

## CHAPTER 31

NEW JERSEY DEVELOPMENT AUTHORITY FOR  
SMALL BUSINESSES, MINORITIES' AND  
WOMEN'S ENTERPRISES

## Authority

N.J.S.A. 34:1B-47 et seq., specifically 34:1B-50(t).

## Source and Effective Date

R.1990 d.350, d.351 and d.352, effective July 16, 1990.  
See: 22 N.J.R. 608(a), 610(a), 612(a); 22  
N.J.R. 2173(a), 2176(a), 2178(a).

## Executive Order No. 66(1978) Expiration Date

Chapter 31, New Jersey Development Authority for Small Businesses, Minorities' and Women's Enterprises, expires July 16, 1995.

## Chapter Historical Note

Subchapter 3, Direct Loans, was repealed by R.1992 d.82, effective February 18, 1992. See: 23 N.J.R. 2626(a), 24 N.J.R. 624(a).

See section annotations for specific rulemaking activity.

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## SUBCHAPTER 3. (RESERVED)

## SUBCHAPTER 1. DIRECT LOAN PROGRAM

## 12A:31-1.1 Applicability and scope

(a) The rules in this subchapter are promulgated by the New Jersey Development Authority for Small Businesses, Minorities' and Women's Enterprises to implement a direct loan program for eligible businesses to use for working capital, contract financing or the acquisition of fixed assets.

(b) This program provides for the Authority to provide loans to eligible businesses.

(c) Applications and questions concerning participation in the program should be directed to:

New Jersey Development Authority for Small Businesses, Minorities' and Women's Enterprises  
200 South Warren Street  
CN 990  
Trenton, New Jersey 08625

Amended by R.1991 d.393, effective August 5, 1991.

See: 23 N.J.R. 828(a), 23 N.J.R. 2313(a).

In (a): added "New Jersey" to text.

Amended by R.1992 d.82, effective February 18, 1992.

See: 23 N.J.R. 2626(a), 24 N.J.R. 624(a).

Revised (a)-(b).

Amended by R.1992 d.330, effective September 8, 1992.

See: 24 N.J.R. 2131(a), 24 N.J.R. 3093(b).

Revised (c).

## 12A:31-1.2 Definitions

The words and terms in this subchapter shall have the following meanings unless the context clearly indicates otherwise:

"Applicant" means an eligible business, as defined by N.J.S.A. 34:1B-48, seeking a direct loan.

"Authority" means the New Jersey Development Authority for Small Businesses, Minorities' and Women's Enterprises established pursuant to N.J.S.A. 34:1B-47 et seq., or the staff thereof.

"Board" means the board of directors of the New Jersey Development Authority for Small Businesses, Minorities' and Women's Enterprises.

"Direct loan" means a loan or line of credit, or other non-grant financing instrument or structure approved by the Board and advanced by the Authority to an eligible business for the purpose of fixed asset acquisition, working capital or contract financing.

"Eligible business" means a small business, minority business or women business determined to be eligible to receive assistance and participate in programs of the Authority.

"Executive Director" means the chief executive officer of the New Jersey Development Authority for Small Businesses, Minorities' and Women's Enterprises.

"Loan recipient" means an eligible business which has been approved to receive or has received a direct loan.

"Loan Review Committee" means a committee established by the Chairman of the Board, consisting of not more than four board members, which shall review applications.

1. The number of employees working for the loan guarantee recipient;
2. Any financial or technical assistance which the loan guarantee recipient has obtained;
3. Any substantive change in ownership or financial condition of the loan guarantee recipient; and
4. Any other information which the Authority and/or the Executive Director may, in the exercise of their discretion, require.

(b) Upon receipt of a loan guarantee from the Authority, the loan guarantee recipient shall be required to submit an annual financial statement prepared on a reviewed basis by a certified public accountant or a public accountant if the loan guarantee is less than \$500,000. Recipients of a loan guarantee of more than \$500,000 shall be required to submit audited financial statements prepared by a certified public accountant or a public accountant utilizing GAAP every third year after closing of the loan guarantee. Reviewed statements will be required at other times.

