

CHAPTER 65

**CASINO REINVESTMENT DEVELOPMENT
AUTHORITY**

Authority

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

Source and Effective Date

R.2008 d.325, effective October 2, 2008.
See: 40 N.J.R. 1632(a), 40 N.J.R. 6481(a).

Chapter Expiration Date

Chapter 65, Casino Reinvestment Development Authority, expires on October 2, 2013.

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, Casino Reinvestment Development Authority, 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. 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: 29 N.J.R. 3708(a), 29 N.J.R. 4562(b).

Subchapter 8, Contracts for Architectural, Engineering and Land Surveying Services, was adopted as new rules, and former Subchapter 8, Waivers, was recodified as Subchapter 9, Waivers. Subchapter 9, Miscellaneous, was recodified as Subchapter 10, Miscellaneous, by R.1999 d.326, effective September 20, 1999. See: 31 N.J.R. 1455(a), 31 N.J.R. 2759(a).

Chapter 65, Casino Reinvestment Development Authority, was readopted as R.2003 d.101, effective February 5, 2003. See: 34 N.J.R. 3177(a), 35 N.J.R. 1274(a).

In accordance with N.J.S.A. 52:14B-5.1d, the expiration date of Chapter 65, Casino Reinvestment Development Authority, was extended by gubernatorial directive from August 3, 2008 to October 2, 2008. See: 40 N.J.R. 5070(b).

Chapter 65, Casino Reinvestment Development Authority, was readopted as R.2008 d.325, effective October 2, 2008. As part of R.2008 d.325, Subchapter 4, Female and Minority Percentage Goals in Authority Financed Construction Projects and Licensees' Direct Investment Construction Projects, was repealed, effective November 3, 2008. See: Source and Effective Date.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

19:65-1.1 Purpose and objectives

19:65-1.2 Definitions

SUBCHAPTER 2. APPLICATION, ELIGIBILITY, PRIORITY AND HEARING

- 19:65-2.1 Applications generally
- 19:65-2.2 Time for application
- 19:65-2.3 Application
- 19:65-2.4 Application review and approval
- 19:65-2.5 Approval criteria
- 19:65-2.6 Priorities
- 19:65-2.7 Public hearing
- 19:65-2.8 Approval of projects which constitute equivalent investments
- 19:65-2.9 Approval of projects which constitute donation of money or realty
- 19:65-2.10 Approval of hotel development projects and allocation of investment credit
- 19:65-2.11 Cost certification

SUBCHAPTER 3. CONTRACTS

- 19:65-3.1 Contract as requirement to credit
- 19:65-3.2 Contract provisions

SUBCHAPTER 4. (RESERVED)

SUBCHAPTER 5. INVESTMENT BY LICENSEES PURSUANT TO N.J.S.A. 5:12-144

- 19:65-5.1 New Jersey Casino Control Commission rules

SUBCHAPTER 6. FEES AND CHARGES

- 19:65-6.1 Application fees
- 19:65-6.2 Administrative fees
- 19:65-6.3 Waiver of application and administrative fees

SUBCHAPTER 7. DISQUALIFICATION, DEBARMENT AND SUSPENSION

- 19:65-7.1 Definitions
- 19:65-7.2 Cause for debarment
- 19:65-7.3 Conditions affecting debarment
- 19:65-7.4 Procedures: Period of debarment
- 19:65-7.5 Causes for suspension of a person
- 19:65-7.6 Conditions for suspension of a person
- 19:65-7.7 Procedures: Period of suspension; Scope of suspension affecting the suspension of a person
- 19:65-7.8 Extent of debarment and suspension
- 19:65-7.9 Notice to Attorney General and Treasurer
- 19:65-7.10 Lists of other agencies
- 19:65-7.11 Authority discretion
- 19:65-7.12 Executive Director to implement subchapter

SUBCHAPTER 8. CONTRACTS FOR ARCHITECTURAL, ENGINEERING AND LAND SURVEYING SERVICES

- 19:65-8.1 Applicability
- 19:65-8.2 Definitions
- 19:65-8.3 Criteria for the selection of the most highly qualified professional firms
- 19:65-8.4 Effective date of rules

SUBCHAPTER 9. WAIVERS

- 19:65-9.1 Waivers generally
- 19:65-9.2 Procedure

SUBCHAPTER 10. MISCELLANEOUS

- 19:65-10.1 Severability

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.

