

3. A duplicate of the Pinelands Development Credit Certificate or, if a Certificate has not been issued, the information required pursuant to N.J.A.C. 3:42-3.2(c) with the exception of N.J.A.C. 3:42-3.2(c)8.

4. The number of Pinelands Development Credits to be sold;

5. A statement detailing the applicant's basis for believing that the Board can make one of the findings required in N.J.A.C. 3:42-5.3(b)3 and (c)3; and

6. Such other information as the Executive Director may determine is necessary in order to review and act on the application.

### 3:42-5.3 Standards governing the Board's decision to purchase

(a) The Board shall, after considering the recommendation of the Executive Director, determine whether or not to authorize the purchase of all or a portion of the Pinelands Development Credits proposed for sale in the application in accordance with the criteria set forth in (b) and (c) below, as appropriate.

(b) The Board may authorize a purchase of Pinelands Development Credits to further the objectives of the Pinelands Protection Act and the Pinelands Comprehensive Management Plan if:

1. Adequate funds are available for the purchase; and
2. The expenditure of funds does not substantially impair the Board's ability to carry out its duties and responsibilities with respect to guarantees which have already been extended; and
3. The purchase will result in:
  - i. The protection of property which is of significant ecological or agricultural importance; or
  - ii. The protection of property which serves to complement or buffer publicly owned and managed conservation lands; or
  - iii. The Pinelands Development Credits which the Board purchases are likely to be resold, transferred or conveyed for redemption in a residential development project that satisfies compelling public need or that will result in the protection of other properties which satisfy (b)i or ii above; or
  - iv. The timing and nature of the Board's purchase will result in a significant and positive example of the Pinelands Development Credit Program at work; or
  - v. The proceeds from the sale being used for operating or capital expenditures on the property from which the Pinelands Development Credits are allocated in a manner consistent with the terms of the restriction on the deed to that property; or

vi. The transaction otherwise furthering the purposes of the Pinelands Protection Act and the Pinelands Comprehensive Management Plan.

(c) The Board may authorize the purchase of Pinelands Development Credits to alleviate a hardship if:

1. Adequate funds are available for the purchase; and
2. The expenditure of funds does not substantially impair the Board's ability to carry out its duties and responsibilities with respect to Pinelands Development Credit guarantees which have already been extended; and
3. A hardship exists on the basis of one or more of the following tests:
  - i. The owner's investment in the land to which the Pinelands Development Credits are allocated is substantial in relation to his net worth; or
  - ii. The owner has sought and been denied a waiver of strict compliance from the Pinelands Commission pursuant to the Comprehensive Management Plan, N.J.A.C. 7:50-1.1 et seq.; or
  - iii. The owner is experiencing a unique and extraordinary financial hardship which may only be ameliorated through an expedient sale of his Pinelands Development Credits.

### 3:42-5.4 Notification to applicant

Upon the Board's decision to purchase or not purchase Pinelands Development Credits, the Executive Director shall notify the applicant, in writing, setting forth the basis for the Board's decision.

### 3:42-5.5 Completion of Board authorized purchases

(a) The Executive Director is authorized to complete any and all administrative procedures necessary to consummate the purchase of Pinelands Development Credits once approved for purchase by the Board.

(b) No Pinelands Development Credit shall be purchased by the Board after December 31, 1990.

### 3:42-5.6 Purchase price

(a) The purchase price for Pinelands Development Credits acquired by the Board shall be \$12,600 for each Pinelands Development Credit or fraction of that amount which reflects that portion of a Pinelands Development Credit so acquired.

(b) The Board may increase the purchase price set forth in (a) above if it determines that:

1. The purchase price, as increased, does not exceed 80 percent of the market value of Pinelands Development Credits as determined by examination and analysis of Pinelands Development Credit sales data reported to the Bank pursuant to N.J.A.C. 3:42-3.4; provided, however,

that the Board shall not consider any sales data which does not meet generally accepted real estate appraisal practices; and

2. The purchase price, as increased, will not substantially impair the private sale of Pinelands Development Credits.

Amended by R.1996 d.145, effective March 18, 1996.

See: 28 N.J.R. 5(a), 28 N.J.R. 1504(a).

In (a) increased the purchase price from \$10,000.

---

## SUBCHAPTER 6. (RESERVED)

---

## SUBCHAPTER 7. SALE, TRANSFER, EXCHANGE, CONVEYANCE OR RETIREMENT OF PINELANDS DEVELOPMENT CREDITS OWNED BY THE BOARD

### PART 1—SALES OF PINELANDS DEVELOPMENT CREDITS

#### 3:42-7.1 Board decision to hold sale

(a) The Board may from time to time authorize the Executive Director to sell all or a portion of those Pinelands Development Credits owned by the Bank.

(b) The Board shall authorize such a sale and determine how many Pinelands Development Credits will be made available for sale only upon a finding that:

1. There is sufficient interest in the purchase of its Pinelands Development Credits to warrant a sale; and
2. The timing of the sale and the number of Pinelands Development Credits to be sold will not substantially impair the private sale of Pinelands Development Credits.

(c) All sales authorized by the Board will be conducted by open bidding through a public auction or by closed bidding through the receipt of sealed, written bids.

(d) When authorizing these sales, the Board shall determine a minimum acceptable bid pursuant to N.J.A.C. 3:42-7.3(b) and shall also determine which method of sale is most advantageous for the purpose of stimulating competitive bidding.

(e) The Board may establish such conditions for the bidding and sale as are necessary and desirable to advance the Pinelands Development Credit program, provided that any such conditions do not otherwise conflict with the minimum requirements set forth in this subchapter.

#### 3:42-7.2 Notifications of upcoming sales

(a) All sales of Bank-owned Pinelands Development Credits shall be held only after due notice has been given by the Executive Director at least 10 business days prior to the date of the sale.

(b) At a minimum, the Executive Director shall:

1. Have notices of the sale published in at least four newspapers; and
2. Transmit notices to every person who has submitted to the Bank a written request to be informed of upcoming sales.

(c) The notice shall contain, but not necessarily be limited to, the following information:

1. The method by which the sales shall be conducted;
2. The date, time and location for the auction or bid opening;
3. The number of Pinelands Development Credits available for sale;
4. The minimum acceptable bid and deposit;
5. The date, time and location when the sales must be completed;
6. A summary of the rules governing the sale and the terms and conditions of the sale; and
7. How an interested person can obtain a complete set of instructions for, and the terms and conditions of, the sale.

#### 3:42-7.3 Requirements governing all bidding

(a) Bidders who are acting on behalf of another person shall supply to the Executive Director with their sealed written bid or prior to the commencement of an auction the following:

1. If the bidder is representing an individual, a notarized statement from the individual duly authorizing the bidder to act on his behalf; or
2. If the bidder is representing a corporation, public agency, business trust, partnership, association, two or more persons having a joint or common interest, or any other legal entity, a duly adopted resolution or other legal instrument authorizing the bidder to act on the entity's behalf.

(b) The minimum acceptable bid shall be \$2,500 for each one-quarter of one Pinelands Development Credit to be sold, provided, however, that the Board may establish a higher minimum acceptable bid if it determines that, based upon recent Pinelands Development Credit sales prices, a higher amount is necessary to avoid a substantial impairment of the private sale of Pinelands Development Credits.