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CHAPTER 4B

HISTORIC PRESERVATION REVOLVING
LOAN PROGRAM

Authority

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SUBCHAPTER 1. GENERAL PROVISIONS

7:4B-1.1 Purpose

This chapter shall constitute the rules of the New Jersey Historic Trust in the Department of Environmental Protection and Energy for the Historic Preservation Bond Program providing for the award of loans on a competitive basis for historic preservation projects, for the preservation, improvement, restoration, rehabilitation or acquisition of historic properties owned by county and municipal governments and by tax-exempt nonprofit organizations in accordance with the P.L. 1987, c.265 and P.L. 1991, c.41.

7:4B-1.2 Definitions

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

“Acquisition” means the process of obtaining an interest in real property for the purpose of preserving or enhancing the historic, cultural or architectural significance of the property. Acquisition may include purchase of title, development rights, life estates, remainder interests, easements or other interests in real property which would result in the preservation of a historic property.

“Act” means the “New Jersey Green Acres, Cultural Centers and Historic Preservation Bond Act of 1987,” P.L. 1987, c.265.

“Applicant” means the county or municipal government or nonprofit organization that submits an application for a historic preservation loan.

“Approved project period” means the amount of time prescribed in the project agreement during which the loan recipient must complete the approved historic preservation project.

“County and municipal government” includes all legal subunits and coequal units of county and municipal government.

“Deputy State Historic Preservation Officer” means the Administrator, Historic Preservation Office, Department of Environmental Protection and Energy, designated by the Commissioner of the Department of Environmental Protection and Energy to administer the State Historic Preservation Program to identify and nominate eligible properties to the National Register of Historic Places.

“Historic” as applied to any property, structure, facility or site means any area, site, structure or object approved for listing or which has been certified by as meeting the criteria for listing in the New Jersey or National Register of Historic Places as set forth at N.J.A.C. 7:4. The State Historic Preservation Officer is responsible for identifying and nominating eligible properties to the National Register of Historic Places.

“Historic preservation cost” means the expenses incurred in connection with the historic preservation project for which loan assistance is provided.

“Historic preservation loan” means moneys approved by the New Jersey Historic Trust for funding of a historic preservation project and subject to the terms of an agreement between the Trust and the recipient.

“Historic preservation project” means work directly related to the acquisition, improvement, restoration, stabilization, and/or rehabilitation of a historic property, structure, facility or site.

“Improvement” means the act of upgrading the basic physical condition of a property in a manner consistent with the Standards for the Treatment of Historic Properties (Revised 1992) adopted by the Secretary of the United States Department of the Interior now in effect and as may subsequently be modified, changed or amended. This type of activity includes upgrading mechanical systems, providing appropriate barrier-free access for handicapped persons, and bringing a property into conformance with building costs.

“Loan agreement” means a document executed by the New Jersey Historic Trust and a loan recipient which provides loan assistance of a specified amount for a historic preservation project approved by the Trust.

“Loan recipient” means the county or municipal government or nonprofit organization named in an agreement executed with the Trust to receive loan funds for a historic preservation project.

“National Register of Historic Places,” means the list of districts, sites, buildings, structures and objects significant in American history, architecture, archaeology, engineering or culture maintained by the Secretary of the United States Department of the Interior under authority of the National Historic Preservation Act, as amended (16 U.S.C. §§ 470 et seq.).

“Nonprofit organization” means a corporation organized under the New Jersey Nonprofit Corporation Act, N.J.S.A. 15A:1-1 et seq. and qualified for tax-exempt status under the Internal Revenue Code of 1986 (26 U.S.C. § 501(c)).

“Preservation” means the act or process of applying measures to sustain the existing form, integrity, and material of a historic property.

“Reconstruction” is defined as the act or process of depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location.

“Rehabilitation” is defined as the act or process of making possible an efficient compatible use for a property through repair, alterations, and additions while preserving those portions of features which convey its historical, cultural, or architectural values.

“Restoration” is defined as the act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period.

“Secretary of the Interior’s Standards” means the Standards for the Treatment of Historic Properties (Revised 1992) adopted by the Secretary of the United States Department of the Interior now in effect and as may subsequently be modified, changed or amended, incorporated herein by reference.

“Site” means the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure whether standing, ruined or vanished where the location itself maintains historic or archaeological value regardless of the value of any existing structure.