(c) Upon receipt of a loan guarantee, the loan guarantee recipient shall inform the Authority of any contemplated substantive changes in the business.

Amended by R.1991 d.394, effective August 5, 1991.  
See: 23 N.J.R. 830(a), 23 N.J.R. 2314(a).

In (a): revised time period from three months to one year.

In (a)4: added Executive Director provision.

Amended by R.1992 d.81, effective February 18, 1992.

See: 23 N.J.R. 2627(a), 24 N.J.R. 625(a).

Revised (b).

#### 12A:31-2.8 Rescission of a loan guarantee

(a) The Authority may, at its discretion, rescind all or part of a loan guarantee commitment prior to closing when it has become reasonably evident that:

1. Other commitments of financial resources made to the loan guarantee recipient have been withdrawn or have been amended in such a manner so as to undermine the ability of the loan guarantee recipient to utilize the loan guarantee in the manner it proposed to the Authority;
2. The loan guarantee recipient is no longer capable of meeting any financial obligations made to the Authority;
3. The loan guarantee recipient has supplied false or incorrect information, or has misrepresented information on a material matter, whether written or oral, upon which the Authority relied when issuing the loan guarantee; or
4. The loan guarantee recipient is not of good moral character. Lack of good moral character shall include, but is not limited to, convictions of offenses or crimes.

(b) Upon determination by the Authority that a loan guarantee shall be rescinded, the Authority shall send a

certified letter, return receipt requested, to the loan recipient informing it of the rescission.

New Rule, R.1991 d.394, effective August 5, 1991.

See: 23 N.J.R. 830(a), 23 N.J.R. 2314(a).

Existing 2.8 recodified to N.J.A.C. 12A:31-2.9, Information confidentiality. Existing text was repealed and replaced by new rule text.

#### 12A:31-2.9 Information confidentiality

(a) All records of the Authority such as minutes, annual reports, program guidelines, regulations, applications for financial assistance and other information not classified as nonpublic information shall be deemed public information available for examination and copying upon request. If the above information is requested by the public and is not readily available and must be photocopied or otherwise reproduced by the Authority, the Authority shall charge a fee of \$.50 for pages 1 to 10, \$.25 for pages 11 to 20 and \$.10 for pages 21 and above. The public may obtain general information concerning Authority programs by contacting the New Jersey Development Authority for Small Businesses, Minorities' and Women's Enterprises, CN 990, Trenton, New Jersey 08625.

(b) The following shall not be deemed to be public records subject to inspection, examination and available for copying pursuant to N.J.S.A. 47:1A-1 et seq.:

1. All confidential reports, executive memoranda and evaluations submitted to the Authority, the directors, or to any other state agency or instrumentality;
2. All personnel records;
3. All records concerning applications for employment with the Authority;
4. All records concerning financial or proprietary information submitted by applicants for Authority assistance;
5. All records concerning financial or proprietary information submitted by individuals, corporations, partnerships and other entities doing or seeking to do business with the Authority;
6. All reports, correspondence and other documents or data provided or discussed in executive session at a meeting held by the Board of Directors, except that any action taken or other information required to be disclosed to the public pursuant to N.J.S.A. 10:4-6 et seq. shall not be deemed to be nonpublic records within the scope of this section; and
7. Any other reports, correspondence or other documents or data which the Authority in its discretion deems to be nonpublic pursuant to N.J.S.A. 47:1A-1 et seq.

Repeal and New Rule, R.1991 d.394, effective August 5, 1991.

See: 23 N.J.R. 830(a), 23 N.J.R. 2314(a).

"Information confidentiality" had been codified at N.J.A.C. 12A:31-2.8. Section has been repealed and replaced with new rule text.

Amended by R.1992 d.330, effective September 8, 1992.

See: 24 N.J.R. 2131(a), 24 N.J.R. 3093(b).

Revised (a).

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SUBCHAPTER 3. (RESERVED)

**Subchapter Historical Note**

Subchapter 3, Direct Loans, was repealed by R.1992 d.82, effective February 18, 1992. See: 23 N.J.R. 2626(a), 24 N.J.R. 624(a).