

COMMUNITY AFFAIRS

DIVISION OF CODES AND STANDARDS

Relocation Assistance and Eviction

Proposed Readoption with Amendments: N.J.A.C. 5:11

Proposed Repeals: N.J.A.C. 5:11-7.3 and 7.4

Authorized By: Charles A. Richman, Commissioner, Department of Community Affairs.

Authority: N.J.S.A. 2A:18-61.1, 20:4-10 and 52:31B-10.

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

Proposal Number: PRN 2016-154.

Submit written comments by November 18, 2016, to:

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The agency proposal follows:

Summary

Pursuant to N.J.S.A. 52:14B-5.1 and Executive Order No. 66 (1978), N.J.A.C. 5:11, the rules for relocation assistance and eviction, are scheduled to expire on November 4, 2016. As the agency submitted this notice of proposal to the Office of Administrative Law prior to that date, the expiration date is extended 180 days to May 3, 2017, pursuant to N.J.S.A. 52:14B-5.1.c(2). The Department of Community Affairs (Department) has reviewed this chapter and finds that it

continues to be necessary and appropriate for the purpose for which it was originally promulgated. These rules establish standards for relocation assistance, including eligibility for relocation assistance, determining the amounts of relocation payments, the drafting and approval of a Workable Relocation Assistance Plan (WRAP) by a displacing agency, provisions governing grants-in-aid and provisions regarding the right to a hearing to appeal the final determination of a displacing agency.

The proposed amendments to N.J.A.C. 5:11-2.3 and 7.2 would delete references to the Office of Landlord-Tenant Information as that office was eliminated in 2011. (See N.J.A.C. 5:11-2.3(c) and 7.2(c)) It should be noted that the language for the Notice in question is contained in the rule at N.J.A.C. 5:11-7.2(b). Additionally, without such an office, the Department lacks the capacity to make the determinations contemplated in the existing rule as to whether an eviction is warranted, so that language, too, is proposed for deletion. (See N.J.A.C. 5:11-7.2(b)) A tenant retains the ability to appeal to a court of competent jurisdiction.

N.J.A.C. 5:11-7.3 is proposed for repeal as information regarding tenants who may qualify for relocation assistance is required to be provided as part of the Workable Relocation Assistance Plan. (See N.J.A.C. 5:11-6.1) This section of the rules is both broader and duplicative, and therefore, is proposed for repeal.

Finally, N.J.A.C. 5:11-7.4 is proposed for repeal as this section, too, would require that the Department make determinations with regard to evictions pursuant to N.J.S.A. 2A:18-61.1g(2), which the Department no longer has the capacity to make.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

As stated in the Summary, the rules proposed for readoption with amendments and repeals establish standards for relocation assistance, including eligibility for relocation assistance, determining the amounts of relocation payments, the drafting and approval of a Workable Relocation Assistance Plan (WRAP) by a displacing agency, provisions governing grants-in-aid and provisions regarding the right to a hearing to appeal the final determination of a displacing agency. Continuing these rules may be expected to have a positive social impact in that they provide a structure to protect the rights of residential and commercial tenants being displaced. The proposed amendments and repeals would eliminate references to an office that no longer exists, obligations which the Department can no longer fulfill, and duplicative requirements. Because these proposed amendments do not impact tenants' rights and might serve to eliminate confusion resulting from obsolete rules, it is anticipated that the proposed amendments would have a positive social impact.

Economic Impact

The rules proposed for readoption with amendment and repeals would have no discernable economic impact as displacing entities already have been operating under these rules. Failure to readopt the rules may be expected to have a negative impact in that the rules establish clearly the responsibilities of landlords and displacing entities to both commercial and residential tenants. Because the proposed amendments and repeals update the rules by eliminating references to an office that no longer exists, obligations which the Department can no longer fulfill, and duplicative requirements, it is not anticipated that the changes would have any discernable economic impact.

