

CHAPTER 27**NEW JERSEY CULTURAL TRUST****Authority**

N.J.S.A. 52:16A-72 et seq., specifically 52:16A-77a.

Source and Effective Date

R.2001 d.112, effective March 20, 2002.
See: 33 N.J.R. 3687(a), 34 N.J.R. 1538(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 27, New Jersey Cultural Trust, expires on September 16, 2007. See: 39 N.J.R. 1640(a).

Chapter Historical Note

Chapter 27, New Jersey Cultural Trust, was adopted as Special New Rules by R.2001 d.391, effective September 26, 2001 (to expire March 25, 2002). See: 33 N.J.R. 3687(a).

Chapter 27, New Jersey Cultural Trust Rules, was readopted as R.2002 d.112, effective March 20, 2002. See: Source and Effective Date. See, also, section annotations.

CHAPTER TABLE OF CONTENTS**SUBCHAPTER 1. ORGANIZATIONAL RULE**

15:27-1.1 Organization; information contact; petition for rule-making

SUBCHAPTER 2. NEW JERSEY CULTURAL TRUST FUND GRANT PROGRAM

- 15:27-2.1 Purpose
- 15:27-2.2 Ethical principles
- 15:27-2.3 Severability
- 15:27-2.4 Suspension of rules for cause
- 15:27-2.5 Definitions
- 15:27-2.6 Requirements for designation as a "qualified organization"
- 15:27-2.7 Certification and evaluation procedures for restricted donations to the Cultural Trust
- 15:27-2.8 Evaluation of restricted donations by the Cultural Trust
- 15:27-2.9 Procedures for large gift restricted donations
- 15:27-2.10 Certification and evaluation procedures for unrestricted donations to the Cultural Trust
- 15:27-2.11 Evaluation of unrestricted donations to the Cultural Trust
- 15:27-2.12 Procedure for distribution of income from the Trust Fund
- 15:27-2.13 Procedures for appeals
- 15:27-2.14 Release of funds from the Trust Account to the Trust Fund
- 15:27-2.15 Release of funds from the Trust Fund to qualified organizations for a match for large gift donation
- 15:27-2.16 Release of funds from the Trust Fund for approved projects submitted by the Council, the Commission and the Historic Trust
- 15:27-2.17 Monitoring and reporting for certified restricted large gift donations
- 15:27-2.18 Monitoring and reporting for grants awarded from list supplied by the Council, the Commission and the Historic Trust
- 15:27-2.19 Acknowledgement of public support in public information material

SUBCHAPTER 1. ORGANIZATIONAL RULE**15:27-1.1 Organization; information contact; petition for rulemaking**

(a) The New Jersey Cultural Trust, in but not of the Department of State, is a 15-member board directed by the Legislature and Governor to establish a permanent, interest-generating fund to be an additional source of revenue to non-profit arts, history, and humanities organizations, specifically for the building of endowments, the improvement of institutional and financial stability, and the capital improvement of cultural facilities. Ten members of the Board are public members, and five are ex officio members.

(b) To contact the New Jersey Cultural Trust, or to submit a petition for rulemaking pursuant to N.J.A.C. 1:30-4, write:

Carol Cronheim, Board Secretary
New Jersey Cultural Trust
PO Box 529
Trenton, NJ 08625-0529

SUBCHAPTER 2. NEW JERSEY CULTURAL TRUST FUND GRANT PROGRAM**15:27-2.1 Purpose**

This chapter constitutes the rules of the New Jersey Cultural Trust, in but not of the Department of State, for the New Jersey Cultural Trust Fund Program for the award of grants for endowments, capital facilities projects and financial and institutional stabilization in accord with the New Jersey Cultural Trust Act, P.L. 2000, c.76, N.J.S.A. 52:16A-72 et seq.

