

- ii.-xi. (No change.)
- xii. [In Section 5-8, delete the last sentence] **Delete the text of Section 5-8.4** and insert the following: “The [recreational park trailer] **park model recreational vehicle** shall be anchored to withstand the design wind load for the location.”
- xiii. (No change.)
- 4. (No change.)

5:23-4D.4 Certification

(a) A [Recreational Park Trailer Industry Association (RPTIA)] **Recreational Vehicle Industry Association (RVIA)** label or an approved equivalent label or certification for each recreational park trailer indicating that the unit has been manufactured in compliance with the adopted recreational park trailer subcode shall be permanently attached thereto in an accessible and visible location. The location of the label shall be indicated on the approved building system documentation.

(b) An approved label for a recreational park trailer shall bear the following information:

- 1. The name and seal of the [Recreational Park Trailer Industry Association] **Recreational Vehicle Industry Association** or such other organization with a quality assurance program as may be approved by the Department; and
- 2. (No change.)

SUBCHAPTER 6. REHABILITATION SUBCODE

5:23-6.2 Applicability and compliance

- (a)-(f) (No change.)
- (g) Relationship of this subcode to other codes, rules, and ordinances, shall be as follows:
 - 1.-5. (No change.)
 - 6. The repair, renovation, alteration, reconstruction or change of use of health care facilities shall be in accordance with this code and with the “Guidelines for Design and Construction of Health Care Facilities,” [current edition ([Facilities Guidelines Institute])], **current edition. All health care facilities shall comply with National Fire Protection Association (NFPA) 101, the Life Safety Code, as referenced in the rules promulgated by the Centers for Medicare and Medicaid Services.** In the event of any conflict, the more restrictive code provision shall govern.
 - (h)-(j) (No change.)

SUBCHAPTER 7. BARRIER FREE SUBCODE

5:23-7.1 [(Reserved)] **Barrier Free Subcode**

The accessibility regulations, other than recreation, shall be found in Chapter 11 of the building subcode, as amended at N.J.A.C. 5:23-3.14(b).

(a)

DIVISION OF LOCAL GOVERNMENT SERVICES

Licensure of Certain Local Government Officers

Proposed New Rules: N.J.A.C. 5:32

Proposed Recodifications with Amendments:

N.J.A.C. 5:34-5.1, 5.2, 5.4, and 5.5 as 5:32-4.1, 4.2, 4.3, and 4.4, Respectively

Proposed Repeals: N.J.A.C. 5:33-2

Authorized By: Timothy J. Cunningham, Director, Division of Local Government Services.

Authority: N.J.S.A. 40A:9-28.7, 40A:9-133.11, 40A:9-140.16, 40A:9-145.3c, and 40A:11-9.i.

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

Proposal Number: PRN 2017-151.

Please submit written comments on the proposal by October 6, 2017, via e-mail to digs@dca.nj.gov or by regular mail to:

Jason R. Martucci, Esq.
Administrative Practice Officer
Division of Local Government Services
Department of Community Affairs
PO Box 803
Trenton, NJ 08625-0803

For comments submitted via e-mail, please name the subject heading “NJAC 5:32-Licensure of Certain Local Government Officers”

The agency proposal follows:

Summary

The Director of the Division of Local Government Services (Division) is responsible for the process of licensing/certifying municipal and county chief financial officers, municipal tax collectors, municipal clerks, and qualified purchasing agents. The proposed new rules set forth coursework, examination, certification, continuing education, and certification renewal requirements for each of the aforementioned categories of licensed officials. Also addressed are requirements for reappointment of a temporary chief financial officer, temporary qualified purchasing agent, or acting municipal clerk; as well as the appointment and reappointment of a private entity to temporarily perform the duties of a chief financial officer. As used in this Summary, the terms license and certification are interchangeable.

N.J.A.C. 5:33-2 and 5:34-5 set forth the Division’s existing rules pertaining to tax collectors and qualified purchasing agents, respectively. N.J.A.C. 5:33-2 is proposed for repeal and N.J.A.C. 5:34-5 is proposed for recodification, as the subject matter will be covered by proposed new Chapter 5:32. Current Division policy regarding licensure of municipal finance officers, county finance officers, and municipal clerks would be codified under N.J.A.C. 5:32-2 and 5. The proposed rules for each of the above-referenced positions also implements sections 40 through 45 of P.L. 2015, c. 95; these provisions extend the current six-month statutory grace period for licensure renewal by an additional six months if the Director determines that either a natural disaster or medical event or condition prevented the candidate from renewing by the expiration of the initial grace period.

Proposed N.J.A.C. 5:32-1.1 sets forth general provisions concerning examination review by those individuals failing to pass the certification exam. This section was adapted in substantial part from existing N.J.A.C. 5:33-2.2 as it pertains to tax collector certification, and will now apply to all positions licensed by the Division, except for certified public works managers.

