

CHAPTER 31

AUTHORITY ASSISTANCE PROGRAMS

Authority

N.J.S.A. 34:1B-1 et seq.; and P.L. 2008, c. 112 and P.L. 2008, c. 117.

Source and Effective Date

R.2005 d.274, effective July 22, 2005.
See: 37 N.J.R. 1714(a), 37 N.J.R. 3058(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 31, Authority Assistance Programs, expires on January 18, 2011. See: 42 N.J.R. 2019(a).

Chapter Historical Note

Chapter 31, Authority Assistance Programs, was adopted as R.1990 d.410, effective August 20, 1990. See: 22 N.J.R. 1545(a), 22 N.J.R. 2536(a).

Subchapter 7, Local Development Financing Fund, was adopted as R.1992 d.421, effective October 19, 1992. See: 24 N.J.R. 2534(a), 24 N.J.R. 3735(a).

Subchapter 8, Hazardous Discharge Site Remediation Fund, was adopted as R.1994 d.192, effective April 18, 1994. See: 25 N.J.R. 4468(a), 26 N.J.R. 1706(c).

Subchapter 9, New Jersey Boat Industry Loan Guarantee Fund, was adopted as R.1994 d.376, effective July 18, 1994. See: 26 N.J.R. 1613(a), 26 N.J.R. 2919(a).

Pursuant to Executive Order No. 66(1978), Chapter 31, Authority Assistance Programs, was readopted as R.1995 d.435, effective July 20, 1995. See: 27 N.J.R. 2377(a), 27 N.J.R. 3216(a).

Subchapter 10, Business Employment Incentive Program, was adopted as R.1996 d.470, effective October 7, 1996. See: 28 N.J.R. 3058(a), 28 N.J.R. 4510(b).

Subchapter 11, Petroleum Underground Storage Tank Remediation, Upgrade and Closure Fund, was adopted as R.1998 d.151, effective March 16, 1998. See: 29 N.J.R. 5236(b), 30 N.J.R. 1054(a).

Subchapter 12, Technology Business Tax Certificate Transfer Program, was adopted as R.1999 d.381, effective November 1, 1999. See: 31 N.J.R. 2522(a), 31 N.J.R. 3525(a).

Pursuant to Executive Order No. 66(1978), Chapter 31, Authority Assistance Programs, was readopted as R.2000 d.297, effective June 16, 2000. See: 32 N.J.R. 1705(a), 32 N.J.R. 2602(c).

Chapter 31, Authority Assistance Programs, was readopted as R.2005 d.274, effective July 22, 2005. Subchapter 5, Export Revolving Line of Credit; Subchapter 6, New Jersey Trade Adjustment Assistance Center; Subchapter 9, New Jersey Boat Industry Loan Guarantee Fund and Subchapter 13, Rules for Implementation of an Act Concerning the Restructuring of Certain Solid Waste Facility Bonds, and Providing for the Financing Thereof through the New Jersey Economic Development Authority, P.L.2001, c.401 were repealed by R.2005 d.274, effective August 15, 2005. See: Source and Effective Date. See, also, section annotations.

Subchapter 4, Downtown Beautification Program, was repealed by R.2009 d.38, effective January 20, 2009. See: 40 N.J.R. 5954(a), 41 N.J.R. 638(a).

Subchapter 9, Urban Transit Hub Tax Credit Program, was adopted as new rules by R.2009 d.53, effective February 2, 2009. See: 40 N.J.R. 6426(a), 41 N.J.R. 807(a).

Pursuant to P.L. 2008, c. 27, §10 (N.J.S.A. 34:1B-219) and by notice of administrative change, Subchapter 3, Energy Sales Tax Exemption Program, of Chapter 121 of Title 12A was recodified as Subchapter 13 of Chapter 31 of Title 19, effective January 29, 2009. See: 41 N.J.R. 1102(a).

Subchapter 5, InvestNJ Business Grant Program, and Subchapter 6, Main Street Business Assistance Program, were adopted as special new rules by R.2009 d.73, effective February 2, 2009. See: 41 N.J.R. 1103(a). Subchapter 5, InvestNJ Business Grant Program, and Subchapter 6, Main Street Business Assistance Program, were adopted as concurrent new rules by R.2009 d.181, effective May 4, 2009. See: 41 N.J.R. 2338(a).

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SUBCHAPTER 1. BOND FINANCING PROGRAM

19:31-1.1 Program description

(a) The Authority is empowered to issue tax-exempt and taxable bonds, the proceeds of which can be used to provide low-interest loans to businesses, governmental entities and certain nonprofit organizations to finance projects which provide or maintain employment and/or tax ratables.