15:27-2.2 Ethical principles

The New Jersey Cultural Trust will maintain the highest level of integrity in conducting all of its business including the making of funding decisions. Funding decisions will be based on merit and on the performance of eligible nonprofit organizations measured against the legislation, regulations, and requirements of the Trust. To this end, Trustees may disqualify from consideration any organization that the Trustees find has sought to influence the decision-making process outside of the normal application procedures.

15:27-2.3 Severability

If a court of competent jurisdiction declares any portion of this chapter invalid, the remainder of this chapter is not to be affected.

15:27-2.4 Suspension of rules for cause

The Board reserves to itself the right to suspend any or all of the following rules or provisions thereof due to a lack of funding.

15:27-2.5 Definitions

The following words and terms, as used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

“Act” means the New Jersey Cultural Trust Act, P.L. 2000, c.76 (N.J.S.A. 52:16A-72 et seq.).

“Applicant” means an organization applying to be approved as a qualified organization or applying to have its endowment gift certified, or an approved qualified nonprofit organization that appears on a list of suggested projects submitted to the Trust by the Council, Historic Trust or Commission.

“Board” means the Board of Trustees of the New Jersey Cultural Trust.

“Capital facilities project” means those projects in New Jersey of qualified organizations that construct, expand, renovate, plan for, repair, rehabilitate, restore, adaptively reuse, purchase, effectuate long-term leaseholds on, replace, relocate, or otherwise improve cultural or historical properties and facilities, as appropriate, including any work relating to providing access thereto for persons with disabilities. The term includes the acquisition of an interest in real property and includes the repair and replacement of fixtures.

“Certification” means the process by which restricted and unrestricted donations are evaluated and approved by the Board, the result of which is a transfer of funds from the Account to the Fund.

“Commission” means the New Jersey Historical Commission established pursuant to N.J.S.A. 18A:73-21 et seq.

“Council” means the New Jersey State Council on the Arts established pursuant to P.L. 1966, c.214 (N.J.S.A. 52:16A-25 et seq.).

“Cultural Trust” means the New Jersey Cultural Trust, established by P.L. 2000, c.76 (N.J.S.A. 52:16A-72 et seq.).

“Donor” means any individual, fiduciary, corporation, company, association, society, firm, partnership, or other person or entity. This definition includes a fiduciary exercising authority, in accordance with N.J.S.A. 3B:1-1 et seq. or other similar laws of another state or foreign jurisdiction, as an executor, trustee, guardian, or other authorized representative.

“Endowment” means a permanent fund, the principal of which is to remain intact in perpetuity and which is invested

and held by or for the exclusive use of a qualified organization, and the income of which may be expended by the qualified organization for the purposes consistent with its mission.

“Financial stabilization project” means those enhancements to a qualified organization that build assets, reduce liabilities, aid cash flow, establish working capital and capital reserves, expand income, improve public access, build institutional capability and efficiency, or otherwise effect long-term improvement of a qualified organization’s financial ability to sustain itself and carry out its mission.

“Grant” means an award of funds from the interest of the Trust Fund to an applicant recommended by the Council, the Commission or the Historic Trust.

“Historic facility” means a building or structure which has been “certified” as eligible for listing on the State Register of Historic Places by the New Jersey Office of Historic Preservation.

“Historic Trust” means the New Jersey Historic Trust established pursuant to P.L. 1967, c.124 (N.J.S.A. 13:1B-15.111 et seq.)

“Nonprofit organization” means a corporation organized under the New Jersey Nonprofit Corporation Act, N.J.S.A. 15A:1-1 et seq.

“Project list” means a compilation of projects, their purposes and amounts recommended by the Council, Historic Trust and Commission for receipt of Cultural Trust moneys generated by the interest of the Trust Fund.

“Qualified organization” means a separately incorporated, tax-exempt under the Internal Revenue Code of 1986 (26 U.S.C. § 501(c)), nonprofit organization, whose primary mission is to promote the performing, visual and creative arts in New Jersey or to promote or preserve history and humanities in New Jersey. The term shall not include private, State, county, or municipal colleges, and universities. The term shall not include State, county, or local governmental units, authorities or corporations created by such units, and shall not include a “qualifying governmental body” as defined in section 2 of P.L. 1985, c.410 (N.J.S.A. 52:16A-26.2).

