

COMMUNITY AFFAIRS

DIVISION OF CODES AND STANDARDS

Condominium, Fee Simple and Cooperative Conversion and Mobile Home Park

Retirement

New Home Warranties and Builders' Registration

Landlord-Tenant Relations

Proposed Amendments: N.J.A.C. 5:24-1.4, 2.2, and 2.9; 5:25-2.2, 2.5, and 2.8; and 5:29-1.2

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

Authority: N.J.S.A. 2A:18-61.12, 2A:18-61.38, 2A:18-61.59, 46:3B-10, and 52:27D-3(e).

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

Proposal Number: PRN 2016-153.

Submit written comments by November 18, 2016, to:

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The agency proposal follows:

Summary

The proposed amendments delete references to the Office of Landlord-Tenant Information, as that office was eliminated in 2011. The proposed amendments also otherwise

update the requirements contained in the rules, deleting references to obsolete, incorrect, or unused terms and practices.

The proposed amendments are as follows:

Condominium, Fee Simple and Cooperative Conversion and Mobile Home Park

Retirement

1. N.J.A.C. 5:24-1.4 – The proposed amendment deletes a requirement to provide a copy of the subchapter or any statement of tenants' rights, which previously was available through the Office of Landlord-Tenant Information.

2. N.J.A.C. 5:24-2.2 – The proposed amendment revises the rule to indicate that the form will be prescribed by the appropriate administrative agency or office, not the Department.

3. N.J.A.C. 5:24-2.9 – The proposed amendments eliminate the obsolete references to forms provided by the Division of Codes and Standards. The requirement to send notice of the conversion recording to the Division also is proposed for deletion as this is a duplicative requirement. The Division receives notice as required by the Planned Real Estate Development (PRED) rules, N.J.A.C. 5:26.

Regulations Governing New Home Warranties and Builders' Registration

4. N.J.A.C. 5:25-2.2 – The proposed amendment eliminates a reference to the Division mailing renewal applications, as these forms now are available on the Division's webpage.

5. N.J.A.C. 5:25-2.5 – The proposed amendment adds suspension as an action that may be taken by the Department at subsection (a). N.J.A.C. 5:25-2.5(e) is proposed for deletion. In practice, the homeowner hires another builder to complete unfinished projects. Projects are not completed by a suspended or revoked builder under the Bureau's supervision.

6. N.J.A.C. 5:25-2.8 – Subsection (c) providing for payment with interest, is proposed for deletion as this is not done in practice.

Landlord-Tenant Relations

N.J.A.C. 5:29-1.2 – As stated above, the Office of Landlord-Tenant Information has been closed. Furthermore, the rules itemize what must be included in the Landlord Identity Statement. Accordingly, the reference to the availability of forms from the Office of Landlord-Tenant Information is proposed for deletion.

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

The proposed amendments would eliminate references to an office that no longer exists, obligations that the Department can no longer fulfill, and duplicative or obsolete requirements. Because these proposed amendments do not impact tenants' or homebuyers' 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

Because the proposed amendments update the rules by eliminating references to an office that no longer exists, obligations that the Department can no longer fulfill, and duplicative or obsolete requirements, it is not anticipated that the amendments would have any discernable economic impact.

Federal Standards Statement

A Federal standards analysis is not required because the proposed amendments 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

Since the proposed amendments update the rules by eliminating references to an office that no longer exists, obligations that the Department can no longer fulfill, and duplicative or obsolete requirements, the Department does not anticipate that this rulemaking would result in either the creation or the loss of jobs.

Agriculture Industry Impact

Since the proposed amendments update the rules by eliminating references to an office that no longer exists, obligations that the Department can no longer fulfill, and duplicative or obsolete requirements, the Department does not anticipate that the proposed rulemaking would have any impact on the agriculture industry.

Regulatory Flexibility Statement

While many landlords and home builders subject to 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 these amendments. The proposed amendments would not impose any new recordkeeping, reporting, or compliance requirements that would not otherwise be required. As stated above, the proposed amendments update the rules by eliminating references to an office that no longer exists, obligations that the Department can no longer fulfill, and duplicative or obsolete requirements.