N.J.A.C. 5:32-2 pertains to chief financial officers for municipalities and counties. The duties of chief financial officers are set forth, along with requirements for examination, initial certification, continuing education, and certification renewal. When a licensed chief financial officer departs from their position, a municipality or county can appoint an unlicensed individual to serve in a temporary capacity for up to one year. A municipality can seek approval from the Director of the Division of Local Government Services to reappoint a temporary chief municipal finance officer for up to two additional one-year terms; counties are limited to one additional one-year term with Director approval. As an alternative to appointing an individual to serve as temporary chief financial officer, N.J.S.A. 40A:9-140.10.b permits a municipality to seek Director approval to contract with a private entity that would temporarily perform the duties of a chief financial officer. These private entities must have at least one licensed chief municipal finance officer that supervises all chief finance officer duties conducted on behalf of the municipality, and are limited to no more than two consecutive one-year terms. Both appointment and reappointment require prior Director approval. Proposed N.J.A.C. 5:32-2.5 and 2.6 set forth the information and documentation that shall be submitted for the Director’s consideration in approving the above-referenced temporary appointments. N.J.A.C. 5:32-2.5 sets forth requirements that must be met for a private entity to temporarily fulfill the duties of a chief municipal finance officer. The completed questionnaire and any documentation submitted in support of an application to reappoint a temporary chief financial officer or appoint/reappoint a private entity to temporarily fulfill the duties of a

chief financial officer shall be exempt from disclosure under the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

N.J.A.C. 5:32-3 sets forth the duties of a municipal tax collector, along with requirements for examination, initial certification, continuing education, and certification renewal. Much of the substance of existing N.J.A.C. 5:33-2.2 would be relocated to N.J.A.C. 5:32-3.2.

Government entities that are contracting units subject to the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., or the Public School Contracts Law, N.J.S.A. 18A:18A-1 et seq., may designate an individual with a qualified purchasing agent certification to serve as their purchasing agent. Contracting units with qualified purchasing agents can increase their bid threshold from \$17,500 (entities subject to the Local Public Contracts Law) or \$29,000 (entities subject to the Public School Contracts Law) to a higher amount set by the Governor and adjusted every five-years; this higher amount is presently \$40,000. Existing N.J.A.C. 5:34-5 currently sets forth requirements for the examination, initial certification, continuing education, and certification renewal for qualified purchasing agents, in addition to requirements for appointing a temporary qualified purchasing agent and setting the contracting unit's bid threshold. The current N.J.A.C. 5:34-5.1, 5.2, 5.4, and 5.5 will be recodified as N.J.A.C. 5:32-4.1, 4.2, 4.3, and 4.4, respectively. The completed questionnaire and any documentation submitted in support of an application to reappoint a temporary qualified purchasing agent shall be exempt from disclosure under the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

Proposed N.J.A.C. 5:32-5 pertains to requirements for examination, initial certification, continuing education, and certification renewal for registered municipal clerks. N.J.A.C. 5:32-5.3 sets forth information that a municipality must submit to the Director for approval to reappoint an acting (that is, unlicensed) municipal clerk. In the event a registered municipal clerk vacates their position, a municipality may appoint an individual without a registered municipal clerk license as an acting municipal clerk for a maximum one-year term; the municipality may seek Director approval to reappoint said individual for no more than two additional consecutive one-year terms. The completed questionnaire and any documentation submitted in support of an application to reappoint a temporary qualified purchasing agent shall be exempt from disclosure under the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

As the Division 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 new rules, repeals, and recodifications with amendments will codify much of current Division of Local Government Services' policy with respect to licensure of municipal and county chief financial officers, tax collectors, qualified purchasing agents, and municipal clerks. Licensure of the above-referenced positions helps to ensure the public of a requisite level of training, expertise, competence, and independent judgement with respect to key local government functions. Codifying such Division policy through regulation, along with codifying the duties of chief municipal and county finance officers along with tax collectors, helps strengthen the Division's enforcement function with respect to the above-referenced certifications.

The proposed new rules, repeals, and recodifications with amendments would also codify the approval process for reappointing unlicensed officials on a temporary basis, namely temporary chief municipal and county financial officers, temporary purchasing agents, and acting municipal clerks. The proposed new rules and recodifications with amendments require information to be provided such that the Director of the Division of Local Government Services can make an informed decision on the fitness of the unlicensed individual to fill the positions of chief financial municipal and county officer, qualified purchasing agent, and municipal clerk; thereby protecting the public while providing temporary flexibility for local governments as they work to fill these critical positions with a licensed official. Implementing the statutory provision that permits, with Director approval, the temporary appointment of a private entity to temporarily fulfill the duties of a chief municipal finance officer facilitates oversight for yet another

option for municipalities requiring additional time to fill said position with a licensed official.

