

**CHAPTER 76****PRIVATE CARRIER CAPITAL IMPROVEMENT PROGRAM****Authority**

N.J.S.A. 27:25-5(e), (h) and (k).

**Source and Effective Date**

R.2002 d.52, effective February 4, 2002.  
See: 33 N.J.R. 3420(a), 34 N.J.R. 753(a).

**Chapter Expiration Date**

Chapter 76, Private Carrier Capital Improvement Program, expires on February 4, 2007.

**Chapter Historical Note**

Chapter 76, Private Carrier Capital Improvement Program, was adopted as R.1984 d.72, effective March 19, 1984. See: 15 N.J.R. 2149(a), 16 N.J.R. 554(b). Pursuant to Executive Order No. 66(1978), Chapter 76, Private Carrier Capital Improvement Program, expired on December 19, 1988.

Chapter 76, Private Carrier Capital Improvement Program, was adopted as new rules by R.1989 d.73, effective February 6, 1989. See: 20 N.J.R. 2638(h), 21 N.J.R. 310(b). Pursuant to Executive Order No. 66(1978), Chapter 76, Private Carrier Capital Improvement Program, expired on February 6, 1994.

Chapter 76, Private Carrier Capital Improvement Program, was adopted as new rules by R.2002 d.52, effective February 4, 2002. See: Source and Effective Date.

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**SUBCHAPTER 1. GENERAL PROVISIONS****16:76-1.1 Purpose**

NJ TRANSIT was established by the New Jersey Public Transportation Act of 1979, N.J.S.A. 27:25-1 et seq., as the instrumentality of the State government to establish and provide for the operation and improvement of a coherent public transportation system in the most efficient and effec-

tive manner. Pursuant to N.J.S.A. 27:25-1 et seq. NJ TRANSIT is authorized to purchase capital improvements for lease to eligible private bus carriers and to rehabilitate NJ TRANSIT owned or leased equipment which is leased or subleased to eligible private bus carriers. In doing so, public transit in the State will become more reliable, safe, efficient, and user-friendly for the State's public transit users. This chapter is designed to provide guidelines and procedures pursuant to which NJ TRANSIT will allocate such capital improvements to private bus carriers.

**16:76-1.2 Definitions**

The following words and terms, as used in this chapter, shall have the following meanings:

"Affiliate" means any individual, company, proprietorship, corporation, trust or partnership where, by reason of the relationship of such entity with the carrier (whether by reason of the method of, or circumstances surrounding organization or operation, or whether established through common directors, officers, stockholders, a voting trust or trusts, a holding or investment company or companies, family relationships or any other direct or indirect means), there is a reason to believe that the affairs of the carriers may be managed in the interest of such individual, company, proprietorship, corporation, trust or partnership.

"Actual fleet" means the actual buses owned by New Jersey and operated by private carriers prior to January 1, 2002.

"Board" means the Board of Directors of NJ TRANSIT.

"Capital improvements" means items including, but not limited to, electronic equipment (including fareboxes or other revenue handling equipment), radios and related equipment, revenue and non-revenue rolling stock, portable garage maintenance equipment, maintenance or garage facilities and any other equipment, facility or property useful for or related to the provision of regular route peak services by private bus carriers. It also includes the rehabilitation of NJ TRANSIT owned or leased equipment which is leased or subleased to eligible private bus carriers.

"Carrier" and "operator" means any individual, co-partnership, association, corporation, joint stock company, affiliate or affiliates, public agency, trustee or receiver operating or controlling regular route peak bus service on established routes within the State or between points in this State and points in adjacent states as of January 1, 2002.

"Eligible" shall mean a carrier providing public transit service with a bus included within the actual fleet as of January 1, 2002, and which is qualified and authorized by NJ TRANSIT to participate in NJ TRANSIT's Bus Allocation Program.

"Executive Director" means the Executive Director of NJ TRANSIT or his or her designee.