“State Historic Preservation Officer” means the Commissioner of the Department of Environmental Protection and Energy designated by the Governor to administer the State Historic Preservation Program and to identify and nominate eligible properties to the National Register of Historic Places. The State Historic Preservation Officer establishes the procedures and criteria located at N.J.A.C. 7:4 for receiving and processing nominations and approval of areas, sites, structures and objects both publicly and privately owned, for listing in the State Register of Historic Places.

“State Register of Historic Places” means the New Jersey Register of Historic Places consisting of areas, site, structures and objects significant in American history, architecture, archaeology and culture which the Commissioner of the Department of Environmental Protection and Energy is authorized to expand and maintain under the “New Jersey Register of Historic Places Act,” N.J.S.A. 13:1B-15.128 et seq.

“Structure” means a work constructed by man and made up of interdependent and interrelated parts in a definite pattern or organization. Structures are distinguished from buildings by their functional and utilitarian nature. Generally, a structure is built for a purpose other than to create shelter.

“Trust” means the New Jersey Historic Trust, a body corporate and politic with corporate succession established in the Department of Environmental Protection and Energy under N.J.S.A. 13:1B-15.111 et seq.

SUBCHAPTER 2. ELIGIBILITY FOR HISTORIC PRESERVATION

7:4B-2.1 Eligible applicants

(a) County and municipal governments and tax-exempt nonprofit organizations are eligible to submit applications for historic preservation loans.

(b) No historic preservation loan will be made to non-profits or governmental units which are in default on prior obligations to the New Jersey Department of Environmental Protection and Energy.

7:4B-2.2 Eligible property

(a) A historic preservation project is eligible for a historic preservation loan only if, at the time the Trust receives the loan application, the property which is the subject of the project is:

1. Individually listed in the National or State Register of Historic Places;
2. Located within a historic district listed in the National or State Register of Historic Places and identified in the nomination of the district as contributing to the significance of the district;
3. Included in a thematic listing of historic resources in the State National Register of Historic Places; or
4. Certified by the Deputy State Historic Preservation Officer that the property, structure, facility or site is approved for listing or meets the criteria for listing in the State Register of Historic Places as set forth in N.J.A.C. 7:4.

(b) Unless the purpose of the historic preservation loan is to fund an acquisition, a historic preservation project is eligible for a historic preservation loan only if, at the time the Trust receives the loan application, the property which is the subject of the project is:

1. Owned in fee simple by the applicant; or
2. If the property is now owned in fee simple by the applicant, the applicant shall have possession and sufficient control over the property pursuant to a long-term lease to guarantee the continuing preservation, on-going maintenance and public access requirements for the historic property under this chapter. No historic preservation project proposed for leased property shall be approved for funding unless:

- i. The lease may not be revoked at will by the lessor;
- ii. The unexpired term of the lease is:
 - (1) For property owned by a county or municipality and leased to the applicant, five years or more as of the date the Trust receives the application for a historic preservation loan; or
 - (2) For property owned privately and leased to the applicant, 20 years or more as of the date the Trust receives the application for a historic preservation loan; and
- iii. The application for the historic preservation loan is endorsed by all owners, lessors and lessees of the leased premises as the case may be.

7:4B-2.3 Historic preservation activities eligible for funding

(a) The following activities are eligible for funding by the historic preservation loan program:

1. Preservation;
2. Rehabilitation;
3. Restoration;
4. Improvement;
5. Acquisition;
6. The following non-construction activities related directly to the development, implementation, operation and monitoring of a historic preservation project;
 - i. Architectural plans, designs, specifications, cost estimates and other contract documents;
 - ii. Feasibility studies;
 - iii. Historic structure reports;
 - iv. Preservation plans;
 - v. Historic landscape reports;
 - vi. Archaeological reports;
 - vii. Architectural reports;
 - viii. Engineering reports;
 - ix. Historic research reports;
 - x. Project completion reports;
 - xi. Preparation of a successful loan application;
 - xii. Construction permits;
 - xiii. Architectural fees for construction administration services;
 - xiv. Consultant fees for preparation of reports required by the Trust; and
 - xv. Market feasibility studies;

7. Project signs, required under N.J.A.C. 7:4B-5.1;
8. Interpretive signs or plaques approved by the Trust for funding as part of a historic preservation loan; and
9. The following expenses to acquire title or permanent interest in a property, or to refinance the acquisition of an eligible property:
 - i. Survey costs;
 - ii. Appraisal fees;
 - iii. Title searches;
 - iv. Title insurance;
 - v. Recording fees;
 - vi. Inspection fees;
 - vii. Legal fees associated with acquisition; and
10. Costs to market the property for resale.