Economic Impact

The proposed new rules, repeals, and recodifications with amendments substantially codify existing Division of Local Government Services policy with respect to licensure of various key local government positions and appointment of certain unlicensed individuals to provisionally fill said positions. The Division's substantial oversight is critical to ensuring the overall fiscal and operational integrity of local government. Local governments also receive a positive economic benefit from the implementation of measures allowing additional flexibility for temporary appointments, particularly where there may be a shortage of potential licensed candidates; thereby granting the local government additional leverage when negotiating the level of compensation for a licensed official.

Exempting questionnaires (and documentation in support thereof) submitted to the Director for approval to reappoint temporary unlicensed officials, or to appoint or reappoint a private entity in the case of temporarily filling the municipal finance officer position, from the Open Public Records Act will help avoid potential litigation over what can and cannot be disclosed from such questionnaires under the Act. As set forth in the proposed new rules and recodifications with amendments, the questionnaire is overwhelmingly focused on sensitive matters that would generally be exempt from disclosure, such as personnel records, deliberative material, criminal investigatory records, and information that could prejudice litigation. Exempting the questionnaire and supporting documentation from disclosure could potentially save local governments significant legal costs and administrative burden surrounding the disclosure of documents that would at the very least be substantially redacted, thus, in any case providing minimal benefit to the requestor.

Except for the fee charged for renewing a qualified purchasing agent (QPA) certification, the fees referenced in the proposed new rules are those set forth in statute. Continuation of the \$35.00 fee for renewal of QPA certifications, through recodification of existing N.J.A.C. 5:34-5.2(a) poses a net economic benefit to New Jersey taxpayers. Although the fee increases the out-of-pocket cost for maintaining the license for either the certificate holder or a local government entity willing to reimburse for the costs of maintaining licensure, the fee helps defray the cost of the Division of Local Government Services for examination, licensure, and oversight of qualified purchasing agents. Furthermore, the renewal fee is set at a reasonable amount and is in proportion with the \$150.00 application fee set by N.J.S.A. 40A:9-11.b(6) for QPA candidates.

Federal Standards Statement

No Federal standards analysis is required because the proposed new rules, repeals, and recodifications with amendments are not proposed in order to implement, comply with, or participate in any program established under Federal law or under a State law that incorporates or refers to Federal law, standards, or requirements.

Jobs Impact

The proposed new rules, repeals, and recodifications with amendments, which implement existing statutes with respect to the licensure of certain local government officials and temporary appointments to licensed positions, are not anticipated to have an impact on jobs.

Agriculture Industry Impact

The proposed new rules, repeals, and recodifications with amendments will not have an impact on the agriculture industry, as they pertain to certain licensed local government positions.

Regulatory Flexibility Statement

The proposed new rules, repeals, and recodifications with amendments would primarily impact local governments and officials thereof; as such, the proposed new rules, repeals, and recodifications with amendments would apply to an indeterminate number of "small businesses" as defined by the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., that would serve in the capacity of municipal

chief finance officer. The background check and contractual provisions set forth within the proposed new rules are necessary to ensure the protection of municipal funds. The cybersecurity measures set forth in proposed N.J.A.C. 5:30-2.5(b)9 are structured as a best practices framework so as to provide flexibility to small businesses; the municipality would be responsible for establishing appropriate security and access protocols vis-à-vis the private entity serving in the capacity of municipal chief finance officer.

Housing Affordability Impact Analysis

There is an extreme unlikelihood that the proposed new rules, repeals, and recodifications with amendments, which pertain to certain licensed local government positions, would evoke a change in the average costs associated with housing or with the affordability of housing.

Smart Growth Development Impact Analysis

There is an extreme unlikelihood that the proposed new rules, repeals, and recodifications with amendments would evoke a change in the housing production within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan, as they pertain to certain licensed local government positions.

Full text of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 5:33-2.

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

CHAPTER 32

LICENSURE OF CERTAIN LOCAL GOVERNMENT OFFICERS

SUBCHAPTER 1. GENERAL PROVISIONS

5:32-1.1 Examination reviews

(a) The Director, at his or her discretion, may authorize, as staffing permits, review of a particular examination by applicants who were not successful in passing an examination to obtain a certificate for municipal finance officer, county finance officer, tax collector, registered municipal clerk, or qualified purchasing agent.

(b) If authorized by the Director, under (a) above, examination reviews shall be conducted in the offices of the Division of Local Government Services, 101 South Broad Street, Trenton, New Jersey by a representative or representatives of the Division of Local Government Services. No one other than representatives of the Division of Local Government Services and the unsuccessful applicant for whom the review is being conducted shall be present at the examination review. No applicant will be permitted to take any notes or copy any questions or answers.

