



State of New Jersey

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Draft HDC Bank Operating Procedures

May 26, 2009

Staff to the Highlands Development Credit (HDC) Bank has prepared draft operating procedures, which govern the activities of the HDC Bank. The Bank is soliciting informal public comment on the draft operating procedures on or before **June 26, 2009**. Please note that this draft document does not constitute a proposal of rules or procedures by the HDC Bank. Comments may be submitted to Jeffrey P. LeJava, Esq., TDR Program Administrator, by email at jeff.lejava@highlands.state.nj.us or by mail at NJ Highlands Council, 100 North Road (Route 513), Chester, NJ 07930.

The draft operating procedures are based upon the requirements of the HDC Bank's Bylaws and are modeled after the procedures of the State TDR Bank and the Pinelands Development Credit Bank, with changes to address the particular circumstances involved in the Highlands TDR Program. The primary purpose of the procedures is to establish an efficient and effective method for documenting the sale, transfer, conveyance, encumbrance, and use of HDCs which are allocated pursuant to the policies of the Highlands Regional Master Plan. The operating procedures also set forth the bases for the Bank's purchase and sale of HDCs.

The following bullet points highlight the various sections of the draft operating procedures.

- Section I presents the scope and purposes of the operating procedures.
- Section II establishes the definitions used in the operating procedures.
- Section III sets forth the duties and powers of the Bank's Board of Directors as well as the duties and powers of the Bank's Executive Director. Under the Bank's Bylaws, the Highlands Council's Executive Director serves as the Bank's Executive Director.
- Section IV details the purpose of and procedures for obtaining a Highlands Development Credit Certificate from the Bank. The purpose of the Certificate is to properly record and

track all HDC transactions under the Highlands TDR Program. This section also details the information required on an application for a Certificate, the information on the Certificate itself, and the requirements that must be satisfied before a Certificate is issued by the Bank. Finally, this section sets forth the processes for transferring a Certificate and redeeming a Certificate when used to develop in a receiving zone.

- Section V describes the purpose of the Bank Registry and its contents. The Registry is the database through which all HDC transactions are recorded and tracked.
- Section VI explains the purposes for and process regarding the Bank's Purchase of HDCs. Specifically, the Bank may purchase HDCs from any person to further the objectives of the Highlands Act and the Highlands Regional Master Plan or to alleviate a demonstrated unique and extenuating financial circumstance. Both of these purposes have criteria which must be satisfied for the Bank to conduct a purchase. Please also note that, as drafted, under Section VI, Subsection C, Paragraphs 4 and 5 (pp. 12-13), the Bank will give priority consideration to the purchase of HDCs from property owners that offer their HDCs for sale to the Bank at less than the established price of the credits or those that just missed obtaining Exemption 3 under the Highlands Act.
- Section VII sets forth the requirements for the Bank's sale of HDCs, including the requirement that such sales will be conducted through either a public auction or by closed bidding through the receipt of sealed, written bids. Please note that this section also discusses the Bank's authority to convey HDCs at no cost where necessary to assist a proposed development that serves a compelling public interest.
- Section VIII states that the Bank may amend the operating procedures on its own initiative or upon the recommendation of the Executive Director.