Atlantic City Expansion Fund means the fund created by Section 5 of P.L. 2004, c.129 (N.J.S.A. 5:12-173.22(a)).

“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).

Casino Capital Construction Fund means the fund created by Section 13 of P.L. 2003, c.116 (N.J.S.A. 5:12-173.22).

“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 and include:

1. The area bounded as follows:

- i. Having as its southern boundary the Boardwalk between Texas Avenue and the point of intersection between the Boardwalk and an imaginary line extending southerly from the Southeasternmost point of Mt. Vernon Avenue (hereinafter “Mt. Vernon/Boardwalk Intersection”);

- ii. Having as its eastern boundary a line running north from the Mt. Vernon/Boardwalk Intersection to the Southeasternmost point of Mt. Vernon Avenue and continuing along Mt. Vernon Avenue north to Arctic Avenue and thence easterly to the point of intersection of Arctic Avenue with Bacharach Boulevard;

- iii. Having as its northeastern border Bacharach Boulevard from Arctic Avenue and extended to Beach Thorofare;

- iv. Having as its northwestern border the southern side of Beach Thorofare from the intersection of the southern side of Beach Thorofare with Bacharach Boulevard; so extended, to Texas Avenue;

- v. Having as its western border Texas Avenue from Beach Thorofare to the Boardwalk; and

2. The following additional areas:

- i. Albany Avenue (U.S. Route 40) from Beach Thorofare to the Boardwalk;

- ii. The Atlantic City Expressway from the Pleasantville Toll Plaza to Arkansas and Missouri Avenues;

- iii. Absecon Boulevard (U.S. Route 30) from Beach Thorofare to Delaware Avenue;

- iv. Delaware Avenue to Pacific Avenue;

- v. Arctic Avenue from Delaware Avenue westerly to Bacharach Boulevard;

- vi. Boardwalk from Albany Avenue (U.S. Route 40) easterly to Caspian Avenue;

vii. Brigantine Boulevard (State Route 87) to the Brigantine Bridge including the inlet shoreline between Clam Thorofare and Huron Avenue;

viii. The area bounded by Texas Avenue, Atlantic Avenue, Albany Avenue and the Boardwalk; and

ix. The area bounded by Mt. Vernon Avenue, Atlantic Avenue, New Jersey Avenue and the Boardwalk.

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, together with rights-of-way associated therewith and any real estate parcels in proximity thereto 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;
2. Costs of appurtenant facilities, provided, however, notwithstanding that appurtenant facilities are part of an eligible hotel development project, with respect to hotel development projects approved following September 16, 1996, eligible costs for such appurtenant facilities shall be limited to costs of those facilities which are necessary to a hotel development project and parking facilities to the extent reasonably commensurate in size for use by overnight visitors utilizing the units in the hotel development project and shall exclude costs for recreation and park facilities.
3. Costs of development, construction, improvement and rehabilitation of facilities, including equipment, and of the acquisition of equipment related thereto;
4. Cost of necessary studies, surveys, plans and permits, including the fees payable in connection with architectural, engineering, legal, accounting and other services incurred in connection therewith;
5. Costs of interest incurred during construction and for a reasonable period thereafter prior to the receipt of a certificate of occupancy of the project; and
6. Cost of working capital and operating deficits.

“Determination of eligibility” means a determination by the Authority that the applicant’s project is an approved project.

“Equivalent investment” means an investment by a licensee in the form of an input of sufficient amounts from any source to provide for the payment of the costs and, if applicable, acquisition value of an approved project.

“Executive Director” means the Executive Director of the Authority.

“Hotel development project” shall mean the construction of a facility in the City of Atlantic City to provide at least 200 units for overnight visitors or the reconstruction or rehabilitation of at least 200 units for overnight visitors (together with ancillary reconstruction or rehabilitation) of an existing facility in the City of Atlantic City, which are operated as part of a licensed facility of the licensee or in a facility otherwise approved by the Authority, and the construction, reconstruction or rehabilitation of appurtenant facilities.

“Initial contract” means the first contract entered into between the Authority and any licensee.

“Licensee” means the holder of a current and valid casino license issued by the New Jersey Casino Control Commission.