(c) Requests for examination reviews must be made in writing and must take place within 60 days of the date that appears on the notice of the mailing of the examination results. To arrange an examination review, an unsuccessful applicant must make a written request to the Division of Local Government Services, 101 South Broad Street, PO Box 803, Trenton, New Jersey 08625, setting forth at least three alternative dates and times that would be convenient to attend such a review.

(d) At the discretion of the Director, as staffing permits, the examination review may consist of the following:

1. Informing the applicant of his or her grade and explaining the manner in which the grade has been calculated;
2. Informing the applicant of the grade required for passage of the examination; and
3. In limited circumstances, as staffing permits, the representative of the Division conducting the review may discuss and review a specific question with the applicant.

SUBCHAPTER 2. MUNICIPAL AND COUNTY CHIEF FINANCIAL OFFICERS

5:32-2.1 Duties of a chief financial officer

(a) The chief financial officer, including anyone classified as temporary pursuant to N.J.S.A. 40A:9-140.13.f or interim pursuant

to N.J.S.A. 40A:9-140.11, shall carry out the duties set forth in this section along with such other duties as are required by law:

1. Serve as custodian of all public funds;
2. Assist in preparing the annual budget;
3. Ensure the proper and accurate preparation, posting, maintenance, and reconciliation, as applicable, of all books, ledgers, schedules, statements, reports, and other records pertaining to municipal or county finances. All financial schedules and, as applicable, other records shall be prepared in such a manner as to facilitate audit review;
4. Maintain and monitor separate accounts for all budgeted appropriations and anticipated revenue;
5. Prepare year-end reports of all revenues and expenditures and provide the governing body with periodic status reports for all budget revenues and appropriations as they correspond to the annual adopted budget;
6. Prepare, analyze, and/or review monthly reports of the treasurer, tax collector (in the case of a municipality), financial reports of other departments, and on all investments;
7. Lead in helping the governing body develop fiscal policy, including preparing projections and calculations to support long-term plans concerning revenue, appropriations, surplus, the tax levy and caps thereon and, for chief municipal finance officers, the municipal budget appropriations cap;
8. Develop and implement a system of internal controls to safeguard assets and monitor compliance, including:
 - i. Documentation of internal accounting control processes, procedures, and authorizations, with regular review and evaluation of same;
 - ii. Training all relevant personnel, including, but not limited to, department heads and/or others in positions of approval;
 - iii. Administration and oversight of claim payment procedures; and
 - iv. Supervising petty cash accounts and change funds; and
9. Ensure compliance with all statutes, rules, regulations, and directives pertaining to financial administration and such other duties assigned by law to the chief financial officer, including:
 - i. Provisions of the Local Government Supervision Act, N.J.S.A. 52:27BB-1 et seq., Local Bond Law, N.J.S.A. 40A:2-1 et seq., Local Budget Law, N.J.S.A. 40A:4-1 et seq., Local Fiscal Affairs Law, N.J.S.A. 40A:5-1 et seq., and such other statutes as may pertain to financial administration including, as applicable, the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq.;
 - ii. Rules and regulations promulgated by the Local Finance Board, Director of the Division of Local Government Services or any other State or Federal agency pertaining to financial administration;
 - iii. Directives of the Division of Local Government Services in the Department of Community Affairs;
 - iv. Single Audit Act requirements promulgated by Federal or State law that pertain to financial compliance;
 - v. Continuing financial disclosure obligations as may be set forth in Federal law, State law, and any agreements executed as part of past issuances of debt; and
 - vi. Regulations of the Internal Revenue Service relating to the issuance of tax exempt debt, as well as requirements related to employee payroll and vendor payments.

5:32-2.2 Certification of municipal finance officers

(a) No person shall be appointed or reappointed as a chief financial officer by a municipality unless they have been issued a municipal finance officer certificate by the Director of the Division of Local Government Services.

(b) Unless a person obtains municipal finance officer certification pursuant to the provisions of N.J.S.A. 40A:9-140.4 or 40A:9-140.11, candidates for municipal finance officer certification shall first successfully complete an examination administered by the Division. The examination shall be held on a semi-annual basis.

(c) Candidates for the municipal finance officer certification exam shall meet the age, citizenship, character, and

education/experience requirements set forth in N.J.S.A. 40A:9-140.2.a and b. In addition, candidates for examination shall furnish proof of successfully completing the following courses, provided by Rutgers, the State University of New Jersey or the Division of Local Government Services:

1. Municipal Finance Administration;
2. Municipal Current Fund Accounting I;
3. Municipal Current Fund Accounting II;
4. Municipal Capital and Trust Fund Accounting;
5. Municipal Utility Fund Accounting;
6. Municipal Budget Preparation and Control;
7. Principles of Financial Management; and
8. Preparation of Annual Financial Statements.