“Restricted donations” are donations made directly to qualified organizations for endowment, which once certified, cause the transfer of a dollar for dollar match from the Trust Account to the Trust Fund.

“Southern New Jersey” means the eight southernmost counties including Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean and Salem.

“Trust Account” means the New Jersey Cultural Trust Account in the General Fund established by section 8 of the Act (N.J.S.A. 52:16A-79).

“Trust fund” means the permanent investment fund established by the Board of Trustees as provided in P.L. 2000, c.76.

“Unrestricted donations” are donations made directly to the Cultural Trust, and once certified, cause the transfer of a dollar for dollar match from the Account to the Fund.

15:27-2.6 Requirements for designation as a “qualified organization”

(a) In applying for designation as a qualified organization, the following are required:

1. An organization must submit current proof of non-profit corporate status from the State of New Jersey. An organization must also submit a copy of its two most recent annual reports or a summary of activities for the past two years describing major programs and services.
 - i. An organization must be incorporated and operating for at least four consecutive years prior to applying to be a “qualified organization.”
 - ii. Nonprofit “friends” organizations, which lease publicly owned cultural or historic sites, must provide documentation in the form of a valid lease.
2. An organization must submit proof of tax-exempt status from the Internal Revenue Service.
3. An organization must provide documentation of arts, history or humanities services or programs that provide a New Jersey public benefit.
4. An organization must submit a copy of its mission statement as part of the documentation.
5. An organization must supply other documents, such as event calendars, brochures, educational outreach materials, performance and exhibition calendars, in support of its mission and to verify services to the public as determined by the Cultural Trust.
6. An organization with an annual budget of at least \$100,000 and/or endowment holding greater than \$100,000 must submit an independent certified audit of financial statements for the last two completed fiscal years. An organization with an annual budget under \$100,000 and no endowment or no endowment holding in excess of \$100,000 must submit copies of their tax returns for the past two fiscal years and their past two annual budgets as approved by the organization’s board of directors.

(b) If a qualified organization does not apply to the Cultural Trust to certify a large gift donation, or does not receive a grant by virtue of appearing on a list of projects submitted by the Council, the Commission or the Historic

Trust within three years of being notified of their approved status as a “qualified organization,” the organization must reapply and meet all the requirements for “qualified organization.”

(c) Private, State, county, or municipal colleges and universities are not eligible. State, county, or local governmental units, authorities or corporations created by such units and “qualifying governmental bodies” as defined in N.J.S.A. 52:16A-26.2 are not eligible.

Amended by R.2002 d.112, effective April 15, 2002.

See: 33 N.J.R. 3687(a), 34 N.J.R. 1538(b).

In (a)1. rewrote the introductory paragraph; rewrote (a)6.

15:27-2.7 Certification and evaluation procedures for restricted donations to the Cultural Trust

(a) Money, real property or other item of monetary value given directly to a qualified organization and expressly dedicated to the organization’s endowment may be considered a restricted donation to that organization and may be certified by the Cultural Trust for the purpose of transferring a dollar for dollar matching amount of money from the Trust Account to the Trust Fund.

(b) To obtain certification of a restricted donation of money to the endowment of a qualified organization, the qualified organization shall send the following to the Cultural Trust:

1. The amount of the donation, the name of the financial institution and account number from which the donation came;
2. The date the donation was received;
3. Any terms and conditions of the donation that, if not met, would result in the donation’s rescission;
4. The current disposition of the donation;
5. A copy of the donation document received by the qualified organization from the donor; and
6. A copy of official organization board minutes establishing an endowment.

