

BANKING

DEPARTMENT OF BANKING AND INSURANCE

DIVISION OF BANKING

Banking Development Districts

Proposed New Rules: N.J.A.C. 3:36

Authorized By: Kenneth E. Kobylowski, Acting Commissioner, Department of Banking and Insurance.

Authority: N.J.S.A. 17:1-8, 8.1, and 15; and 17:16Z-1 et seq. (P.L. 2011, c. 24).

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

Proposal Number: PRN 2012-098.

Submit comments by September 14, 2012 to:

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The agency proposal follows:

Summary

On February 22, 2011, P.L. 2011, c. 24, the “Banking Development District Act” (“the Act”) was enacted. The Act encourages the establishment of bank, savings bank, savings and loan association, and credit union branches in areas where there is a demonstrated need for banking services and provides for the designation of such areas as banking development districts. The Department of Banking and Insurance (Department) is proposing new rules at N.J.A.C. 3:36 to implement the Act, which is codified at N.J.S.A. 17:16Z-1 et seq.

Proposed N.J.A.C. 3:36-1.1 sets forth the purpose and scope of the chapter.

Proposed N.J.A.C. 3:36-1.2 sets forth necessary definitions. Some of the terms defined are “bank,” “banking services,” and “district.”

Proposed N.J.A.C. 3:36-2 sets forth the application process for establishing banking development districts. Proposed N.J.A.C. 3:36-2.1 specifies the content of applications for banking development districts submitted by a municipality in conjunction with a bank. Proposed N.J.A.C. 3:36-2.2 specifies the content of applications for banking development districts submitted solely by a municipality.

Proposed N.J.A.C. 3:36-3 sets forth the approval criteria and prescribes the time for the Commissioner to issue a decision on a complete application for a banking development district.

Proposed N.J.A.C. 3:36-4 prescribes reporting requirements to the Department by municipalities with banking development districts.

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

Social Impact

The proposed new rules implement the Act, the goal of which is to encourage creation of bank branches in areas where there is a demonstrated need for banking services. Establishment of bank branches in underserved areas will allow those residing or working in these areas more options and convenience with respect to the banking services they seek. Therefore, the proposed new rules should have a beneficial social impact.

Economic Impact

The proposed new rules will have a positive impact on persons residing or working in areas currently underserved by banks if the area is qualified as a banking development district and one or more bank branches open in such areas. Those residing or working in such districts will have additional banking options and no longer need to rely solely on bank alternatives such as check cashers or pawn brokers, and will benefit from increased competition in the providing of banking services. Banks will exclusively make business judgments whether to open branches in banking development districts. The proposed new rules impose no application fees on municipalities or banks that seek to establish banking development districts. The expense to municipalities that apply is minimal and the expense to banks is not higher than what is normally expended to open a branch regardless of whether it is in a banking development district. In addition, the requirement that municipalities applying to establish a banking development district provide a certification that any existing or future depository agreement with a bank that will operate in the district is not reasonably expected to create a structural deficit in the municipality's budget will favorably affect taxpayers by avoiding the negative impact such deficits can have on residents of the municipality and the potential need for additional State aid.

Thus, the economic benefits to consumers who live or work in areas designated as banking development districts clearly outweigh any minimal costs imposed by these rules.

Federal Standards Statement

A Federal standards analysis is not required because the proposed new rules do not contain any standards or requirements that exceed standards or requirements imposed by Federal law.

Jobs Impact

The Department does not anticipate that any jobs will be lost as a result of the proposed new rules. Jobs will be generated in any new branches established in the districts as the branches are opened. The Department invites commenters to submit any data or studies concerning the jobs impact of the proposed new rules together with their written comments on other aspects of this proposal.

Agriculture Industry Impact

The Department does not expect any agriculture industry impact from the proposed new rules.

Regulatory Flexibility Analysis

The proposed new rules impose compliance requirements on “small businesses” that seek to establish bank branches in banking development districts. The Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., defines a “small business” as any business resident in this State that

employs fewer than 100 full-time employees, is independently owned and operated, and is not dominant in its field. Some of the banks affected by the proposed new rules are small businesses. The compliance requirements include submitting an application with details of the location of the bank branch, a map of the development district, a rationale for the need for banking services in the district, and the community outreach plan. It is not expected that professional services will be needed to comply with the proposed new rules. As noted in the Economic Impact, there is no application fee to the Department. Some businesses may use professional services such as marketing firms, economists, land use planners, accountants, or attorneys. Those fees will be set by the professional. The compliance requirements need to be uniformly applied regardless of the size of the bank that seeks to locate in a banking development district so the Department has the needed information to determine there is a need for banking services in the proposed district. Therefore, no differing requirements based on business size have been made in these rules.

Housing Affordability Impact Analysis

The proposed new rules will have no impact on affordable housing in New Jersey because the proposed new rules concern approving banking development districts.

