

BANKING
DEPARTMENT OF BANKING AND INSURANCE
DIVISION OF BANKING
PINELANDS DEVELOPMENT CREDIT BANK

Pinelands Development Credit Bank Rules

Proposed Readoption: N.J.A.C. 3:42

Authorized By: Pinelands Development Credit Bank Board,
Holly C. Bakke, Chair

Authority: N.J.S.A. 13:18A-30 et seq.

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

Proposal Number: PRN 2003-66

Submit written comments by April 19, 2003 to:

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The agency proposal follows:

Summary

Pursuant to the requirements of N.J.S.A. 52:14B-5.1c, N.J.A.C. 3:42 will expire on September 6, 2003. These rules originally became effective on April 4, 1988. The Pinelands Development Credit Bank (the "Bank") has reviewed the rules and has determined them to be necessary, reasonable and proper for the purpose for which they were originally promulgated.

The Pinelands Development Credit Bank Act, N.J.S.A. 13:18A-30 et seq., established the Bank for the purpose of regulating and promoting the use of Pinelands Development Credits (PDCs) to further the Pinelands Comprehensive Management Plan (the "Plan") which is set forth

at N.J.A.C. 7:50. By facilitating the sale of PDCs, the Bank is providing a source of remuneration for landowners whose property is located within areas of the Pinelands designated by the Plan for conservation or agricultural use.

In exchange for placing an encumbrance on the title to the property, a credit is issued to the owner who may sell or borrow against the value of the credit. Credits are redeemed in the form of increased density allowances for those wishing to build in regional growth areas.

The rules proposed for readoption establish criteria regarding the sale, transfer, conveyance, encumbrance, redemption and documentation of PDCs. In addition, the rules specify the conditions under which the Bank may purchase PDCs.

Subchapter 1 establishes the purpose of the rules. It also enumerates the duties and powers of the Bank Board of Directors (the "Board") and its Executive Director. Procedures and rules governing the Board also are set forth in this subchapter.

Subchapter 2 provides interpretations, definitions and word usage.

Subchapter 3 outlines the procedure for the issuance of PDCs. It includes the eligibility criteria for landowners as well as application requirements. It also outlines the Bank's procedures in issuing PDC certificates and the use of conservation or agricultural easements. In addition, it establishes the required procedures involved with the sale, transfer, conveyance, encumbrance and redemption of PDCs.

Subchapter 4 sets forth the requirements of the Registry of Pinelands Development Credits, including its contents, availability to the public and the annual report.

Subchapter 5 enumerates the criteria to be considered by the Board in the purchase of credits by the Bank itself, including the definition of a hardship and the credit price to be paid by the Bank.

Subchapter 7 establishes procedures and requirements regarding the sale of PDCs owned by the Board. Two methods for those sales are permitted: open bidding at a duly advertised auction or receipt of written, sealed bids. In addition, this subchapter establishes criteria that govern the conveyance of PDCs at no cost.

Subchapter 9 addresses amendment of these rules by the Board or by petition of an interested person.

Subchapters 6 and 8 are reserved.

A 60-day comment period is provided for this notice of proposal, and, therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, the proposal is not subject to the provisions of N.J.A.C. 1:30-3.1 and 3.2 governing rulemaking calendars.

Social Impact

The rules proposed for readoption will continue to provide a mechanism through which counties and local governments may further the patterns of development called for under the Plan. The public will continue to benefit since the rules will further the preservation of open space and the conservation of groundwater resources.

Economic Impact

The rules proposed for readoption will continue to facilitate the use of PDCs as a method of providing equity to landowners whose property lies in areas ill-suited for development activity. The rules create a market in which citizens and the Board may buy, sell and redeem credits. This provides an economic benefit to such landowners.

In addition, the rules allow the Board to recoup the funds it expends in purchasing PDCs. These funds may then be used to purchase additional PDCs. Although developers seeking to purchase credits incur costs, these developers realize enhanced economic benefits from the ability to pursue residential development projects in designated growth areas of the Pinelands. The sale of credits is a voluntary program; bids are submitted by willing participants only. Credits sold for more than the minimum bid should have a positive economic impact for landowners entitled to PDCs.

Federal Standards Statement

A Federal standards analysis is not required because the rules proposed for re adoption are not directly subject to any Federal requirements or standards.

Jobs Impact

The Department does not anticipate the creation or loss of any jobs as a result of the rules proposed for re adoption.

Agriculture Industry Impact

The rules proposed for re adoption will have a positive impact on the agriculture industry in New Jersey. The rules will continue to provide a mechanism for the compensation to New Jersey farmers for preserving their properties as agricultural. This, in turn, will ultimately benefit the agricultural industry by preserving agricultural lands in this State.

Regulatory Flexibility Analysis

The only reporting or recordkeeping requirements imposed by these rules concern the procedures governing the sale and conveyance of Board-owned PDCs. No reporting or recordkeeping requirements are imposed upon bidders for such credits or upon applicants for their conveyance at no cost. However, bidders and applicants are required to comply with the bidding and application procedures, respectively. While some of these bidders and applicants may be “small businesses,” as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., there is typically no cost for professional services incurred. The bidding is conducted in substantially a standard manner, and the information required of a no-cost conveyance applicant is developed in the course of preparation for a Pinelands project. Accordingly, no differentiation is provided for small businesses.

Smart Growth Impact

The rules proposed for readoption further the achievement of smart growth and the implementation of the State Development and Redevelopment Plan by encouraging the transfer of growth from designated protected areas to areas with existing infrastructure and support.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 3:42.

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