

51 N.J.R. 1473(b)

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RULE ADOPTIONS

Reporter

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> OTHER AGENCIES -- NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY*

Agency

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Administrative Code Citation

Adopted Amendments: N.J.A.C. 19:31-11.2 and 11.6

Text

Authority Assistance Programs

Petroleum Underground Storage Tank Remediation, Upgrade, and Closure Fund

Proposed: June 17, 2019, at 51 N.J.R. 982(a).

Adopted: August 20, 2019, by Tim Sullivan, Chief Executive Officer, New Jersey Economic Development Authority.

Filed: August 20, 2019, as R.2019 d.099, **without change**.

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

Effective Date: September 16, 2019.

Expiration Date: May 8, 2025.

Summary of Public Comment and Agency Response:

COMMENT: One comment was received from Eric DeGesero, Executive Vice President of the Fuel Merchants Association of New Jersey expressing support for the proposed amendments to the rules implementing the Petroleum Underground Storage Tank Remediation, Upgrade, and Closure (PUST) Fund.

RESPONSE: The Economic Development Authority thanks the commenter for the support.

Federal Standards Statement

A Federal standards analysis is not required because the adopted amendments are not subject to any Federal requirements or standards.

Full text of the adoption follows:

SUBCHAPTER 11. PETROLEUM UNDERGROUND STORAGE TANK REMEDIATION, UPGRADE, AND CLOSURE FUND

19:31-11.2 Definitions

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

...

"Estate applicant" means an eligible owner or operator that applies through an executor or administrator with the authority to incur debt on behalf of the estate. The administration of the estate must not yet be settled.

...

"Primary residence" means a homestead actually and continually occupied by an applicant as the applicant's permanent residence, as distinguished from a vacation home, property owned and rented or offered for rent by the applicant, and other secondary real property holdings. For an estate applicant, the primary residence shall be determined based on the facts as of the time of the decedent's death. An applicant can have only one primary residence for purposes of this subchapter.

...

19:31-11.6 Terms of financial assistance

(a) (No change.)

(b) An applicant, other than a public entity, may apply for and receive a conditional hardship grant based on Authority findings under all of the following three criteria:

1. (No change.)

2. Financial hardship:

i. A finding of financial hardship by the Authority shall be based on a review of the applicant's financial condition at the time of application to the Authority and a determination that an applicant cannot reasonably be expected to repay all or a portion of the eligible project costs if the financial assistance were to be awarded as a loan. Review of the applicant's financial condition shall include the criteria set forth in N.J.S.A. 58:10A-37.5.c(2) and include liabilities and any other financial information the Authority deems relevant. The following are examples of whether an applicant cannot reasonably be expected to repay all or a portion of eligible project costs if assistance is awarded as a loan:

(1) An applicant for eligible project costs for remediation of a property at which it does business and whose debt service coverage ratio does not exceed 1:1 will be considered to be able to repay at least a portion of the eligible project costs if assistance is awarded as a loan;

(2) An applicant for eligible project costs for remediation at a primary residence whose expenses do not exceed 51 percent of its taxable income will be considered will be able to repay at least a portion of the eligible project costs if assistance is awarded as a loan; and

(3) An estate applicant for eligible project costs for remediation whose liabilities do not exceed its qualified assets will be considered able to repay eligible project costs if assistance is awarded as a loan.

ii. (No change.)

3. (No change.)

(c) (No change.)

(d) Conditional hardship grants shall be subject to the lien provisions set forth in the Act. The determination of the use and status as a primary residence of the property at which the facility is located will be based on the facts as of the time of application to the Authority, except that for estate applicants, the determination will be based on the facts as of the time of the decedent's death.

(e)-(f) (No change.)