(b) Costs incurred in the following activities are not eligible for funding by the historic preservation loan program because they are not historic preservation activities and/or funds are to be used only for capital or acquisition expenses:

1. Construction of new buildings, structures or major new additions to existing buildings or structures, except if such construction is a minor and necessary component of a historic preservation project approved for funding;
2. Reconstruction of buildings or structures which formerly existed, except if such building or structure is a minor or necessary component of a historic preservation project approved for funding;
3. Personnel or administrative overhead or any other indirect cost;
4. Ceremonial expenses;
5. Expenses for publicity (with the exception of the required project sign);
6. Bonus payments of any kind;
7. Charges for contingency reserves;
8. Charges in excess of the lowest bid when the loan recipient is required to use competitive bidding, unless the Trust agrees in advance to the higher cost;
9. Charges for deficits or overdrafts;
10. Damage judgments arising from construction, or equipping of a facility, whether determined by judicial process, arbitration, negotiation, or otherwise;
11. Services, materials, or equipment obtained under any other State program;
12. Costs of discounts not taken;

13. Contract cost overruns, not approved, that exceed all allowable amounts as per the contract specifications;
14. Fundraising;
15. Lobbying;
16. Work including construction, research and preparation of plans and reports not included in the scope of work set forth in the project agreement;
17. The following costs of acquisitions are not eligible:
 - i. Broker's or realtor's fees;
 - ii. Legal fees not directly related to acquisition;
 - iii. Loan discounts or origination fees are generally not eligible for reimbursement unless financial hardship can be demonstrated; and
 - iv. Other loan application fees;
18. Real property taxes, except in loans for acquisition where the purchase of tax liens is necessary to acquire the property;
19. Increases in land costs in excess of the approved fair market value;
20. Work which does not comply with the Secretary of the Interior's Standards;
21. Work performed on behalf of a county or municipal government which has not been awarded in compliance with the State Contracts Law, N.J.S.A. 52:32-1 et seq. or the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq. when applicable;
22. Work performed on behalf of a nonprofit organization which has not been awarded in compliance with the State Contracts Law or the Local Public Contracts Law if the cost of the contract for work performed as part of the historic preservation project funded with a historic preservation loan exceeds \$50,000;
23. Routine periodic maintenance work except if it is a minor and necessary component of a historic preservation project; and
24. Relocation of structures, buildings or objects unless the following conditions are met:
 - i. Relocation of the structure, building or object is necessary for its preservation; or
 - ii. The relocation re-establishes the historic orientation, the immediate setting, and general environment of the property; and
 - iii. The Deputy State Historic Preservation Officer determines that the property, as relocated, will continue to meet the criteria for listing in the National Register of Historic Places.

SUBCHAPTER 3. HISTORIC PRESERVATION LOAN APPLICATION PROCESS

7:4B-3.1 Procedures

(a) Revolving loan applications will be accepted and reviewed from all eligible applicants on a continuous basis.

(b) To apply for a historic preservation loan, the applicant shall submit a written application, on a form provided by the Trust with specified documents attached to the following address: New Jersey Historic Trust, New Jersey Department of Environmental Protection and Energy, 506-508 East State Street, CN 404, Trenton, New Jersey 08625-0404. The applicant shall include in the application the information listed in (c) below.

(c) The applicant shall include the following information in the application:

1. A statement of and documentation supporting the significance and condition of the property;
2. A narrative description of the proposed project;
3. Cost estimates for proposed work and/or acquisition;
4. Black and white photographs and color slides of the property;
5. Long-range plans for the future preservation of the property;
6. The names and addresses of all owners, all parties with an ownership interest, and if applicable, evidence of ownership or an interest in ownership of the property for which a loan is requested;
7. As applicable, the names of lessors and lessees, and a copy of a long-term lease meeting the requirements of N.J.A.C. 7:4B-2.2(b)2;
8. Evidence of security may be required depending on the loan applicant's creditworthiness and the mortgagability of the asset to be acquired or on which capital improvement takes place;
9. Evidence of recipient's ability to repay the loan will include information pertaining to source(s) of funds, projected income statements, and previous years annual financial statements as requested by the Trust;
10. If the property for which a historic preservation loan is requested is not listed in the State or National Register of Historic Places, a certification by the Deputy State Historic Preservation Officer that, as of the date of the Trust's receipt of the application, the historic property for which a loan is requested is approved for listing or meets the criteria for listing in the State Register of Historic Places as set forth in N.J.A.C. 7:4-2;

