

CHAPTER 31

AUTHORITY ASSISTANCE PROGRAMS

Authority

N.J.S.A. 58:10A-37.1 et seq., specifically 58:10A-37.8.

Source and Effective Date

R.1995 d.435, effective July 20, 1995.
See: 27 N.J.R. 2377(a), 27 N.J.R. 3216(a).

Executive Order No. 66(1978) Expiration Date

Chapter 31, Authority Assistance Programs, expires on July 20, 2000.

Chapter Historical Note

Chapter 31, Authority Assistance Programs, Subchapters 1 through 6, 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 was readopted as R.1995 d.435. 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 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.

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.

(b) The Authority generally will not approve financial assistance to a project involving relocation within New Jersey if the relocation will result in a job loss and/or hardship for the existing employees or if the relocation endangers the maintenance of tax ratables in a particular community.

(c) There is no minimum size for borrowings under the program, but loan requests of less than \$750,000 should be carefully reviewed by the applicant to assure that participation in the program is cost effective.

(d) Tax-exempt bonds are subject to the terms and conditions of the Internal Revenue Codes (IRC); therefore, it is advisable to consult with financial and legal advisors to determine the eligibility of the project.

(e) Taxable bonds issued through the Authority are not subject to the IRC. Loans may be made to borrowers for various projects and purposes including, but not limited to:

1. Office buildings;
2. Healthcare financings;
3. Warehouses and distribution facilities;
4. Manufacturing projects;

(c) In the case of a grant, payment shall be conditioned upon the subrogation to the Department of all rights of the recipient to recover remediation costs from the discharger or other responsible party.

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

19:31-11.10 Attorney General review

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

19:31-11.11 Fees

(a) An application fee shall be charged as follows:

1. \$250.00 for residential tanks per facility;
2. \$500.00 for nonresidential tanks up to six tanks per facility; and
3. \$1,000 for seven or more nonresidential tanks per facility.

(b) An annual surcharge as set forth in (b)1 through 3 below shall be imposed upon the owner or operator of a facility who does not maintain evidence of financial responsibility in accordance with N.J.S.A. 58:10A-25 or pursuant to 42 U.S.C. §§ 6991 et seq., as determined by the Department.

1. Facilities with one or two petroleum underground storage tanks shall pay \$1,500.
2. Facilities with three to six petroleum underground storage tanks shall pay \$3,500.
3. Facilities with more than seven petroleum underground storage tanks shall pay \$6,000.

(c) Payment shall be due within 30 days of receipt of an invoice.

19:31-11.12 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 N.J.S.A. 47:1A-1 et seq.