"FTA" means the Federal Transit Administration.

"NJ TRANSIT" means the New Jersey Transit Corporation.

"Public transit" means all regular route peak bus service operated by a public or private carrier with a bus included within the actual fleet as of January 1, 2002.

"Regular route peak bus services" means the operation of any motor bus or motor buses prior to January 1, 2002 on streets, public highways or other facilities, over a fixed route and between fixed termini on a regular schedule for the purpose of carrying passengers for hire or otherwise, in this State or between points in this State and points in other states during the time of 6:00 A.M. to 9:30 A.M. and 4:00 P.M. to 7:00 P.M. Services which are exclusionary or personal in nature or are to special purpose areas such as to casinos or special events are not included within this definition. In order to be included within this definition, regular route peak bus services shall be between an origin and destination, both of which are within the boundaries of the State of New Jersey. Services that, due to geographic locations or routing, operate in a state other than New Jersey in providing services to passengers that have origins and destinations in New Jersey, are included within this definition provided that the primary reason for operating outside New Jersey is to transport New Jersey Citizens to and from their New Jersey origins and destinations, and only to the extent that the service transports New Jersey citizens. Services operating between New Jersey and major adjacent commercial centers located outside of the State, such as New York City and Philadelphia, are specifically included in this definition.

4. Assigned a bus as of January 1, 2002 that is included in the actual fleet.

(b) The funding for this program (except whatever local match is required) shall be provided generally by the Federal Transit Administration (FTA) or by the Transportation Trust Fund of the State of New Jersey.

(c) Eligibility in this program is contingent upon the inclusion by NJ TRANSIT and acceptance by FTA of a private carriers' annual revenue mileage pursuant to the carriers' proper submission of a National Transit Database Report (see 49 U.S.C. § 5335(a)). NJ TRANSIT will not withhold private carrier annual revenue mileage data from the FTA, however, the private carrier is solely responsible for providing accurate data to NJ TRANSIT in a format acceptable to the FTA.

(d) A carrier or any of its affiliates which is not current in any and all accounts it has with NJ TRANSIT and/or its predecessors, as well as with the State of New Jersey and all of its agencies, will not be able to receive any capital improvements through this program until such time as any outstanding sums are paid.

(e) Consideration will be given to the adequacy of performance by the carrier or any of its affiliates under prior vehicle leasing or other contractual arrangements with NJ TRANSIT and/or its predecessors. A carrier or any of its affiliates which have demonstrated a negative performance in the past may not be considered eligible under this program.

(f) Consideration will also be given to a carrier's ability to maintain and operate capital equipment that requires sophisticated and expensive maintenance systems. Carriers may be considered ineligible for the receipt of such capital equipment based on its apparent inability to maintain and operate such equipment.

(g) A carrier shall not be eligible under this program if NJ TRANSIT determines based on factors included in N.J.A.C. 16:76-3.2 that the lease of or the continued lease of capital equipment to the carrier is inconsistent with its statutory obligation to provide efficient, effective, coordinated and coherent State transportation systems.

(h) The allocation to each private carrier of funds for capital improvements pursuant to this program shall be determined by a review of the following criteria:

1. A carrier's eligible peak vehicle requirements for regular route peak bus service, including new or modified regular route services authorized under NJ TRANSIT's Bus Allocation Program, as a percentage of the eligible peak vehicle requirements for all participating private bus carriers;

## SUBCHAPTER 2. GUIDELINES

### 16:76-2.1 Eligibility

(a) To be eligible to receive assistance pursuant to this program, a private carrier must have been:

1. Authorized by NJ TRANSIT to participate in NJ TRANSIT's Bus Allocation Program prior to January 1, 2002;
2. Authorized to provide regular route peak bus service by the New Jersey Department of Transportation, the Surface Transportation Board of the United States Department of Transportation, a municipality or any other duly authorized regulatory body;
3. Operating such authorized service prior to January 1, 2002; and