;

iv. In exercising its discretion under the provisions of i. above, the Authority shall consider, in addition to such other matters it may deem relevant, whether such termination will violate any agreement or covenant or impair any financial obligation of the Authority.

3. Unless waived by the licensee, that, at the election of the licensee, contracts other than the initial contract may be terminated by the licensee at the end of the fifth calendar year from commencement and thereafter by the licensee at the end of subsequent calendar years, upon not less than three years prior written notice by the licensee in any case or, in any event at any time, the contract may be terminated by the Authority upon not less than one year prior written notice by the Authority.

4. That, upon establishment of the grounds set forth in the Act:

i. The obligation of the licensee to pay for and take delivery of bonds be deferred in any year, but no deferral shall occur for more than two years consecutively, and

ii. No deferral granted shall alter or reduce the total obligations to purchase bonds incurred by the licensee under the contract.

5. Such default and remedy provisions as the Authority shall deem appropriate including, without limitation, those set forth in the Act and all other cumulative remedies otherwise available at law or in equity.

6. That:

i. The licensee shall be obliged to purchase bonds as issued by the Authority without regard to the approved project for which the proceeds of such purchase shall be committed;

ii. Bonds available for purchase in any given year shall be allocated pro rata to licensees based upon the percentage that each licensee's contractual purchase obligation bears to the total available amount of bonds;

iii. Bonds pertaining to particular approved projects shall be allocated on a pro rata basis to each licensee without preference or priority; and

iv. To the extent the actual amount of bonds offered by the Authority in any year is less than the amount such licensee has agreed to purchase pursuant

to its contract, such difference shall be paid by the licensee to the Authority and invested as permitted by N.J.S.A. 5:12-161(m) with interest on such investment payable to the licensee as provided therein.

7. That the bonds offered for sale by the Authority shall be issued to finance approved projects and shall otherwise have the attributes for bonds set forth in N.J.S.A. 5:12-162(d).

8. That each licensee shall continue to pay to the State Treasurer on a quarterly basis the amount imposed by N.J.S.A. 5:12-144.1, such funds to be placed in an escrow account as provided by N.J.S.A. 5:12-144.1(a)(2).

9. That, if approved by the Authority, the licensee may purchase through the Authority bonds or other obligations of the State, any political subdivision thereof, or any authority created by the State or any political subdivisions thereof in lieu of purchasing bonds as may be otherwise required by its contract for any period covered thereby, provided that such bonds fulfill purposes of the Authority and are in accordance with the requirements of the Act. Nothing in this paragraph shall preclude the Authority from requiring a licensee to purchase Authority bonds or to purchase through the Authority bonds or other obligations of the State, any political subdivision thereof, or any authority created by the State or any political subdivisions.

10. That, if a waiver of a licensee's obligation to purchase bonds is granted by the Authority in accordance with the provisions of the Act, the licensee may, in lieu of purchasing bonds as may be required by its contract for any period covered thereby, make an equivalent investment in, donation to or guaranty in connection with an approved project.

11. That any obligation imposed by the contract to purchase bonds as a credit against payment by a licensee of any investment alternative tax owing by such licensee shall be the continuing responsibility of the licensee which is a party to the contract unless such obligation shall have been assumed by a licensee purchaser of the casino hotel or related property or some other provision for fulfillment of such obligation is made which is satisfactory to the Authority.

12. That the Authority may invest and reinvest and otherwise deal with any monies to be derived pursuant to the contract as permitted by N.J.S.A. 5:12-161(m), and that the Authority shall pay the licensee, no less often than annually and as reasonably practicable based upon maturities of investments, the portion of the interest on such monies to which the licensee is entitled.

13. That annual amounts due by licensees under the contract be paid by the licensee to the Authority upon entering the contract or at other times specified therein but not later than April 30 of each year; provided however that a licensee's obligation under N.J.S.A.

5:12-144.1(a)(2) shall not be altered by the provisions of any contract.

Amended by R.1997 d.452, effective October 20, 1997.
See: 29 N.J.R. 3708(a), 29 N.J.R. 4562(b).

In (a)1, amended N.J.A.C. references; and in (a)10, substituted "contribution" for "donation".