11. A resolution of the governing body of the applying county or municipality, or a resolution of the board of directors of the applying nonprofit organization, recommending the historic preservation project for funding under the Program;

12. All applicants shall:

i. Purchase and arrange for delivery to the trust directly from a recognized, independent credit reporting agency an up-to-date credit report for the entity seeking the loan; or

ii. Submit a check for \$100.00 to the Trust to cover the expense of any reports. Any application submitted under (c)12i above shall be deemed complete only when the report is received by the Trust directly from the reporting agency; and

13. Any other information reasonably necessary to enable the Trust to determine whether the applicant and the proposed historic preservation project are eligible for a historic preservation loan, and the amount which should be allocated to the project under N.J.A.C. 7:4B.

(d) If an application is incomplete, the Trust will notify the applicant and state what is necessary to make the application complete. If the applicant does not submit the necessary information within 30 days after the date of mailing of the notice, the application will be deemed rejected without prejudice.

(e) Applicants not funded will be advised of the reasons for rejection and may submit a revised or new application.

(f) Application materials for projects not funded shall be retained by the Trust for 90 days following the final disposition of the request for loan funds. The materials shall be returned if the applicant submits a written request to the Trust within the 90 day period. After 90 days the Trust may discard all application materials for non-funded projects.

Amended by R.1994 d.541, effective November 7, 1994.
See: 26 N.J.R. 3253(b), 26 N.J.R. 4350(a).

SUBCHAPTER 4. ALLOCATION OF HISTORIC PRESERVATION LOAN FUNDS

7:4B-4.1 Allocation of historic preservation loan funds

(a) Historic preservation loan funds shall be allocated in accordance with an evaluation of applications received by the Trust. The Trust shall evaluate applications based on the following criteria:

1. The balance in the revolving loan fund;

2. The aggregate amount of loans for which requests are pending;

3. Any minimum reserve amount established for the fund; and

4. The extent to which a proposed historic preservation project meets the criteria in N.J.A.C. 7:4B-4.2.

(b) The minimum loan amount to be accepted for review is \$25,000. The maximum loan amount to be accepted for review will not exceed 15 percent of the available revolving loan fund balance as of the beginning of the fiscal year (July 1) in which the application is submitted.

(c) Loan amounts will be for a maximum of 40 percent of project funding for all public entities and will not exceed 90 percent of project funding for nonprofit organizations.

(d) The Trust reserves the right to limit the funding to less than the amount requested in an application and to specify the particular aspect(s) of the project it will fund.

7:4B-4.2 Criteria for review and evaluation of applications for historic preservation loans

(a) All applications for eligible historic preservation projects shall, for the purpose of determining priority for funding, be evaluated on the basis of the following competitive criteria:

1. The significance of the resource, which shall involve consideration of the following:

i. The degree to which a property is historically or archaeologically significant, or is significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of the State, according to the evaluation criteria for the National Register of Historic Places;

ii. The degree of significance locally or at the regional, state, or national level; and

iii. The degree to which a property retains its historical features and setting;

2. The physical condition of the property, evidence of conditions which require priority attention, including any immediate threat of collapse, demolition or inappropriate use or development, notice of code violations, and deterioration requiring stabilization;

3. Plans for the preservation of the structure, which shall involve consideration of the following:

i. Plans for use and interpretation of the historic property;

ii. Preservation and maintenance plans;

iii. Visibility of the resource and ability of project to serve as a catalyst for further preservation of historic resources; and

iv. The potential impact of project on the community;

4. Compliance with the Secretary of the Interior's Standards reflected in:

i. Project plans, specifications and any other documents for work that has not been done for which the application for a historic preservation loan has been submitted; or

ii. Work underway or completed that is part of an on-going historic preservation project for which the application for a historic preservation loan is submitted;

