

CHAPTER 65
CASINO REINVESTMENT DEVELOPMENT
AUTHORITY

Authority

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

Source and Effective Date

R.1997 d.452, effective September 26, 1997.
See: 29 N.J.R. 3708(a), 29 N.J.R. 4562(b).

Executive Order No. 66(1978) Expiration Date

Chapter 65, Casino Reinvestment Development Authority, expires on September 26, 2002.

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 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. See: Source and Effective Date. 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, also, section annotations.

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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.

“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).

“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 that area bounded as follows:

1. Having as its southern boundary the Boardwalk between Florida Avenue and South Indiana Avenue;

2. Its eastern boundary running north from the Boardwalk along South Indiana Avenue and North Indiana Avenue to Baltic Avenue, then east along Baltic Avenue to Dr. Martin Luther King Jr. Boulevard, then north along Dr. Martin Luther King Jr. Boulevard to Mediterranean Avenue, then west along Mediterranean Avenue to Bacharach Boulevard, then northwest along Bacharach Boulevard to North Arkansas Avenue, then north along North Arkansas Avenue to Horace J. Bryant Jr. Drive, then northeast along Horace J. Bryant Jr. Drive to Absecon Boulevard, then southeast along Absecon Boulevard to Brigantine Boulevard, then northeast along Brigantine Boulevard to, around and including the Atlantic City side of the Brigantine Bridge;

3. Its northern boundary running from the aforesaid Atlantic City side of the Brigantine Bridge southwesterly off and along the northern sideline of Brigantine Boulevard to Huron Avenue, then southwesterly off and along the northern sideline of Huron Avenue to its intersection with New York Avenue, then along a northwesterly course parallel with Absecon Boulevard to the Penrose Canal, then southwesterly along the Penrose Canal and Beach Thorofare to the Atlantic City Expressway, then westerly along the Atlantic City Expressway to the Pleasantville Toll Plaza; and

4. Its western boundary running north from the Boardwalk along Florida Avenue, over Beach Thorofare to the southern side of the Atlantic City Expressway, then west along the Atlantic City Expressway to the Pleasantville Toll Plaza.

References to the Boardwalk and to the various streets named in this definition are to be interpreted so as to include the entirety of the Boardwalk and the streets, and any rights-of-way associated therewith, as may be necessary and reasonable to include in order to accomplish projects within the general area. The geographic boundaries of the Corridor Region as defined herein are set forth on a map on file with the Authority and the Office of Administrative Law, incorporated herein by reference.

“Cost” or “costs” means, with respect to an approved project, the reasonable costs, as determined by the sole discretion of the Authority, incurred in the development, construction, improvement or rehabilitation of such project, which costs shall include, but are not necessarily limited to, the following:

1. Costs of land (except in connection with those hotel development projects approved after September 16, 1996), costs of site preparation, development and demolition;

3. An opportunity will be afforded to such person or persons for a hearing if the hearing is requested within seven days from the date of personal delivery or the date of mailing of such notice.

(b) All such hearings shall be conducted in accordance with the provisions of the Administrative Procedure Act, N.J.S.A. 54:14B-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1. Where any State department or agency has already imposed debarment upon a party, the Authority may also impose a similar debarment without affording an opportunity for a hearing, provided the Authority furnishes notice of the proposed similar debarment to that party, and affords that party an opportunity to present information in its or his or her behalf to explain why the proposed similar debarment should not be imposed in whole or in part.

(c) Debarment shall be for a reasonable, definitely stated period of time which as a general rule shall not exceed five years. Debarment for an additional period shall be permitted provided that notice thereof is furnished and the party is afforded an opportunity to present information in its or his or her behalf to explain why the additional period of debarment should not be imposed.

(d) Except as otherwise provided by law, a debarment may be removed or the period thereof may be reduced in the discretion of the Authority, upon its own action or upon recommendation of the Executive Director, upon the submission of a good faith application under oath, supported by documentary evidence, setting forth substantial and appropriate grounds for the granting of relief, such as newly discovered material evidence, reversal of a conviction or judgment, actual change of ownership, management or control, or the elimination of the cause for which the debarment was imposed.

(e) A debarment may include all known affiliates of a person, provided that each decision to include an affiliate is made on a case-by-case basis after giving due regard to all relevant facts and circumstances. The offense, failure or inadequacy of performance of a person may be imputed to an affiliate of such person, where such conduct was accomplished within the course of its or his or her official duty or was effected by it or him or her with the knowledge or approval of such person.

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

In (c), substituted "Debarment shall be for a reasonable" for "Debarment shall be a reasonable".

19:65-7.5 Causes for suspension of a person

In the public interest, the Authority may, upon approval of the Attorney General, suspend a person for any cause specified in N.J.A.C. 19:65-7.2 or upon a reasonable suspicion that such cause exists.

19:65-7.6 Conditions for suspension of a person

(a) The following conditions concerning suspension shall be adhered to:

1. Suspension shall be imposed only upon approval of the Authority, upon its own action or upon recommendation by the Executive Director of the Authority, and upon approval of Attorney General, except as otherwise provided by law.

2. The existence of any cause for suspension shall not require that a suspension be imposed, and a decision to suspend shall be made at the discretion of the Authority, upon its own action or upon recommendation by the Executive Director of the Authority, and at the discretion of the Attorney General, and shall be rendered in the best interests of the State.

3. Suspension shall not be based upon unsupported accusation, but upon adequate evidence that cause exists or upon evidence adequate to create a reasonable suspicion that cause exists.

4. In assessing whether adequate evidence exists, consideration shall be given to the amount of credible evidence which is available, to the existence or absence of corroboration as to important allegations, and to inferences which may properly be drawn from the existence or absence of affirmative facts.