SUBCHAPTER 4. FEMALE AND MINORITY PERCENTAGE GOALS IN AUTHORITY FINANCED CONSTRUCTION PROJECTS AND LICENSEES' DIRECT INVESTMENT CONSTRUCTION PROJECTS

19:65-4.1 Contracting and subcontracting; percentage goals and enforcement thereof

(a) The Authority, in connection with approved projects, financed each year by or through the Authority or direct investments by licensees, involving contracts with businesses which are in the construction industry or related industries or services, including suppliers of materials and professional construction engineering and design services, shall make a good faith effort to ensure that seven percent of such contracts and subcontracts are awarded to eligible minority businesses and three percent of such contracts and subcontracts are awarded to eligible female businesses in accordance with and pursuant to the Set-Aside Act for Small Businesses, Female Businesses, and Minority Businesses set forth at N.J.S.A. 52:32-17 et seq.; Executive Order No. 84(1993); and the rules jointly promulgated by the Department of Commerce and Economic Development and the Department of the Treasury set forth at N.J.A.C. 17:14 as amended or supplemented.

1. Each applicant, its respective contractors and subcontractors shall make a good faith effort to award such contracts set forth above in accordance with the percentages in (a) above.

2. Each applicant and its respective contractors shall make every effort to use as many minority and/or women's businesses from as wide a market area as is economically feasible to satisfy the set-aside goals. This effort shall include the employment of such minority businesses with less experience than otherwise available nonminority enterprises, and each applicant shall be required to provide reasonable technical assistance to minority businesses as needed.

3. If the Authority determines, after review, that an applicant, contractor or subcontractor has engaged in unlawful race or sex discrimination, the Authority may begin debarment procedures pursuant to N.J.A.C. 19:65-7.1.

4. In determining whether the percentage goals in N.J.A.C. 19:65-4.1(a) have been satisfied, a business may only be treated once as a female or minority business.

5. Each licensee or applicant, as the case may be, contractor and subcontractor shall provide such information as is deemed necessary by the Authority to permit the Authority to make a determination as to the number of contracts awarded to female or minority businesses.

(b) The primary obligation to carry out the set-aside goals set forth in (a) above rests with the recipient of Authority funds or the licensees, as applicable.

(c) The Authority shall take such steps as are necessary to ensure compliance with this subchapter.

New Rule, R.1992 d.383, effective October 5, 1992.

See: 24 N.J.R. 1692(b), 24 N.J.R. 3535(a).

Section was Reserved.

Amended by R.1997 d.452, effective October 20, 1997.

See: 29 N.J.R. 3708(a), 29 N.J.R. 4562(b).

Rewrote (a) and (a)1; deleted (a)2 through (a)4; inserted new (a)2; recodified existing (a)5 through (a)7 as (a)3 through (a)5; and added (b) and (c).

19:65-4.2 (Reserved)

Repealed by R.1997 d.452, effective October 20, 1997.

See: 29 N.J.R. 3708(a), 29 N.J.R. 4562(b).

Section was "Affirmative action".

19:65-4.3 (Reserved)

Repealed by R.1997 d.452, effective October 20, 1997.

See: 29 N.J.R. 3708(a), 29 N.J.R. 4562(b).

Section was "Enforcement and waivers".

SUBCHAPTER 5. INVESTMENT BY LICENSEES PURSUANT TO N.J.S.A. 5:12-144

19:65-5.1 New Jersey Casino Control Commission rules

Eligibility of investments or contributions by licensees which were commenced or made prior to the effective date of the Act and the determination of which were pending before the New Jersey Casino Control Commission, shall be determined by the Authority by reference to the rules of the New Jersey Casino Control Commission which were in effect and codified at that time at N.J.A.C. 19:54-2.1 through and including N.J.A.C. 19:54-2.37, to the extent not inconsistent with the Act. All references in such rules to the "Commission" shall, except where the context clearly indicates otherwise, be deemed to refer to the "Authority". Nothing herein shall be construed to alter or disturb final determinations by the New Jersey Casino Control Commission as to matters within its jurisdiction prior to the effective date of these rules nor to permit licensees to seek determinations from the Authority as to matters which were not brought in a timely fashion before the New Jersey Casino Control Commission.

Amended by R.1997 d.452, effective October 20, 1997.

See: 29 N.J.R. 3708(a), 29 N.J.R. 4562(b).