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**RULE ADOPTIONS**

**OTHER AGENCIES**  
**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY**

*42 N.J.R. 1900(b)*

**Adopted Amendments:** *N.J.A.C. 12A:2-1.6 and 1.15; 12A:2A-1.5, 1.7, 2.5 and 2.12; 19:30-6.4 and 6.7; and 19:31-3.1*

**Adopted New Rules:** *N.J.A.C. 12A:2-1.14; and 12A:2A-1.7 and 2.11*

**Business Retention and Relocation Assistance Grant (BRRAG) Program, Tax Credit Certificate Transfer Program; Sales and Use Tax Exemption Program; Direct Loan Program; Administrative Rules**

**Fees**

Proposed: May 17, 2010 at *42 N.J.R. 904(a)*.

Adopted: July 23, 2010 by the New Jersey Economic Development Authority, Caren S. Franzini, Chief Executive Officer.

Filed: July 23, 2010 as R.2010 d.178, **without change**.

Authority: *N.J.S.A. 34:1B-1* et seq.

Effective Date: August 16, 2010.

Expiration Date: November 12, 2010, *N.J.A.C. 12A:2* and *12A:2A*;

January 18, 2011, *N.J.A.C. 19:30* and *19:31*.

**Summary** of Public Comment and Agency Response:

**No public comments were received.**

**Federal Standards Statement**

The adopted amendments and new rules are not subject to any Federal standards or requirements; therefore, a Federal standards analysis is not required.

**Full text** of the adoption follows:

CHAPTER 2

GRANT PROGRAMS

SUBCHAPTER 1. BUSINESS RETENTION AND RELOCATION ASSISTANCE GRANT PROGRAM

12A:2-1.6 Application submission requirements

(a) (No change.)

12A:2-1.14 Fees

(a) A non-refundable application fee of \$ 1,000 shall accompany every application for assistance.

(b) A non-refundable commitment fee of two percent of the assistance not to exceed \$ 75,000 shall be charged with the acceptance by an applicant of the assistance.

(c) A non-refundable fee of \$ 750.00 shall be paid for each request for any administrative changes, additions or modifications to the grant; and a non-refundable fee of \$ 1,500 shall be paid for any major changes, additions or modifications to the grant, such as those requiring extensive staff time and Board approval.

12A:2-1.15 (No change in text.)

12A:2-1.16 Remedies

(a) Upon the occurrence of any event of default as described in *N.J.A.C. 12A:2-1.15* and the project agreement, the Secretary may, so long as such event of default is continuing, do one or more of the following as the Secretary in his or her sole discretion shall determine, without limiting any other right or remedy the Secretary or the Division of Taxation may have on account of such event of default:

1.-2. (No change.)

(b) (No change.)

Recodify existing *N.J.A.C. 12A:2-1.16* and *1.17* as 1.17 and 1.18

(No change in text.)

CHAPTER 2A

COMMISSION ASSISTANCE PROGRAM

SUBCHAPTER 1. TAX CREDIT CERTIFICATE TRANSFER PROGRAM

12A:2A-1.5 Submission requirements

(a) (No change.)

12A:2A-1.7 Fees

(a) Each application submitted by a selling business to the program shall be accompanied by a non-refundable fee of \$ 2,500.

(b) A non-refundable fee of \$ 750.00 shall be paid for each request for any administrative changes, additions or modifications to the grant; and a non-refundable fee of \$ 1,500 shall be paid for any major changes, additions or modifications to the grant, such as those requiring extensive staff time and Board approval.

12A:2A-1.8 Appeals

The procedure for appeals arising from the Secretary's action on an application to the program as well as appeals arising from other decisions of the Secretary relating to the program shall be the procedures set forth at *N.J.A.C. 12A:2-1.17*.

## SUBCHAPTER 2. SALES AND USE TAX EXEMPTION PROGRAM

### 12A:2A-2.5 Submission requirements

(a) Each application to the Commission shall include the following information in an application format prescribed by the Commission:

1.-3. (No change.)

### 12A:2A-2.11 Fees

(a) A non-refundable application fee of \$ 1,000 shall accompany every application for grant assistance.

(b) An annual servicing fee in an amount equal to two percent of the sales tax exemption used in the previous year, with a cap of \$ 75,000, shall be payable until the quarterly reports pursuant to *N.J.A.C. 12A:2A-2.10(a)* are no longer required to be filed.

(c) A non-refundable fee of \$ 750.00 shall be paid for each request for any administrative changes, additions or modifications to the grant; and a non-refundable fee of \$ 1,500 shall be paid for any major changes, additions or modifications to the grant, such as those requiring extensive staff time and Board approval.

12A:2A-2.12 (No change in text.)

### 12A:2A-2.13 Remedies

(a) Upon the occurrence of an event of recapture as described in *N.J.A.C. 12A:2A-2.12* and the project approval agreement, the Secretary may demand the payment of the sales tax recapture amount, and in his or her sole discretion, may request that the Director of the Division of Taxation recover the sales tax recapture amount.

(b) Upon the occurrence of any event of default as described in *N.J.A.C. 12A:2A-2.12* and the project approval agreement, the Secretary may, so long as such event of default is continuing, do one or more of the following as the Secretary in his or her sole discretion shall determine, without limiting any other right or remedy the Secretary or the Division of Taxation may have on account of such event of default:

1.-2. (No change.)

(c)-(d) (No change.)

Recodify existing *N.J.A.C. 12A:2A-2.13* and *2.14* as 2.14 and 2.15

(No change in text.)

## CHAPTER 30

### ADMINISTRATIVE RULES

#### SUBCHAPTER 6. FEES

##### 19:30-6.4 Post-closing fees

(a)-(b) (No change.)

(c) For those borrowers who choose not to participate in auto-debit transaction payments, a fee of .25 basis points will be added to the rate of interest charged on each applicable loan.

(d) Any payment made on a direct loan which is returned due to insufficient funds shall result in a charge of \$ 35.00.

19:30-6.7 Fee waiver

The Chief Executive Officer may, with the approval of the members, waive certain fees upon demonstration by the applicant that the imposition of the fee would impose an undue financial hardship. The members may delegate to a Director, with the concurrence of the Chief Executive Officer, Chief Operating Officer or Senior Vice President, authority to waive a loan commitment fee; and may delegate to a Director, authority to waive late fees when the cause for the late fee is beyond the control of the borrower. The Chief Executive Officer, with the approval of the members, may waive, postpone or decrease bond application and closing fees for municipal governmental agency(s) or State agency projects. In the case of State agency projects, such waiver, postponement or decrease shall be in accordance with the directives of the State Treasurer regarding the specific State agency projects.

CHAPTER 31

AUTHORITY ASSISTANCE PROGRAMS

SUBCHAPTER 3. DIRECT LOAN PROGRAM

19:31-3.1 Program description

(a)-(g) (No change.)

(h) The Authority shall determine the term, and fixed and/or variable rates of interest, including interest rate floors, to be charged for each loan product through consideration and official action of the Members at a public hearing. The applicant shall elect in writing, at or prior to the time of closing, a fixed interest rate or at a variable interest rate.

1.-2. (No change.)

3. For fixed and variable rate loans, factors to be considered in establishing additional interest rate basis points above the floor previously established by the Board may include, among others:

i. (No change.)

ii. Amortization schedules;

Recodify existing ii.-ix. as iii.-x. (No change in text.)

4.-6. (No change.)

(i)-(l) (No change.)