

RULE PROPOSALS

INTERESTED PERSONS

Interested persons may submit comments, information or arguments concerning any of the rule proposals in this issue until the date indicated in the proposal. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal.

The required minimum period for comment concerning a proposal is 30 days. A proposing agency may extend the 30-day comment period to accommodate public hearings or to elicit greater public response to a proposed new rule or amendment. Most notices of proposal include a 60-day comment period, in order to qualify the notice for an exception to the rulemaking calendar requirements of N.J.S.A. 52:14B-3. An extended comment deadline will be noted in the heading of a proposal or appear in subsequent notice in the Register.

At the close of the period for comments, the proposing agency may thereafter adopt a proposal, without change, or with changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-6.3. The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice. Promulgation in the New Jersey Register establishes a new or amended rule as an official part of the New Jersey Administrative Code.

COMMUNITY AFFAIRS

(a)

NEW JERSEY HISTORIC TRUST

Historic Preservation Revolving Loan Program

Proposed Readoption with Amendments: N.J.A.C. 5:102

Authorized By: New Jersey Historic Trust, Peter Lindsay, Chair.

Authority: N.J.S.A. 13:1B-15.111.

Calendar: Reference: See Summary below for explanation of exception to calendar requirement

Proposal Number: PRN 2024-028.

Submit written comments by May 17, 2024, to:

Geraldine Callahan
Department of Community Affairs
PO Box 800
Trenton, New Jersey 08625
Fax No. (609) 984-6696
geraldine.callahan@dca.nj.gov

The agency proposal follows:

Summary

N.J.A.C. 5:102, the rules for administering the Historic Preservation Revolving Loan Program, were scheduled to expire on May 15, 2024. As the New Jersey Historic Trust (Trust) filed this notice of re-adoption with the Office of Administrative Law prior to the then-current expiration date, the expiration date is extended 180 days to November 11, 2024, pursuant to N.J.S.A. 52:14B-5.1.c(2). The Revolving Loan Fund (Fund) was established in 1987 in accordance with P.L. 1987, c. 265, and P.L. 1991, c. 41, pursuant to N.J.S.A. 13:1B-5.115.a, as part of the first bond referendum to include historic preservation. Tax-exempt nonprofit organizations and entities of government are eligible to apply for low interest loans for the purposes of preservation, rehabilitation, restoration, acquisition, and improvement of historic property. Interest rates are set by the Trust and may not exceed four percent. The rules establish eligibility requirements, the application process, allocation of funds, procedures for disbursement and repayment of funds, provisions addressing easements, when necessary, and requirements for project signs.

The Trust has reviewed these rules and finds that they should be re-adopted with amendments because the rules continue to be necessary, proper, and reasonable for the purpose for which they originally were promulgated.

1. At N.J.A.C. 5:102-1.2, a new definition for "visitor amenity" is added.

2. At N.J.A.C. 5:102-2.2(b)2ii, the length of the unexpired term of the lease is clarified.

3. At N.J.A.C. 5:102-2.3(a)6 and (b), the proposed amendments correct a typographical error and clarify when new construction or reconstruction may be an eligible activity within the program.

4. At N.J.A.C. 5:102-3.1, the proposed amendments update an address, require digitally submitted images, correct wording, and allow the Trust to recapture any costs expended for reports or studies that may be needed to properly evaluate an application and credit worthiness of an applicant. The costs are required to be communicated to the applicant in advance of the incurrence.

5. At N.J.A.C. 5:102-4.1(c), the proposed amendment changes the maximum loan requirements for governmental entities from 40 percent to 90 percent of total project cost to be consistent with nonprofit requirements that are currently in place.

6. At N.J.A.C. 5:102-5.1, the proposed amendments allow the Trust to seek an alternative loan servicing entity with comparable capabilities to the current loan servicing entity and clarifies the conditions pursuant to which the principal balance of a loan may become immediately due and payable.

7. At N.J.A.C. 5:102-6.1(b), the proposed amendments limit the number of years that a term easement would be required to run concurrently with the term of the loan. Previously, the term of the easement was based on the amount of the loan.

8. At N.J.A.C. 5:102-7.1(c), the cross-reference is updated to paragraph (a)7.

As the Trust is providing a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The rules proposed for re-adoption with amendments are necessary in order to administer the Fund. The Fund provides an alternative funding source for historic resources that may not be able to obtain traditional financing. The law stipulates that loans may not exceed four percent interest, thus, as commercial interest rates rise, the Fund provides a more attractive alternative to bank loans. These loans are also used to provide working capital for projects undergoing construction projects. Many historic sites are owned by municipal and county entities, thus, enabling municipalities to apply for these funds to cover 90 percent of their project costs, similar to the threshold for nonprofit organizations, and will facilitate historic preservation activity. The rules proposed for re-adoption with amendments are expected to have a positive social impact.