(d) Upon approval of the Director for content and format, any of the training courses set forth in (c) above may be combined, or may be incorporated into a new or existing undergraduate or graduate-level course.

(e) Applicants for municipal finance officer examination and certification shall submit to the Division an application form approved by the Director. The application submission shall include proof(s) of meeting the requirements set forth in N.J.S.A. 40A:9-140.2. At the discretion of the Director, additional information and documentation may be required upon receipt of an application. Each completed application for examination shall be filed with the Division at least 30 calendar days prior to the date of examination, and shall be accompanied by a fee in the amount of \$50.00, payable to the Treasurer, State of New Jersey.

(f) The Director shall determine the content of the examination, which shall be of such character as to fairly test and determine the ability to perform the duties of chief financial officer. Examinations shall be written, unless the Director determines that an applicant's qualifications are better evaluated with an exam containing both written and oral components.

(g) Upon a finding by the Director that a candidate has successfully completed the examination or has met the provisions of N.J.S.A. 40A:9-140.4, a municipal finance officer certificate shall be issued to the applicant, upon a payment of a fee of \$50.00 payable to the Treasurer, State of New Jersey. No examination or fee shall be required for municipal finance officer certificates issued pursuant to N.J.S.A. 40A:9-140.11.

5:32-2.3 Certification of county finance officers

(a) No person shall be appointed or reappointed as a chief financial officer by a county unless they have been issued a county finance officer certificate by the Director of the Division of Local Government Services.

(b) Candidates for county finance officer certification shall either:

1. Hold a municipal finance officer certification issued by the Director and furnish proof of successfully completing training provided by Rutgers, the State University of New Jersey or the Division of Local Government Services in county fiscal operations and, if the candidate applied for a municipal finance officer certificate prior to January 1, 1992, in the preparation of annual financial statements; or

2. Be licensed as a registered municipal accountant in the State of New Jersey and furnish proof of successfully completing training provided by Rutgers, the State University of New Jersey or the Division of Local Government Services in principles of financial management and county fiscal operations.

(c) Upon approval of the Director, for content and format, the course in county fiscal operations may be incorporated into a new or existing undergraduate or graduate-level course.

5:32-2.4 Renewal of municipal and county chief finance officer certificates

(a) Renewal of a municipal finance officer certificate, except for a municipal finance officer certificate issued pursuant to either N.J.S.A. 40A:9-140.4 or 40A:9-140.11, or county finance officer certificate shall be required every two years, subject to the applicant's fulfillment of continuing education requirements, the submission of an application for renewal, and payment of a \$50.00

fee payable to the Treasurer, State of New Jersey. Renewal of municipal and county finance officer certificates shall be requested on a renewal form approved by and submitted to the Director.

1. Applicants shall obtain a minimum of 30 continuing education contact hours in the subject areas of accounting, office management and ancillary subjects, ethics, financial and debt management, and budgeting. Said credits shall be approved by the Director as relevant to the subject matter area and the duties of a chief financial officer pursuant to N.J.S.A. 40A:9-28.1 and 40A:9-140.1.d and this chapter, with the following minimum contact hours for each subject area:

- i. Four contact hours in the subject area of accounting;
- ii. Four contact hours in the subject area of office management and ancillary subjects;
- iii. Four contact hours in the subject area of ethics;
- iv. Four contact hours in the subject area of financial and debt management;
- v. Four contact hours in the subject area of budgeting; and
- vi. For county finance officers, two contact hours in county fiscal operations.

2. If an applicant has earned at least 30 continuing education contact hours within the renewal period, but has not achieved the minimum number of contact hours in a given subject area, the Director has discretion to waive the required minimum upon written application and good cause shown, provided that the applicant has earned at least one contact hour in the given subject area.

3. At the option of the applicant, contact hours in the subject area of information technology approved by the Director for relevance to the subject matter area and the duties of a chief financial officer may be applied toward the 30 continuing education contact hours, required under (a)1 above, in addition to the required minimum contact hours.

4. An individual who holds a municipal finance officer certificate and allows such certificate to lapse by failing to renew shall be required to apply to take the qualifying examination required pursuant to N.J.S.A. 40A:9-140.2, and pay the requisite fee for such application and certificate in order to obtain a new municipal finance officer certification, except that, when an individual applies within six months after the expiration of the certificate, the application may be made in the same manner as a renewal.

5. An individual who holds a county finance officer certificate and allows such certificate to lapse by failing to renew shall be required to submit an application and pay the requisite fee for a new county finance officer certificate pursuant to the provisions of N.J.S.A. 40A:9-28.3(f), so long as the individual's municipal finance officer certificate has not also lapsed. When an individual applies within six months after the expiration of the county finance officer certificate, the application may be made in the same manner as a renewal.