(b) Most bond financings are not guaranteed by the Authority or the State, and are payable solely from revenues generated by the project being financed.

(c) The general credit of neither the Authority nor the State is pledged to secure the bonds.

Amended by R.2000 d.297, effective July 17, 2000.

See: 32 N.J.R. 1705(a), 32 N.J.R. 2602(c).

In (a), inserted a reference to governmental entities.

19:31-1.2 Bond purchaser

(a) The applicant shall secure a written commitment from a bond purchaser.

(b) A bond purchaser shall be:

1. A commercial bank or other institutional lender;
2. An underwriter or placement agent;
3. A privately owned entity; or
4. An individual.

(c) A bond purchaser other than a commercial bank or institutional lender must submit an Application to Purchase Bonds, which will be reviewed by the Authority to determine acceptability to purchase a bond. This application includes requests for identification of, or information about:

1. The officers, directors, partners, owners and stockholders of the applicant;
2. Litigation involving the applicant;
3. Applicant's counsel, principal banks of account, and accountant; and
4. Financial statements of applicant.

(d) The bond purchaser establishes the amount, term, interest rate, collateral, etc., for the bond in negotiation with the applicant.

Amended by R.1997 d.270, effective July 7, 1997.
See: 29 N.J.R. 1485(b), 29 N.J.R. 2844(b).

Deleted (c), barring bond purchaser from being substantial owner or user of project; and recodified former (d) and (e) as (c) and (d).

19:31-1.3 Bond financing

(a) Typically, the bonds are secured by a loan agreement and a mortgage on project assets.

(b) The funds raised by the bond issue are loaned by the Authority to pay for eligible project costs. The borrower signs

an agreement with the Authority pledging to make payments sufficient to cover principal and interest on the bond. This agreement is then assigned to the bond purchaser.

(c) The borrower makes payments directly to the bond purchaser or trustee.

19:31-1.4 Eligibility standards

(a) Generally, to be eligible for bond financing:

1. A project must serve a public purpose; that is, maintain or expand employment in New Jersey, assist in the economic development or redevelopment of a municipality, maintain or increase the tax base of the municipality, and maintain or diversify business and industry in the State; and

2. Applicants must represent to the Authority that they would not proceed with their project in the present time, place, or scope without the Authority's assistance.

(b) The Authority generally will not approve financial assistance to a project involving relocation within New Jersey if the relocation will result in a job loss and/or hardship for the existing employees or if the relocation endangers the maintenance of tax ratables in a particular community.

example, a business might submit that 90 percent of its manufactured output is physically packaged with the product made by another member of the vertically integrated group.

(c) Once the businesses seeking to qualify for the energy sales tax exemption as a qualified group are determined by the Authority to be a vertically integrated business activity, then the group application will be evaluated in combination with the other members of the group to determine if the group is eligible as a qualified group.

1. Each application submitted to the Authority by a group of vertically integrated qualified businesses shall include the submission requirements of (a) above for each individual business in the group.

2. In addition to (c)1 above, the application shall be required to provide evidence satisfactory to the Authority that all individual businesses in the group are located within a single redevelopment area.

3. The group as a whole, rather than each individual business, shall be considered in meeting eligibility requirements of directly employing at least 250 people within the single redevelopment area within the enterprise zone, at least 50 percent of whom are directly employed in a manufacturing process.

(d) In the case of a qualified group, each time an application from a new business seeking to be added to, or an existing business seeking to be deleted from, the qualified group, the submission requirements of this section shall be required to be satisfied promptly for the group as so changed. If no new businesses are added or existing business are deleted during the year, the annual renewal requirements of N.J.A.C. 19:31-13.4 for qualified groups shall apply.

Amended by R. 2006 d.197, effective May 15, 2006.

See: 37 N.J.R. 3024(a), 38 N.J.R. 2165(b).

Inserted "including contract name" in (a)6; and in (c) substituted "the businesses" for "a business", "are" for "is" and "the group" for "its", inserted "a" preceding "vertically" and inserted "activity".

Amended by R.2006 d.323, effective September 5, 2006.

See: 38 N.J.R. 1524(a), 38 N.J.R. 3619(a).

In (a)7, inserted "in units and in dollars"; in the introductory paragraph of (c), inserted "a" preceding "vertically"; and in (c)3, substituted "250" for "500".

19:31-13.6 Application and review procedures

(a) Applicants shall submit to the Authority a completed Application for Energy Sales Tax Exemption. The application, signed by an authorized representative of the business, shall bear either a legible post-mark date or a date-received stamp from the Authority.

(b) The Authority shall conduct a review of the applications in the order received, commencing with the application bearing the earliest submission date. The Authority may require the submission of additional information to complete the application or may require the submission of the entire application, if incomplete. The Authority shall review the applications to determine whether:

1. The application complies with the eligibility criteria;
2. The application satisfies the submission requirements; and
3. The application adequately provides information for the subject applicants.