Federal Standards Statement

A Federal standards analysis is not required because the rules proposed for readoption with amendments and repeals are not being proposed under the authority of, or in order to implement, comply with, or participate in, any program established under Federal law or under a State statute that incorporates or refers to Federal law, standards, or requirements.

Jobs Impact

The Department does not anticipate any net generation or loss of jobs as a result of the readoption of this chapter. Inasmuch as the proposed amendments and repeals update the rules by eliminating references to an office which no longer exists, obligations which the Department can no longer fulfill, and duplicative requirements, the Department does not anticipate that this rulemaking would result in either the generation or the loss of jobs.

Agriculture Industry Impact

Since farming operations are among the entities entitled by statute to receive relocation assistance, readoption of these rules would have a positive impact upon the agricultural industry. The proposed amendments and repeals update the relocation assistance rules by eliminating references to an office that no longer exists, obligations which the Department can no longer fulfill, and duplicative requirements, the Department does not anticipate that the proposed amendments and repeals would have any impact on the agriculture industry.

Regulatory Flexibility Analysis

While landlords subject to these rules or businesses eligible for relocation assistance under these rules may qualify as small businesses as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., there is no basis for differential treatment of small businesses within this rulemaking. The rules proposed for readoption with amendments and repeals would not impose any new recordkeeping or reporting requirements or require

professional services that would not otherwise be required. Small businesses are among the entities that may be entitled to receive relocation assistance. Like other businesses, they may receive payment for actual reasonable expenses for moving, direct loss of personal property, expenses incurred in searching for a replacement business and professional fees incurred in renovation, use, lease, or acquisition of the replacement site, or for payments in lieu of moving and other expenses. In any event, documentation of costs or income, as the case may be, must be provided. As stated above, the proposed amendments and repeals update the rules by eliminating references to an office which no longer exists, obligations which the Department can no longer fulfill, and duplicative requirements. These proposed changes do not alter the right to receive or the responsibility to provide relocation assistance.

Housing Affordability Impact Analysis

Readoption of these rules would not have any effect upon the cost or the supply of affordable housing. The proposed amendments and repeals update the relocation assistance rules by eliminating references to an office which no longer exists, obligations which the Department can no longer fulfill, and duplicative requirements, they do not impact in any way the cost of housing or the supply of affordable housing.

Smart Growth Impact Analysis

The Department does not anticipate any impact upon achievement of smart growth or the implementation of the State Development and Redevelopment Plan as a result of the readoption of these rules. Likewise, adoption of the proposed amendments would not have any consequences for the achievement of smart growth or the implementation of the State Development and Redevelopment Plan. The proposed amendments and repeals update the relocation assistance rules by eliminating references to an office which no longer exists,

obligations which the Department can no longer fulfill, and duplicative requirements. There is an extreme unlikelihood that they would evoke a change in housing production within Planning Areas 1 and 2, or within designated centers, under the State Development and Redevelopment Plan.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 5:11.

Full text of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 5:11-7.3 and 7.4.

Full text of the proposed amendments follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 2. ELIGIBILITY

5:11-2.3 Evictions under N.J.S.A. 2A:18-61.1(g)

(a) - (b) (No change.)

(c) In cases where a landlord is to be cited for a violation pursuant to an illegal occupancy which could potentially result in a (g)³ eviction, the following shall be included as an insert sent with the violation notice:

IF, IN SEEKING TO CORRECT THE ILLEGAL OCCUPANCY FOR WHICH YOU HAVE BEEN CITED, IT IS NECESSARY FOR YOU TO EVICT ONE OR MORE TENANTS TO COMPLY, YOU MUST NOTIFY THOSE TENANTS OF THEIR POTENTIAL ELIGIBILITY FOR RELOCATION ASSISTANCE. [FURTHER INFORMATION REGARDING YOUR RESPONSIBILITIES AS OWNER PURSUANT TO REGULATIONS

CONCERNING EVICTION AND RELOCATION MAY BE OBTAINED BY CONTACTING
THE FOLLOWING:

DEPARTMENT OF COMMUNITY AFFAIRS
DIVISION OF CODES AND STANDARDS
OFFICE OF LANDLORD-TENANT INFORMATION
PO BOX 805
TRENTON, NEW JERSEY 08625-0805
TELEPHONE: 609-633-6606]

SUBCHAPTER 7. DISPLACEMENT THROUGH LANDLORD'S ACTION

5:11-7.2 Additional notice for proceedings under N.J.S.A. 2A:18-61.1(g)

(a) (No change.)