6. Within 12 months after the expiration of the certificate, an application may be made in the same manner as renewal only if the Director determines that a certificate holder is prevented from earning the required continuing education units within six months of the expiration of the certificate. The applicant must demonstrate a good faith effort to earn the required continuing education units within six months after the expiration of the certificate, and that either or both of the conditions in (a)6i and/or ii below made it impossible to obtain the requisite continuing education units. The circumstances preventing renewal that qualify under this paragraph are:

- i. A flood, hurricane, superstorm, tornado, or other natural disaster, and a state of emergency has been declared as a result thereof by the Governor; or
- ii. A medical event or condition.

5:32-2.5 Vacancy in the office of chief municipal finance officer

(a) When a vacancy occurs in the office of chief financial officer following the appointment of a certified municipal finance officer to that office, the municipality's governing body or chief executive officer, as appropriate to the form of government, may appoint, for a period not to exceed one year commencing from the date of the

vacancy, a person who does not possess a municipal finance officer certificate to serve as a temporary chief financial officer. Any person so appointed may, with the approval of the Director, based on (a)2 and 3 below, be reappointed as a temporary chief financial officer for up to two additional one-year terms following the end of the first temporary appointment. No municipality shall employ a temporary chief financial officer for more than three consecutive years.

1. Prior to the end of the first-year appointment of a temporary chief financial officer, the governing body, or chief executive officer, as appropriate, shall request, in writing, permission from the Director to reappoint a temporary chief financial officer for a second consecutive one-year term. A questionnaire approved by the Director shall be completed and included with the written request. A request for Director approval of a third one-year term shall follow the same procedure. The completed questionnaire and any documents submitted in support of said questionnaire shall be exempt from disclosure under the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

2. Before granting approval to reappoint a temporary chief financial officer for a second or third consecutive one-year term, the Director shall be satisfied that the individual is of good moral character and can satisfactorily fulfill the duties of a chief financial officer. Any request to the Director shall provide the following information:

i. The candidate's efforts to obtain a municipal finance officer certificate;

ii. Whether, as a condition of hiring, the municipality performed a criminal background check, credit check, and judgment search, along with the results thereof. For requests to reappoint the same individual to another one-year term, any updates to such information shall be disclosed;

iii. An explanation of any repeat comments on the most recent annual audit that are attributable to the office of chief financial officer; and

iv. An explanation of any complaints against the office of chief financial officer from a member of the public, or other persons, that are of a serious nature, such as those involving potential, ongoing, or prior litigation.

3. The Director may request from the municipality's governing body or chief executive officer, as appropriate, such other information as may be necessary to determine the individual's good moral character and ability to fulfill the duties of a chief financial officer.

(b) When a vacancy occurs in the office of chief financial officer following the appointment of a certified municipal finance officer to that office, the municipality's governing body or chief executive officer, as appropriate to the form of government, may, in lieu of appointing a temporary municipal finance officer, appoint a private entity to perform the duties of a chief financial officer.

1. No private entity may fulfill the duties of a chief financial officer for more than two consecutive one-year terms. The professional services exception to public bidding set forth in N.J.S.A. 40A:11-5(1)(a)(i) shall apply to contracts with private entities to fulfill the duties of chief financial officer. Notwithstanding any law to the contrary, no contract to fulfill the duties of a chief financial officer shall have a duration of greater than one year.

2. Any work performed by the private entity on behalf of the municipality shall be supervised by at least one employee who is currently licensed by the Division of Local Government Services as a municipal finance officer. Any documents requiring the signature of the chief financial officer of the municipality shall be executed by an employee of the private entity holding a municipal finance officer certificate.

3. A municipality shall not appoint or reappoint a private entity to fulfill the duties of a chief financial officer without first making a written request to the Director for approval. Any contract with a private entity shall be conditioned upon Director approval. Before granting approval, the municipality must demonstrate a good faith effort to hire as chief financial officer an individual holding a municipal finance officer certificate issued pursuant to the

provisions of N.J.S.A. 40A:9-140.1 et seq. The Director shall also be satisfied that the private entity can fulfill the duties of a chief financial officer. Any request to the Director shall provide, at minimum, information concerning:

i. The municipality's efforts to hire a certified municipal finance officer, including, but not limited to, advertising and interviewing for the position. The municipality shall provide the salary range for the position, a list of all candidates submitting resumes, and an explanation of the hiring and interview process;

ii. The private entity selected by the municipality, including the name and business address of all owners of any percentage interest;

iii. The name and license number of each certified municipal finance officer on the private entity's staff, all licenses and certifications held by same, their experience in municipal finance, and details concerning disciplinary proceedings and actions to which they may have been subject, whether by the Division of Local Government Services or any other administrative or licensing body;

iv. Whether any staff members who will be fulfilling the duties of chief financial officer have criminal records, or have any pending criminal or civil matters;

v. The results of any credit check or judgment search performed with respect to any staff members who will be fulfilling the duties of chief financial officer;

vi. Names of all other municipalities, if any, in the State with which the private entity has contracted to temporarily perform the duties of a chief municipal finance officer;

vii. Disclosure of any known or potential conflicts of interest under the Local Government Ethics Law, N.J.S.A. 40A:9-22.1 et seq., on the part of the private entity; and

viii. For municipalities seeking approval to reappoint a private entity to a second consecutive one-year term, an explanation shall also be provided of any:

(1) Repeat comments on the most recent annual audit, attributable to the office of chief financial officer; and

(2) Complaints against the office of chief financial officer from a member of the public or other persons that are of a serious nature, such as those involving potential, ongoing, or prior litigation.