5. The administrative capability of applicant, which shall involve consideration of the following:

i. Completeness of the project concept;

ii. The place of the project in long-range plans of applicant;

iii. The quality of project consultants;

iv. Financial resources of applicant, including the ability of applicant to repay the loan. Letters of rejection from commercial lenders ("turndown letters") may be required as part of the evaluation of the applicant's financial need;

v. A realistic time frame for project; and

vi. The applicant's qualifications and experience in managing historic preservation projects;

6. The availability of funds to meet project budget requirements;

7. The security available for the loan, including, but not limited to, any real or personal property, personal or corporate guarantees, and financial instruments;

8. Financial plans for the continued preservation of the historic structure after the expenditure of historic preservation loan funds; and

9. The degree and kind of public access.

(b) Funds shall be distributed to achieve a geographical, racial and ethnic balance as well as a balance between sizes and types of projects, and historical or cultural period of the resources assisted by the program.

SUBCHAPTER 5. LOAN DISBURSEMENT AND REPAYMENT

7:4B-5.1 Loan disbursement and repayment

(a) After the project agreement has been fully executed, the Trust shall deposit the revolving loan payment into a separate account established by the recipient specifically for the project for which the loan is made. Payments shall be made in one or more installments, at the discretion of the Trust.

(b) Any changes in the scope of the project funded by this loan must be reviewed and approved in advance by the Trust.

(c) Any use of funds provided through this program that are not in accordance with the project agreement will constitute default of the loan agreement and the loan shall immediately become payable to the New Jersey Historic Trust Revolving Loan Fund with interest.

(d) Specific loan terms, conditions and repayment information will be provided in the project agreement:

1. An amortization or loan repayment schedule will be provided in the project agreement. The schedule will indicate installment dates and loan repayment amounts;

2. The precise terms, conditions, and repayment schedule is based on the loan recipient's ability to pay which is calculated from information obtained during the loan review process. The maximum term of the loan will not exceed 20 years from the date the first payment is made until the date the final payment is due; and

3. The recipient may prepay the loan in whole or in part at any time without penalty.

(e) The precise interest rate is based on the recipient's ability to repay the loan and the absolute value of the loan. Interest shall accrue on the amount of funds provided by the Trust at a rate of no more than four percent per annum:

1. The amount of interest due is calculated from the date of disbursement to the date the last payment of principal is due;

2. Failure to make a payment within 30 days of the scheduled payment due date will result in the assessment of a late fee; and

3. Late fees will be computed on a schedule provided in the project agreement.

(f) If a project is withdrawn or aborted, any costs incurred will remain the responsibility of the recipient. Any funds from this program which have been advanced to the recipient are payable immediately to the New Jersey Historic Trust Revolving Loan Fund with interest.

(g) If a property is sold or there is a change in use during the life of the loan, the principal balance will become immediately due and payable.

SUBCHAPTER 6. EASEMENT

7:4B-6.1 Easement on the historic property

(a) To assure the continued preservation of loan-assisted historic properties and to assure that public benefit shall continue to accrue from the use of the public funds, the Trust may require that an easement agreement be executed and recorded between all parties having an ownership interest in the historic property. The easement agreement shall include:

1. Provision for the continued preservation of the historic property; and

2. Limitations on the right to change the use, alter, demolish or convey the property.

(b) The period of the easement shall be determined by the aggregate total of loan assistance made available under this chapter, as follows:

1. From \$25,000 to \$50,000—10 years;

2. From \$50,001 to \$100,000—15 years; and

3. From \$100,001 to \$450,000—20 years.

(c) When the term of the loan exceeds the easement term for a particular loan value category, the loan term prevails as the period of the easement.

SUBCHAPTER 7. PROJECT SIGNS

7:4B-7.1 Project signs

(a) At the initiation of a historic preservation project funded by a historic preservation loan, a sign acknowledging that the project is being funded with assistance available through the New Jersey Historic Preservation Revolving Loan Program administered by the New Jersey Historic Trust, New Jersey Department of Environmental Protection and Energy, shall be prominently located and maintained on the project site.

(b) The project sign shall be fabricated and erected by the loan recipient in accordance with specifications contained in the project agreement.

(c) The costs of fabricating and erecting the project sign are eligible for funding under N.J.A.C. 7:4B-2.3(a)9. The costs of replacing or maintaining the project sign are not eligible for funding.