(b) In cases arising under N.J.S.A. 2A:18-61.1(g)2, the following statement shall be included in the notice in capital letters:

I MUST GIVE YOU THIS NOTICE BECAUSE I PLAN TO SEEK EVICTION UNDER THE RESIDENTIAL EVICTION LAW (N.J.S.A. 2A:18-61.1) AND THE REGULATIONS OF THE DEPARTMENT OF COMMUNITY AFFAIRS. THE CAUSE FOR WHICH I WANT YOU TO LEAVE IS THAT I WANT TO COMPLY WITH LOCAL OR STATE HOUSING INSPECTORS WHO HAVE CITED ME FOR SUBSTANTIAL VIOLATIONS AND IT IS UNFEASIBLE TO COMPLY WITHOUT REMOVING THE TENANTS.

[THE PROCEDURE WHICH IS FOLLOWED ONCE YOU HAVE RECEIVED THIS NOTICE FROM ME IS FOR THE DEPARTMENT OF COMMUNITY AFFAIRS TO

UNDERTAKE AN INVESTIGATION OF THIS CAUSE FOR EVICTION TO FIND OUT IF IT IS JUSTIFIED BY THE VIOLATIONS OR CIRCUMSTANCES. THE DEPARTMENT OF COMMUNITY AFFAIRS WILL INFORM THE TENANTS AND THE _____ (fill in the name of the local inspection agency), OF MY EFFORTS TO TRY TO EVICT YOU, THE DEPARTMENT WILL ASK FOR THEIR WRITTEN COMMENTS AND PREPARE A RECOMMENDATION WHICH WILL BE FORWARDED TO THE DISTRICT COURT WHICH WILL CONDUCT ANY EVICTION PROCEEDINGS, AS WELL AS TO THE _____ (fill in the name of the local inspection agency), THE OWNER AND THE TENANTS. IF THE DEPARTMENT OF COMMUNITY AFFAIRS DECIDES THAT EVICTION FOR THE CAUSE STATED ABOVE IS JUSTIFIED, THE _____ (fill in the name of the local inspection agency), WILL BEGIN PROVIDING FINANCIAL AND OTHER RELOCATION ASSISTANCE AS PROVIDED UNDER THE RELOCATION AND EVICTION LAWS. (N.J.S.A. 52:31B-1 et seq., N.J.S.A. 20:4-1 et seq., and N.J.S.A. 2A:18-61 et seq.) IF THE DEPARTMENT OF COMMUNITY AFFAIRS DECIDES THAT EVICTION IS NOT JUSTIFIED,] I AM [STILL] ENTITLED TO TRY TO EVICT YOU IN THE COURTS 90 DAYS AFTER THE DATE OF THIS NOTICE. IF YOU RECEIVE A SUMMONS TO APPEAR IN COURT AND FAIL TO APPEAR, YOU ARE LIKELY TO LOSE YOUR CASES BECAUSE YOU AREN'T THERE. HOWEVER, IN NO CASE CAN THE JUDGE EVICT YOU AND ISSUE A WARRANT FOR POSSESSION UNLESS THE RELOCATION LAWS HAVE BEEN COMPLIED WITH.

[(c) Landlords may obtain copies of this required statement from the Office of Landlord/Tenant Information, Department of Community Affairs, PO Box 805, Trenton, N.J. 08625-0805.

Spanish speaking tenants shall be provided with this statement in Spanish, and such statement is also available at the same address.]