

Outline
NJ State Transfer of Development Rights Act,
N.J.S.A. 40:55D-137 et seq.

1. Title: New Jersey State Transfer of Development Rights Act
2. Findings and declaration: Burlington County pilot program a success. TDR is in the public interest.
3. Transfer of development potential between municipalities permitted.
 - a. With approval of county planning board(s), the governing bodies of two or more municipalities can enter into joint TDR program.
 - b. Office of Smarth Growth to provide technical assistance.
4. Actions required by municipality prior to adoption of TDR, or amendment.
 - a. Adopt a development transfer plan element of master plan.
 - b. Adopt a capital improvement program for receiving zone, which include location and cost of all infrastructure, and method of cost sharing, if any.
 - c. Adopt a utility service plan element of the master plan.
 - d. Prepare a real estate market analysis examining capacity of designated receiving zones to accommodate necessary development.
 - e. Receive approval (“endorsement”) of master plan by State Planning Commission, or receive approval of TDR ordinance and supporting documentation if master plan already received endorsement.
5. Requirements of the development transfer plan element (DTPE).
 - a. Population and economic growth estimate.
 - b. Description of proposed of sending and receiving zones.
 - c. Analysis of how growth will be accommodated in municipality and in receiving zone.
 - d. Estimate of existing and proposed infrastructure of proposed receiving area.
 - e. Procedure and method to be used to convey development potential from sending to receiving zone(s).
 - f. Planning objectives and design standards for receiving area.
6. Pinelands Commission review of DTPE required for municipality located in pinelands area.
7. Preparation and adoption of development transfer ordinance based on DTPE.
8. Characteristics of sending zone.
 - a. Agricultural, environmentally sensitive, historic or unimproved land, etc., as may be necessary to implement State Plan.
 - b. Can already have conservation easements.

- c. Bonus development potential can be assigned to encourage permanent protection.
9. Characteristics of receiving zone.
 - a. Land appropriate for development.
 - b. Development potential realistically achievable.
 - c. Consistent with real estate analysis.
 - d. Infrastructure existing or scheduled to be provided.
 - e. No density increases allowed except through TDR.
10. Provisions of development transfer ordinance.
11. Issuance of instruments (deed restrictions) to separate development potential from the sending zone; and the residual use of the land.
12. Real estate market analysis (REMA)
 - a. Analysis of current and future land market examining relationship between development rights generated in sending zone and their use in designated receiving zone.
 - b. Planning Board hearing on the REMA prior to adoption of ordinance.
 - c. Contents of REMA set forth by DCA.
13. Municipal submission of ordinance to county planning board prior to adoption.
14. County planning board review and official recommendations required.
- 15-16. Review and approval by Office of Smart Growth required.
17. Transmission of records of transfer to county clerk or register; assessment, taxation.
18. Rebuttable presumption that development transfer ordinance is no longer reasonable.
 - a. If plan endorsement is no longer in effect, or:
 - b. If not enough development potential has been transferred in the municipality.
19. Review of ordinance and REMA by planning board and governing body after three years. Review of development transfer activity.
20. Review after five years.
21. Periodic Review
22. Provision for purchase, sale, exchange of development potential by establishment of development transfer bank or use of State TDR Bank.

23. Purchase, sale or exchange of property or development potential by development transfer bank. Use of municipal average of the value of development potential of all property in sending zone.
24. Can sell development potential associated with development easement.
25. Providing “Right to Farm” benefits for agricultural land involved with approved development transfer ordinance.
26. Annual report by municipality to county; county to state.
27. Impact of act on Burlington County municipalities with prior TDR ordinances.
28. Development easement purchases, value formula, appraisals, municipal average. May use the municipal average of the value of development potential (established by a development transfer bank) of property in a sending zone.
29. Adding definitions relevant to State Transfer of Development Rights Bank: *development potential, development transfer.*
30. Powers of the Board of the State Transfer of Development Rights Bank.
31. Funds appropriated to the State Transfer of Development Rights Bank.
- 32 -36. Definitions in Municipal Land Use Law, amended.
37. Adding *development transfer plan element* as an optional element of the municipal master plan.
38. Requiring municipal capital improvement program to include capital projects to be undertaken in receiving zone as a condition for adopting a development transfer ordinance.
39. Adding “provide for sending and receiving zone for a development transfer program” as optional content of municipal zoning ordinance.

Approved March 29, 2004