“Neighborhood Strategy Areas” means areas within a municipality designated from time to time by the Authority by resolution.

“Parking proceeds” shall mean proceeds from fees collected pursuant to N.J.S.A. 5:12-173.3 (section 3 of P.L. 1993, c.159) which are paid by the State Treasurer, pursuant to N.J.S.A. 5:12-173.4 (section 4 of P.L. 1993, c.159), into a special fund established and held by the State Treasurer and made available for the exclusive use of the Authority and any other income credited exclusively to the special fund.

“Parking proceeds bonds” shall mean bonds, notes or other evidence of indebtedness issued pursuant to N.J.S.A. 5:12-173.6 (section 6 of P.L. 1993, c.159) and shall not include, or be included as, bonds issued to licensees pursuant to N.J.S.A. 5:12-162 (section 14 of P.L. 1984, c.218).

“Participant” means any person, entity, government, governmental agency, authority, or instrumentality, municipality, political subdivision of the State, licensee, or prospective licensee participating or involved in any aspect of a project.

“Project” means any undertaking made to meet the purposes set forth in the Act, which include the following:

1. To provide, further and promote tourist industries in New Jersey and especially Atlantic County, by providing financial assistance for the planning, acquisition, construction, improvement, maintenance and operation of facilities for the recreation and entertainment of the public which may include an arts center, cultural center, historic site or landmark, or sports center;

2. To provide loans and other financial assistance for the planning, acquisition, construction, reconstruction, demolition, rehabilitation, conversion, repair or alteration of buildings or facilities to provide decent, safe and sanitary dwelling units for persons of low, moderate, median range, and middle income in need of housing, and to provide mortgage financing for such units;

3. To assist in the financing of structures, franchises, equipment and facilities for operation of, expansion of and the development of public transportation or for terminal purposes, including but not limited to development and improvement of port terminal structures, facilities and equipment for public use;

4. To provide loans and other financial assistance for the construction, reconstruction, demolition, conversion, repair or alteration of convention halls in Atlantic County and the State of New Jersey, including but not limited to office facilities, commercial facilities, community service facilities, parking facilities, hotel facilities and other facilities for the accommodation and entertainment of tourists and visitors;

5. To make loans and assist in the financing of the construction, reconstruction, rehabilitation, repair or acquisition of infrastructure projects, including but not limited to sewage disposal facilities, water facilities, solid waste disposal facilities, roads, highways and bridges;

6. To assist in financing buildings, structures and other property to increase opportunities in manufacturing, industrial, commercial, recreational, retail and service enterprises in the State so as to induce and to accelerate opportunity for employment in these enterprises, particularly of unemployed and underemployed residents of the jurisdiction in which the investment is to be made;

7. To provide loans and other financial assistance for the planning, developing or preservation of new and existing small businesses as well as the planning, acquisition, construction, reconstruction, rehabilitation, conversion or alteration of the facilities that house these enterprises, particularly those which provide services or employment to unemployed or underemployed residents of the State;

8. To provide loans and other financial assistance to provide employment training and retraining, particularly for unemployed and underemployed residents of the State; and

9. To encourage investment in, or financing of, any plan, project, facility, or program which directly serves pressing social and economic needs of the residents of the jurisdiction or region in which the investment is to be made, including but not limited to schools, supermarkets, commercial establishments, day care centers, parks and community service centers, and any other plan, project, facility or program which best serves the interest of the public as determined by the Authority.

"Prospective licensee" means a person who has applied for a license issued by the New Jersey Casino Control Commission to operate a casino.

"State" means the State of New Jersey.

"SBMWE Development Authority" means the New Jersey Development Authority for Small Business, Minorities and Women's Enterprises.

Amended by R.1987 d.213, effective May 4, 1987.
See: 19 N.J.R. 404(b), 19 N.J.R. 775(a).

Substantially amended.
Emergency amendment, R.1993 d.478, effective August 30, 1993 (expires October 29, 1993).
See: 25 N.J.R. 4514(a).

Adopted Concurrent Proposal, R.1993 d.605, effective October 29, 1993.

See: 25 N.J.R. 4514(a), 25 N.J.R. 5523(a).
Amended by R.1997 d.136, effective March 17, 1997.
See: 29 N.J.R. 115(a), 29 N.J.R. 934(a).