4. The Director may request from the municipality's governing body or chief executive officer, as appropriate, such other information as may be necessary to determine the private entity's ability to fulfill the duties of a chief financial officer.

5. The written request to approve a private entity to temporarily fulfill the duties of a chief municipal finance officer, and any documents submitted in support of said request, shall be exempt from disclosure under the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

6. All contracts between a municipality and a private entity shall contain the following:

i. Adequate provisions to indemnify the municipality against any losses incurred as a result of the actions or inactions of the private entity;

ii. A requirement that the private entity be responsible for the errors and omissions of its employees or agents, including penalties, fines, interest, and damages;

iii. A requirement that the private entity maintain adequate general liability, automobile, and worker's compensation insurance if applicable, as well as maintain adequate insurance to cover such losses as may arise as a result of errors, omissions, failure to perform, or dishonesty in an amount at least equal to the recommended calculation for chief financial officer surety bond coverage pursuant to N.J.A.C. 5:30-8.2;

iv. A requirement that the private entity have a written complaint procedure in existence. At a minimum, the complaint procedure shall require that a complaint log be maintained, which shall be available to the municipality for inspection;

v. A provision that all disputes between the parties and disputes concerning the contract or its operation shall be in writing and forwarded to the other party via registered mail. All contracts shall have appropriate provisions for:

(1) Dispute resolution between the parties;

- (2) The service of process to the private entity in New Jersey;
 - (3) Application of New Jersey law; and
 - (4) Termination of the contract, including, but not limited to, termination for failure to perform on the part of the private entity, and a provision allowing termination of the private entity's appointment if a certified municipal finance officer commences employment with the municipality before the expiration of the private entity's one-year term;
 - vi. If a dispute over contract compliance, performance, or termination cannot be resolved by the municipality and the private entity pursuant to the procedures set forth in the contract, either party to the contract may file with the Superior Court that has appropriate jurisdiction; and
 - vii. Copies of notices, memoranda, complaints, or other correspondence received by the private entity regarding municipal accounts shall be forwarded to the municipality within 48 hours of receipt.
7. The private entity shall have a New Jersey office.
8. All contracts entered into between municipalities and private entities to fulfill the duties of chief financial officer shall be in writing and executed by all parties.
9. A private entity performing the duties of a temporary chief municipal finance officer shall make best efforts to adhere to the following cybersecurity best practice framework:
- i. Any system utilized by the private entity shall:
 - (1) Be hosted on dedicated servers or in a FedRAMP Moderate Impact Level Authorized Cloud;
 - (2) Encrypt stored and transmitted financial information and personal identification information;
 - (3) Maintain only critical personal identification information;
 - (4) Employ a resilient password policy;
 - (5) Undergo regular and stress testing;
 - (6) Ensure regular security updates on all software and devices are being carried out;
 - (7) Have back-up plans, information disposal, and disaster recovery procedures created and tested;
 - (8) Undergo regular security risk assessments for detecting compromises, along with regular monitoring for vulnerabilities, with necessary patches and updates being implemented;
 - (9) Have a Cybersecurity Incident Response Plan developed; and
 - (10) The private entity shall:
 - (A) Check provider credentials and contracts when using cloud services;
 - (B) Educate staff in good security measures and perform employee background checks; and
 - (C) Create a Computer Security Incident Response Team, generally called a CSIRT.
10. The municipality shall be responsible for establishing appropriate security and access control protocols with respect to the private entity's access to and use of the municipality's systems.
- (c) All private entity officers and employees temporarily fulfilling the duties of chief municipal finance officer on behalf of a municipality shall be subject to the Local Government Ethics Law, N.J.S.A. 40A:9-22.1 et seq. Prior to the municipality seeking Director approval to contract with the private entity, the private entity shall disclose to the municipality any known or potential conflicts of interest arising under the Local Government Ethics Law. The private entity's disclosure obligation shall continue through the term of the contract. Any individual holding a chief municipal finance officer certificate that is supervising the temporary fulfillment of chief financial officer duties for a municipality shall be considered a "chief financial officer" pursuant to N.J.A.C. 5:35-2.1, and, thus, would be required to complete and submit an annual financial disclosure statement pursuant to N.J.S.A. 40A:9-22.3.
- (d) Another officer of the municipality, such as the municipality's chief administrative officer, shall be designated by the governing body to authorize and monitor any transfer of funds to the private entity.
- (e) If a private entity is fulfilling the duties of a chief financial officer, even if an individual holding a chief municipal finance

officer certificate is appointed by a municipality as a chief financial officer at nominal salary while affiliated with the private entity, the private entity shall be considered to be temporarily fulfilling the duties of a chief municipal finance officer, with that individual and the private entity being subject to the provisions of this section.