(c) Program staff, after reviewing the application, shall make a recommendation to the Chief Executive Officer, who after consideration of that recommendation, shall approve, approve with modifications, or deny an application in the program.

(d) Upon completion of the review of an application pursuant to (b) above, the Authority shall notify the applicant whether the application has been approved by the Chief Executive Officer.

1. In the event that an application is approved, the Chief Executive Officer will notify the applicant, the President of the Board of Public Utilities and the Director, that a qualified business or a qualified group has met the requirements for the energy sales tax exemption. In accordance with P.L. 1966, c.30 (N.J.S.A. 54:32B-1 et seq.). The Division of Taxation shall then issue an Exemption Certificate (UZ-6) to the qualified business or qualified group.

2. In the event that an application is denied, the applicant shall be notified of the denial and the reasons for such denial.

3. After notification of a denial, should the circumstances change so that the applicant reasonably believes its application will be approved, the applicant may reapply to the program no earlier than 90 days from the date the Chief Executive Officer issued the denial.

(e) Once a qualified group is approved, each member of the group shall be subject to all the same provisions and procedures as any other qualified manufacturing business that is not a member of a qualified group. However, if the Chief Executive Officer subsequently determines that a previously qualified group is no longer eligible for the energy sales tax exemption, then each member of that group shall be required to immediately surrender its exemption certificate to the Chief Executive Officer.

Amended by R. 2006 d.197, effective May 15, 2006.

See: 37 N.J.R. 3024(a), 38 N.J.R. 2165(b).

Inserted "signed by an authorized representative of the business," in the second sentence of (a); inserted (c); and recodified former (c) and (d) as (d) and (e).

19:31-13.7 Monitoring, inspection, and reporting

(a) The Authority and agents of the State of New Jersey, shall monitor compliance with respect to the eligibility criteria for this energy sales tax exemption. An applicant or any business that is approved to receive this exemption benefit shall permit any agent of the State of New Jersey to enter said business during reasonable business hours to

determine compliance with the eligibility criteria of the program. Failure to permit access to determine eligibility will result in the forfeiture of the exemption benefit and may require repayment of sales and use tax previously exempted from payment, as the Authority shall determine.

(b) Each qualified business and qualified group that receives this energy sales tax exemption shall be required to maintain records documenting all of its tax-exempt purchases. This information must be supplied to the Authority upon request. In addition, a report summarizing the totals of all exempt energy purchases must be provided for the prior year as a component of the annual renewal or recertification application.

(c) Each qualified business and qualified group that receives approval of its application for the energy sales tax exemption shall notify the Authority if it ceases to meet the manufacturing and employment requirements for the energy sales tax exemption for more than a total of three weeks in any two consecutive months.

Amended by R. 2006 d.197, effective May 15, 2006.
See: 37 N.J.R. 3024(a), 38 N.J.R. 2165(b).
Added (c).

19:31-13.8 Rescission

(a) The Chief Executive Officer, in addition to any other rights or remedies available pursuant to law, may withhold, reduce, or terminate this sales and use tax exemption or any portion thereof for good cause. The circumstances under which this may occur include, but are not limited to:

1. Failure to comply with the requirements of this subchapter, or other applicable State laws or rules;
2. Failure to comply with any condition or requirement of the Urban Enterprise Zone Program;

3. Failure to maintain the employment levels stipulated in the Urban Enterprise Zone Program;

4. Submission of false or misleading information, or failure to submit relevant or complete information to the Authority;

5. Any act of insolvency, the filing of a petition in bankruptcy (voluntary or involuntary) or the existence of other conditions affecting the financial integrity of the applicant; or

6. Failure to comply with any condition, term, or requirement of the Authority relating to this program.

(b) The Chief Executive Officer shall provide written notice to the business of its intent to rescind the applicant's qualification status for the energy sales tax exemption benefit. The determination to rescind the benefit shall be solely within the Chief Executive Officer's discretion.

(c) The Chief Executive Officer shall provide notice of the determination to rescind to the Director, who shall rescind the sales and use tax exemption certificate issued to the business.

(d) Any rescission of the energy sales tax exemption will require repayment by the business or group of all exempted tax payments, and such penalties as may be assessed in accordance with the State Uniform Tax Procedure Law, R.S. 54:48-1 et seq. from the effective date of the rescission as determined by the Authority.

19:31-13.9 Appeals

Appeals under this subchapter shall be subject to the appeals procedures governing the subchapter on sales and use tax exemption at N.J.A.C. 12A:2A-2.13.