Housing Affordability Impact Analysis

Since the proposed amendments update the rules by eliminating references to an office that no longer exists, obligations that the Department can no longer fulfill, and duplicative or obsolete requirements, it is not anticipated that these proposed amendments would impact in any way the cost of housing or have an effect on the affordability of housing.

Smart Growth Development Impact Analysis

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. Since the proposed amendments update the rules by eliminating references to an office that no longer exists, obligations that the Department can no longer fulfill, and duplicative or obsolete 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 proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

CHAPTER 24

CONDOMINIUM, FEE SIMPLE, AND COOPERATIVE CONVERSION AND MOBILE HOME PARK RETIREMENT

SUBCHAPTER 1. GENERAL PROVISIONS

5:24-1.4 Contents of notice of intent to convert

(a) The notice of intent to convert shall consist of [three] **two** items as follows:

1. – 2. (No change.)

[3. A copy of this subchapter or any statement of tenants' rights in relation to conversion subsequently approved for this purpose by the Department of Community Affairs. These may be obtained from: Bureau of Homeowner Protection, Office of Landlord-Tenant Information, CN 805, Trenton, New Jersey 08625.]

SUBCHAPTER 2. SENIOR CITIZENS AND DISABLED PROTECTED TENANCY

5:24-2.2 Application forms

(a) A tenant seeking protected tenancy status pursuant to the Act shall apply to the appropriate administrative agency or officer on a form prescribed by the [Division of Codes and Standards of the Department of Community Affairs] **agency or officer**.

(b) (No change.)

5:24-2.9 Procedural requirements for owners

(a) An owner providing notice to an administrative agency or officer of his or her intention to file an application for registration of conversion with the Division of Codes and Standards shall provide to the administrative agency or officer sufficient current copies of the following forms provided by the [Division of Codes and Standards] **administrative agency or officer**:

1. – 6. (No change.)

(b) (No change.)

(c) Forms [at variance with the forms provided by the Division of Codes and Standards] **that do not contain the required information** shall not be accepted.

(d) Notice of the conversion recording shall be given by the owner to the administrative agency or officer [and to the Division of Codes and Standards] within 10 days of such conversion recording.

REGULATIONS GOVERNING NEW HOME WARRANTIES AND BUILDERS'

REGISTRATION

SUBCHAPTER 2. BUILDER REGISTRATION

5:25-2.2 Registration; new home builder

(a) (No change.)

[(b) At least 30 days prior to the expiration date of a builder's registration, the Division shall mail a renewal application form to the builder at the builder's then current registered address by ordinary mail.]

5:25-2.5 Denial, suspension, or revocation of registration

(a) A certificate of registration may be denied, **suspended**, or revoked if the registrant or applicant or an officer, partner, director, or stockholder of the registrant or applicant has at any time:

1. – 5. (No change.)

(b) – (d) (No change.)

[(e) Any new home purchaser under contract with a builder whose registration has been suspended or revoked may at the purchasers option, and under the supervision of the Bureau of Homeowner Protection, require the builder to complete the work. The warranty plan under which the home is covered or was required to be covered at the time of closing shall cover said home for the length of the warranty.]

5:25-2.8 Restoration of registration

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

[(c) In any case in which payment has been made by the State Plan or any private plan as a result of failure by a builder to comply with the Act, full compensation, within the meaning of

(a) above, shall include, without limitation, interest in the maximum amount allowed by law on any payments made by the State Plan or private plan. For purposes of determining the legal interest rate, such payments shall be deemed to be unsecured loans made by the plan pursuant to a written agreement.]

CHAPTER 29

LANDLORD-TENANT RELATIONS

SUBCHAPTER 1. LANDLORD IDENTITY REGISTRATION FORMS

5:29-1.2 One and two-unit dwelling registration form

(a) (No change.)

[(b) Copies of this form may be obtained from private sources or from:

Office of Landlord Tenant Information

Division of Codes and Standards

Department of Community Affairs

PO Box 805

Trenton, NJ 08625-0805]