Economic Impact

Since this is a loan program with very minimal fees in existence, the rules proposed for re-adoption with amendments are not expected to have a negative economic impact. The application fee is \$100.00 to pay for a credit report and the applicant must reimburse the Trust for any expenses in the review and evaluation of the application. The minimum loan amount is established at \$25,000 and the maximum loan amount may not

exceed 15 percent of the total funds available. The ability to offer a low interest loan continues to have a positive economic impact.

Federal Standards Statement

To encourage consistent practices, the National Park Service has developed standards and guidelines that guide preservation work at the national, tribal, state, and local levels entitled the *Secretary of the Interior's Standards for the Treatment of Historic Properties*. These standards and guidelines are not regulatory and do not set or interpret agency policy. They provide technical advice about historic preservation activities and methods and have been adopted by the State Historic Preservation Office (SHPO), and, therefore, by the Trust in order to remain compliant with SHPO requirements. Therefore, a Federal standards analysis is not required for the rules proposed for readoption with amendments.

Jobs Impact

It is not anticipated that the rules proposed for readoption with amendments would result in the creation or loss of jobs.

Agricultural Industry Impact

The Trust does not anticipate that the rules proposed for readoption with amendments would have any effect on the agricultural industry.

Regulatory Flexibility Statement

The rules governing the Fund set forth the criteria, application requirements, and review process for nonprofit organizations and entities of government to apply for a low interest loan for historic preservation purposes. The rules proposed for readoption with amendments update the photography requirements, clarify ineligible activities, allow governmental entities the same opportunity as nonprofit organizations to take advantage of this program and limit the number of years required to encumber the property. As these loans are voluntary, the rules proposed for readoption with amendments are not expected to be a significant alteration.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments govern the Fund administered by the New Jersey Historic Trust. The Fund supports historic preservation and is, therefore, unlikely to have any impact upon housing production costs or to affect affordability of housing.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments govern the Fund administered by the New Jersey Historic Trust. As a voluntary program, it would be unlikely to have any impact upon Planning Areas 1 or 2, or designated centers, pursuant to the State Development and Redevelopment Plan. The amendment to allow government entities to fund 90 percent of their projects, rather than 40 percent, would most likely have a positive impact by increasing options available to finance historic preservation projects.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Division has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 5:102.

Full text of the proposed amendments follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. GENERAL PROVISIONS

5:102-1.2 Definitions

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

...
“Visitor amenity” means new construction and/or physical alteration that improves, enhances, or facilitates a visitor’s experience to a historic site. Examples may include, but are not limited to, rest rooms, accommodations for accessibility, and public assembly space.

...

SUBCHAPTER 2. ELIGIBILITY FOR HISTORIC PRESERVATION LOANS

5:102-2.2 Eligible property

(a) (No change.)

(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. (No change.)

2. If the property is not 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, ongoing maintenance, and public access requirements for the historic property [under] **pursuant to this chapter**. No historic preservation project proposed for leased property shall be approved for funding unless:

i. (No change.)

ii. The unexpired term of the lease is [20 years] **for the length of the term in the proposed historic preservation loan** or more as of the date the Trust receives the application [for a historic preservation loan]; and

iii. (No change.)

5:102-2.3 Historic preservation activities eligible for funding

(a) The following activities are eligible for funding by the Historic Preservation loan program:

1.-5. (No change.)

6. The following non-construction activities related directly to the development, implementation, operation, and monitoring of a historic preservation project:

i.-iii. (No change.)

iv. Preservation [plants] **plans**;

v.-xv. (No change.)

7.-10. (No change.)

(b) Costs incurred in the following activities are not eligible for funding by the historic preservation loan program because they are not eligible historic preservation activities:

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] **a visitor amenity in support of heritage tourism and in compliance with the Secretary of the Interior’s Standards**;

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] **and in compliance with the Secretary of the Interior’s Standards**;

3.-24. (No change.)

SUBCHAPTER 3. HISTORIC PRESERVATION LOAN APPLICATION PROCESS

5:102-3.1 Procedures

(a) (No change.)

(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 Community Affairs, [506-508 East State Street] **101 South Broad Street**, PO Box 457, Trenton, New Jersey 08625-0457. The applicant shall include in the application the information listed [in] **at (c) below**.

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

1.-3. (No change.)

4. [Black and white photographs and color slides] **Digitally submitted images of the property in high resolution jpg format**;

5.-8. (No change.)