Added "Corridor Region"; and amended "Cost" and "Project".
Amended by R.1997 d.452, effective October 20, 1997.
See: 29 N.J.R. 3708(a), 29 N.J.R. 4562(b).

Amended "Act", "Applicant", "Bonds", "Corridor Region", "Executive Director" and "Participant"; added "Parking proceeds" and "Parking proceeds bonds"; and deleted "Good cause".
Amended by R.2000 d.203, effective May 15, 2000.
See: 32 N.J.R. 646(a), 32 N.J.R. 1785(a).

Rewrote "Corridor Region".
Amended by R.2002 d.14, effective January 7, 2002.
See: 33 N.J.R. 3424(a), 34 N.J.R. 299(a).

Rewrote "Corridor Region".
Amended by R.2005 d.205, effective July 5, 2005.
See: 37 N.J.R. 767(a), 37 N.J.R. 2559(a).

Added "Atlantic City Expansion Fund" and "Casino Capital Construction Fund".

SUBCHAPTER 2. APPLICATION, ELIGIBILITY, PRIORITY AND HEARING

19:65-2.1 Applications generally

(a) The Authority will act upon applications which involve projects that meet the requirements of the Act, these rules and the specific goals of the Authority as determined from time to time by the Authority.

(b) From time to time the Authority may issue guidelines outlining, among other things, the nature of the projects it intends to fund or approve and the approximate amounts available to fund such projects.

Amended by R.1987 d.213, effective May 4, 1987.
See: 19 N.J.R. 404(b), 19 N.J.R. 775(a).

Repealed (c).
Amended by R.1997 d.136, effective March 17 1997.
See: 29 N.J.R. 115(a), 29 N.J.R. 934(a).

In (b), substituted "approximate" for "approximately".

19:65-2.2 Time for application

(a) Except as otherwise provided in these rules or in the Act, an applicant shall apply to the Authority in accordance with the procedures set forth in these rules for a determination of eligibility of its proposed project at any time before the commencement of the project and shall not commence the project until the Authority makes a determination of eligibility.

19:65-8.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

"Compensation" means the basis of payment by an agency for professional architectural, engineering or land surveying services.

"Professional architectural, engineering and land surveying services" means those services, including planning, environmental, and construction inspection services required for the development and construction of projects, within the scope of the practice of architecture, professional engineering or professional land surveying as defined by the laws of this State or those performed by an architect, professional engineer or professional land surveyor in connection with his or her professional employment practice.

"Professional firm" means any individual, firm, partnership, corporation, association or other legal entity permitted by law to provide professional architectural, engineering, or land surveying services in this State.

19:65-8.3 Criteria for the selection of the most highly qualified professional firms

(a) Prior to the solicitation of proposals or expressions of interest pertaining to the procurement of professional architectural, engineering, or land surveying services, the Authority shall publicly advertise its need for such services. The advertisement shall either include a statement of the criteria by which the Authority shall evaluate the technical qualifications of professional firms and determine the order of preference to be used in designating the firms most highly qualified to perform the services or identify such criteria by reference to the provisions of this subchapter.

(b) In selecting the most highly qualified professional firms with which to contract for architectural, engineering or land surveying services, the Authority, where applicable, shall consider the following criteria:

1. The experience and qualifications of the firm and designated project team in providing similar services;
2. The experience and qualifications of the firm and designated project team on projects of similar size and complexity;
3. The experience and capability of the firm and designated project team in respect to any special technologies, techniques, or expertise the project may require;
4. The past performance of the firm; and
5. Any other criteria specified in the Authority's public advertisement of the project.

(c) In selecting and ranking qualified professional firms, the Authority shall establish weights for the criteria applica-

ble to each project. The Authority may disqualify any firm determined to be unacceptably deficient in one or more of the applicable criteria, regardless of the firm's ranking or score on the remainder of the criteria.

19:65-8.4 Effective date of rules

Any Authority procurement proceeding for the contracting of architectural, engineering or land surveying services where the Authority has not solicited proposals or expressions of interest or publicly advertised its need for such services prior to September 20, 1999 shall be subject to the applicable provisions of this subchapter.

SUBCHAPTER 9. WAIVERS**19:65-9.1 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.

19:65-9.2 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 10. MISCELLANEOUS**19:65-10.1 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.