Smart Growth Development Impact Analysis

The proposed new rules will have no impact on smart growth and there is an extreme unlikelihood that the proposed new rules would evoke a change in housing production in Planning Areas 1 or 2 or within designated centers under the State Development and

Redevelopment Plan in New Jersey because the proposed new rules concern approving banking development districts.

Full text of the proposed new rules follows:

CHAPTER 36

BANKING DEVELOPMENT DISTRICTS

SUBCHAPTER 1. GENERAL PROVISIONS

3:36-1.1 Purpose and scope

(a) This chapter implements N.J.S.A. 17:16Z-1 et seq. regarding the establishment of banking development districts.

(b) This chapter shall apply to all municipalities that seek to establish a banking development district and to banks that seek to locate a branch in a banking development district.

3:36-1.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

“Bank” means a State or Federally chartered bank, savings bank, savings and loan association, or credit union doing business in the State.

“Banking services” means deposit taking, check cashing, sale of money orders, and origination of residential or commercial mortgages, consumer loans, and commercial loans.

“Commissioner” means the Commissioner of the New Jersey Department of Banking and Insurance.

“Complete application” means an application that has been received by the Department and contains all necessary information required for the Department to complete its review of the application, and which the Department has acknowledged, in writing, is ready for review.

“Department” means the New Jersey Department of Banking and Insurance.

“District” means a banking development district approved under this chapter.

SUBCHAPTER 2. APPLICATION TO ESTABLISH A DISTRICT

3:36-2.1 Application by a municipality in conjunction with a bank to establish a district.

(a) An application by a municipality in conjunction with a bank to establish a banking development district shall contain the following items in order to be considered a complete application by the Department:

1. A completed current application form, including the name of the municipality, the county in which it is located, and the location of the proposed bank branch by street address and tax lot and block number;
2. A certified copy of the municipal resolution authorizing the application to the Department;
3. A certification from a duly authorized official of the municipality confirming that a copy of the application has been provided to the New Jersey Department of Community Affairs, Division of Local Government Services, and that any depository agreement reached with the co-applicant or with any other bank that will operate in the proposed district will not be reasonably expected to create a structural deficit in the municipality’s budget over the term of the agreement;
4. The name of the bank and its primary regulator;

5. A map indicating the borders of the proposed district containing street names or other boundaries, if applicable;

6. The rationale for the proposed district in accordance with the criteria set forth in N.J.A.C. 3:36-3.1(b) and the applicants' plan for community outreach; and

7. Any other documentation required of a specific applicant by the Commissioner or which the applicant wishes the Department to consider.

3:36-2.2 Application solely by a municipality to establish a district

(a) An application solely by a municipality to establish a banking development district shall contain the following items before it will be considered complete by the Department:

1. A completed current application form, including the name of the municipality and the county in which it is located;

2. A certified copy of the municipal resolution authorizing the application to the Department;

3. A certification from a duly authorized official of the municipality confirming that a copy of the application has been provided to the New Jersey Department of Community Affairs, Division of Local Government Services and that any depository agreement reached with any bank that will operate in the proposed district will not be reasonably expected to create a structural deficit in the municipality's budget over the term of the agreement;

4. A map indicating the borders of the proposed district containing street names or other boundaries, if applicable;

5. The rationale for the proposed district in accordance with the criteria set forth in N.J.A.C. 3:36-3.1(b) and the applicant's plan for community outreach; and

6. Any other documentation required of a specific applicant by the Commissioner or which the applicant wishes the Department to consider.

SUBCHAPTER 3. APPROVAL OF DISTRICTS

3:36-3.1 Approval of a district by the Commissioner

(a) The Commissioner may approve a complete application if he or she determines that there is a demonstrated need for banking services within the geographic area specified in the application as the proposed district.

(b) The criteria to be considered by the Commissioner to determine a demonstrated need for banking services shall be:

1. The location, number, and proximity of existing locations where banking services are currently available within the proposed district;

2. The identification of consumer needs for banking services within the proposed district;

3. The economic viability and local credit needs of the community within the proposed district;

4. The existing commercial development within the proposed district; and

5. The impact additional banking services would have on potential economic development in the proposed district.

3:36-3.2 Time of decision

The Commissioner shall issue a written determination on an application for designation as a district within 60 days of receipt of a complete application. All approved districts shall be posted on the Department's web site.

SUBCHAPTER 4. REPORTING

3:36-4.1 Reports to the Department

(a) A municipality that receives approval for a district based upon an application submitted in accordance with N.J.A.C. 3:36-2.2 shall notify the Department in writing within 20 days of a bank establishing a branch in a district in the municipality and shall specify the name of the bank and the address of such a branch.

(b) The notifications set forth in (a) above shall be submitted to: New Jersey Department of Banking and Insurance, Division of Banking, Office of Depositories, P.O. Box 040, Trenton, New Jersey 08625-0040.

(c) A municipality that is required to file any certifications with the New Jersey Department of Community Affairs, Division of Local Government Services regarding a banking development district shall simultaneously provide a copy of same to the Department.