5. Reasonable suspicion of the existence of a cause described in N.J.A.C. 19:65-7.2(a)1 through 7.2(a)8 may be established by the rendering of a final judgment or conviction by a court or administrative agency of competent jurisdiction, by grand jury indictment, or by evidence that such violations of civil or criminal law did in fact occur.

6. A suspension invoked by another agency for any of the causes described in N.J.A.C. 19:65-7.2 may be the basis for the imposition of a concurrent suspension by the Authority, which suspension may be imposed when found to be in the best interest of the State.

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)5, substituted "administrative agency of competent jurisdiction" for "administrative agency or competent jurisdiction".

19:65-7.7 Procedures: Period of suspension; Scope of suspension affecting the suspension of a person

(a) The following provisions regarding procedures, period of suspension and scope of suspension shall be adhered to by the Authority:

1. Upon approval of the Attorney General, the Authority may suspend a person or its or his or her affiliates, provided that within 10 days after the effective date of the suspension, the Authority provides such party with a written notice:

- i. Stating that a suspension has been imposed and its effective date;
- ii. Setting forth the reasons for the suspension to the extent that the Attorney General determined that such reasons may be properly disclosed;
- iii. Stating that the suspension is for a temporary period pending the completion of an investigation and such legal proceedings as may ensue; and
- iv. Indicating that, if such legal proceedings are not commenced or the suspension removed within 60 days of the date of such notice, the party will be given either a statement of the reasons for the suspension and an opportunity for a hearing if it, he or she so requests, or a statement declining to give such reasons and setting forth the Authority's position regarding the continuation of the suspension. Where a suspension by another agency has been the basis for suspension by the Authority, the Authority shall note that fact as a reason for its suspension.

2. A suspension shall not continue beyond 18 months from its effective date unless civil or criminal proceedings regarding the alleged violation shall have been initiated within that period, or unless debarment action has been commenced. Whenever prosecution, civil action or debarment action has been initiated, the suspension may continue until the legal proceedings are completed.

3. A suspension may include all known affiliates of a person, provided that each decision to include an affiliate is made on a case-by-case basis after giving due regard to all relevant facts and circumstances. The offense, failure or inadequacy of performance of an individual may be imputed to a person with whom it, he or she is affiliated, where such conduct was accomplished within the course of its, his or her official duty or was effectuated by it, him or her with the knowledge or approval of such person.

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)2, substituted "civil or criminal proceedings regarding" for "civil or criminal in regarding".

19:65-7.8 Extent of debarment and suspension

The exclusion from Authority project contracting by virtue of debarment or suspension shall extend to all contracting and subcontracting within the control or jurisdiction of the Authority including any contracts which utilize Authority funds. When it is determined by the Authority, upon its own action or upon recommendation by the Executive Director of the Authority, to be essential to the public interest, and upon filing of a finding thereof by the Attorney General, and in the case of suspension, upon approval of the Attorney General, an exemption from total exclusion may be made with respect to a particular Authority contract.

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

Substituted "made with respect to a particular Authority contract" for "made by respect to a particular Authority contract".

19:65-7.9 Notice to Attorney General and Treasurer

Insofar as practicable, prior notice of any proposed debarment or suspension shall be given by the Authority to the Attorney General and the State Treasurer. The Authority shall supply to the State Treasurer a list of all persons having been debarred or suspended in accordance with the procedures prescribed in these rules, including the effective date and term, if any, of such debarment or suspension. Such list shall at all times be available for public inspection.

19:65-7.10 Lists of other agencies

Notwithstanding the failure of the Authority to debar or suspend any person pursuant to these rules, whenever the Authority participates in any program financed, issued or guaranteed by any department, agency or instrumentality of the State or the United States Government, it may rely on any list of persons suspended or debarred by such agency, department or instrumentality and prevent the listed person from participating in that program.

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

Substituted "guaranteed by any department" for "guaranteed by and department".

19:65-7.11 Authority discretion

Nothing contained in this subchapter is intended to limit the discretion of the Authority in determining eligibility for financial or other assistance or to contract or refrain from contracting with any person. The purpose of this subchapter is to provide notice of certain offenses or failures which may result in disqualification for assistance or debarment. Project applicants and participants must meet any other applicable standards and policies.

19:65-7.12 Executive Director to implement subchapter

The Executive Director is authorized to take all necessary action to implement and administer the provisions of this subchapter.

SUBCHAPTER 8. WAIVERS

19:65-8.1 Waivers generally

Nothing in these rules shall be construed to prohibit the Authority from granting waivers from the provisions hereof or the provisions of the Act as expressly provided for in the Act.

19:65-8.2 Procedure

Any party desiring a waiver or release from the express provisions of any of these rules may submit a written request to the Authority to the attention of the Executive Director. Waivers may be granted by the Authority only when such waiver would not contravene the provisions of the Act and upon a finding that in granting the waiver the Authority will be consistent with the statutory purposes of the Authority. Such waivers may also be granted by the Authority upon its own action.

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

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

Added the third sentence.

SUBCHAPTER 9. MISCELLANEOUS**19:65-9.1 Severability**

If any clause, sentence, subparagraph, paragraph, subsection, section, subchapter or other portion of this chapter or the application thereof to any person or circumstances shall be held to be invalid, such holding shall not affect, impair or invalidate the remainder of this chapter or the application of such portion held invalid to any other person or circumstances; but shall be confined in its operation to the clause, sentence, subparagraph, paragraph, subsection, section, subchapter or other portion thereof directly involved in such holding or to the person or circumstance therein involved.