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] **year’s** 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] at N.J.A.C. 7:4-2;

- 11. (No change.)
- 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] **pursuant to (c)12i** above shall be deemed complete only when the report is received by the Trust directly from the reporting agency; [and] **or**

iii. Reimburse the Trust for any expenses incurred for reports or studies that may be needed to determine the eligibility of the project or credit worthiness of the applicant, the costs of which shall be clearly communicated to the applicant in advance, as authorized pursuant to N.J.S.A. 13:1B-15.115.f(b); and

- 13. (No change.)
- (d)-(f) (No change.)

SUBCHAPTER 4. ALLOCATION OF HISTORIC PRESERVATION LOAN FUNDS

5:102-4.1 Allocation of historic preservation loan funds

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

SUBCHAPTER 5. LOAN DISBURSEMENT AND REPAYMENT

5:102-5.1 Loan disbursement and repayment

- (a)-(f) (No change.)
- (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.
- (h) Loan closing and servicing shall be undertaken through a Memorandum of Understanding between the New Jersey Historic [Historic] Trust and the New Jersey Economic Development Authority **or other State entity with equal capability.**

SUBCHAPTER 6. EASEMENT

5:102-6.1 Easement on the historic property

- (a) (No change.)
- (b) The period of the easement shall be determined by [the aggregate total of loan assistance made available under this chapter, as follows:] **and in effect concurrently with the term of the loan.**
 - 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

5:102-7.1 Project signs

- (a)-(b) (No change.)
- (c) The costs of fabricating and erecting the project sign are eligible for funding [under] **pursuant to N.J.A.C. 5:102-[2.3(a)9]2.3(a)7**. The costs of replacing or maintaining the project sign are not eligible for funding.

EDUCATION

(a)

STATE BOARD OF EDUCATION

Student Residency

Proposed Readoption with Amendments: N.J.A.C. 6A:22

Authorized By: New Jersey State Board of Education, Christopher Huber, Acting Commissioner, Department of Education and Acting Secretary, New Jersey State Board of Education.

Authority: N.J.S.A. 18A:4-15 and 18A:38-1 et seq.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2024-027.

Submit written comments by May 17, 2024, to:

Secil Onat, Assistant Commissioner
 Division of Finance and Business Services
 New Jersey Department of Education
 PO Box 500
 Trenton, New Jersey 08625-0500
 Email: chapter22@doe.nj.gov

The agency proposal follows:

Summary

The Department of Education (Department) proposes to readopt N.J.A.C. 6A:22, Student Residency, with amendments, as noted in this Summary.

In accordance with the New Jersey State Constitution, Article VIII, Section IV, Paragraph 1, the Legislature established a system of free public schools for all children in the State. Through N.J.S.A. 18A:38-1, the Legislature provided for students to attend school in a particular school district based upon domicile, residency, or “affidavit student” status (living with, and supported by, a person other than the parent or guardian for reasons not related to attending school). From their inception, the implementing rules for N.J.S.A. 18A:38-1 have sought to maintain the balance intended by the statute, which is to deter attempts to attend school in a particular school district where there is no lawful entitlement to do so, while recognizing as paramount a student’s right to free public education.

Chapter 22 was recodified from N.J.A.C. 6A:28-2, Entitlement to Attend School Based on Domicile or Residency in District, effective October 4, 2004. The chapter was readopted twice, effective December 22, 2009, and April 6, 2017. Chapter 22 was scheduled to expire on April 6, 2024. As the Department submitted this notice of proposal to the Office of Administrative Law prior to that date, the expiration date was extended 180 days to October 3, 2024, pursuant to N.J.S.A. 52:14B-5.1.c(2).

The following is a summary of the chapter and the proposed amendments. Unless otherwise noted, the proposed amendments are to update New Jersey Administrative Code cross-references, for clarity or grammatical or stylistic improvement, or to remove gender-specific pronouns throughout the chapter.

Subchapter 1. Purpose, Scope, and Definitions

N.J.A.C. 6A:22-1.1 Purpose and Scope

This section cites the statutes that authorize the chapter’s rules. The section also states that the chapter does not address, other than by reference to applicable statutes and rules, attendance at school by nonresidents, children of certain military parents, children residing on Federal property, or persons who qualify for attendance as homeless students. The section also states that the rules apply to all students between five and 20 years of age and to younger or older students otherwise entitled by law to free public education. The section further states that the chapter’s provisions are to be liberally construed to effectuate a student’s constitutional and statutory right to a free public education.

N.J.A.C. 6A:22-1.2 Definitions

This section provides definitions for terms used within the chapter.