(c) To certify a restricted donation of real property or other items of monetary value to the endowment of a qualified organization, the qualified organization shall send the following to the Cultural Trust:

1. The amount or value of the donation;
2. Any terms and conditions of the donation that, if not met, would result in the donation’s rescission;
3. The date the donation was received;
4. The current disposition of the donation;
5. A copy of the donation document received by the qualified organization from the donor; and

6. A copy of official organization board minutes establishing an endowment.

(d) In the case of a restricted donation of real property or other item of monetary value, the amount of the match transferred to the Cultural Trust shall be based upon the value of the real property or item of monetary value on the date of transfer of ownership from the donor to the qualified organization, based on the certified appraisal, deed or other documentation describing the real property or item of monetary value, stating its fair market value as of the close of business on the day on which the donation is made. The Board reserves the right to require additional proofs of value. The Board shall make the final determination of value for purposes of the match.

15:27-2.8 Evaluation of restricted donations by the Cultural Trust

(a) Upon receipt, review and acceptance of the documents from the donor and the qualified organization as required under N.J.A.C. 15:27-2.7, the Board will:

1. Certify to the State Treasurer that the donation is consistent with the terms of the New Jersey Cultural Trust Act and request a transfer of an equal amount from the Trust Account to the Trust Fund; and
2. Notify the qualified organization in writing that the donation has been approved and certified and document the results of this process.

(b) The Board reserves the right to:

1. Inspect the financial records of a qualified organization whose restricted donation has been or is in the process of being certified;
2. Require a statement from the qualified organization's independent auditor confirming that any restricted donation of money, real property, or an item of monetary value is being applied to the organization's endowment;
3. Request additional documentation, affidavits, appraisals, etc. to confirm the value or ownership of a restricted donation; and
4. Refuse to certify a donation it deems unacceptable to the intent of the Act or that may expose the Cultural Trust or the State of New Jersey to liability.

15:27-2.9 Procedures for large gift restricted donations

(a) When the restricted donation is equal to or greater than \$100,000, the donation shall be considered a large gift donation. By resolution, the Board shall then disburse from the matched funds transferred from the Trust Account to the Trust Fund an amount equal to 20 percent of the donation received by the qualified organization. However, the aggregate of such disbursements shall not exceed 20 percent of the money transferred to the Trust Fund from the Trust Account by virtue of the certification process.

1. If the restricted donation of real property or other item of monetary value qualifies as a large gift donation, the Trust shall certify to the State Treasurer the amount of the donation from the donor to the qualified organization for the purposes of calculating the transfer of funds from the Account to the Fund, and for the purpose of calculating the 20 percent matching disbursement from the Fund to the qualifying organization.

2. If the restricted donation is in the form of a pledge from one donor over a two-year period, the aggregate of which will qualify as a large gift donation, the yearly donation, after certification by the Board to the State Treasurer, shall cause a transfer of funds from the Account to the Fund in the amount of the yearly contribution. However, the qualifying organization shall not be eligible to receive the 20 percent matching disbursement of money in hand until the aggregate of those yearly donations from one donor equals at least \$100,000 and has been certified by the Board.

i. In each year of the pledged donation, in addition to the documents necessary to certify each yearly donation, the qualifying organization shall submit to the Trust financial records indicating the disposition of that year's donation, the disposition of the previous year's donations with regard to the pledge, and a financial audit of its operation by an independent certified public accountant, indicating the endowment account wherein the restricted donation is held.

3. On a regular basis, the Trust shall accept applications for qualification of organizations and certification of restricted donations. These actions can occur simultaneously.

4. In the event that the amount of restricted donations certified for a match from the Trust Fund exceeds the 20 percent aggregated amount available for distributions at any meeting, the Board at that meeting shall determine a single flat percentage rate affecting individual matches that all approved qualifying organizations will receive that corresponds to the available resources.

5. The Board reserves to itself the right to impose a uniform cap on the amount that any certified organization may receive in matching Trust funds at any meeting if the match to all other qualifying large restricted donations has not been satisfied and there remain no available matching funds.

6. Qualifying organizations that do not receive their match or any part of their match because of the unavailability of funding at any meeting and are approved by the Board pending availability of funding shall remain on the list as a class and receive first consideration at the next opportunity in which funding becomes available.