- 5:32-2.6 Vacancy in the office of chief financial officer; counties
- (a) When a vacancy occurs in the office of chief financial officer following the appointment of a certified county finance officer to that office, the county's governing body or chief executive officer, as appropriate to the form of government, may appoint, for a period not to exceed one year commencing from the date of the vacancy, a person who does not possess a county finance officer certificate to serve as a temporary chief financial officer. Any person so appointed may, with the approval of the Director under (a)2 and 3 below, be reappointed as a temporary chief financial officer for an additional one-year term following the end of the first temporary appointment. No county shall employ a temporary chief financial officer for more than two consecutive one-year terms.
1. Prior to the end of the first-year appointment of a temporary chief financial officer, the county's governing body, or chief executive officer, as appropriate, shall request, in writing, permission from the Director to reappoint a temporary chief financial officer for an additional one-year term. A questionnaire approved by the Director shall be completed and included with the written request. The completed questionnaire and any documents submitted in support of said questionnaire shall be exempt from disclosure under the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.
2. Before granting approval to reappoint a temporary chief financial officer, the Director shall be satisfied that the individual is of good moral character and can satisfactorily fulfill the duties of a chief financial officer. Any request to the Director shall provide the following information:
- i. The candidate's efforts to obtain a county finance officer certificate;
 - ii. Whether, as a condition of hiring, the county performed a criminal background check, credit check, and judgment search, along with the results thereof;
 - iii. An explanation of any repeat comments on the most recent annual audit, attributable to the office of chief financial officer; and
 - iv. An explanation of any complaints against the office of chief financial officer from a member of the public, or other persons, that are of a serious nature, such as those that involve potential, ongoing, or prior litigation.
3. The Director may request from the county's governing body or chief executive officer, as appropriate, such other information as may be necessary to determine the individual's good moral character and ability to fulfill the duties of a chief financial officer.
- SUBCHAPTER 3. CERTIFIED TAX COLLECTORS**
- 5:32-3.1 Duties of a tax collector
- (a) The tax collector shall carry out the duties set forth in this section, along with such other duties as are required by law:
- 1. With respect to billing, the tax collector shall be responsible for:
 - i. Ascertaining the amount of taxes due from each taxpayer and informing each taxpayer of this fact;
 - ii. Understanding the process by which taxes are determined;
 - iii. Cooperating with the municipal tax assessor, the county board of taxation, and other financial authorities;
 - iv. Designing and implementing an efficient method of issuing bills; and
 - v. Having a working knowledge of property tax exemptions, abatements, and deductions, along with electronic data processing of tax rolls and tax billing.
 - 2. With respect to the collection of monies, the tax collector shall be responsible for:
 - i. Receiving and accounting for payments upon notification of taxes due;

- ii. Ensuring the proper disposition of funds received;
- iii. Maintaining detailed accounting records; and
- iv. Processing electronic data, as it pertains to the collection of monies.

3. With respect to enforcement, the tax collector shall be responsible for initiating and carrying out procedures for enforcing the timely payment of taxes by the taxpayers, including, but not limited to, the application of interest on delinquent accounts, tax liens, and tax sales. The tax collector shall also assist in the foreclosure of municipally held tax sale certificates.

4. As appropriate to the form of government, the tax collector shall be responsible for providing the governing body and appropriate municipal officials with regular reports on the activities of his or her office including, but not limited to, billings, adjustments, collections, and balances.

5. The tax collector shall ensure compliance with all statutes, rules, regulations, and directives pertaining to municipal tax collection.

(b) A tax collector may be assigned certain secondary duties that are not specifically prohibited by law, such as, but not limited to, tax search officer, collector of utility accounts, municipal treasurer, and treasurer of school monies.

5:32-3.2 Course of instruction—certified tax collector

(a) In addition to other requirements defined by N.J.S.A. 40A:9-145 et seq., successful completion of the courses described in (a)1, 2, and 3 below and as administered through the Center for Government Services at Rutgers, the State University, shall be required of candidates for municipal tax collector certification.

1. Principles of Municipal Tax Collection I, as follows:

- i. Local government in New Jersey;
- ii. Office and duties of the tax collector;
- iii. Office and duties of the assessor and the county board of taxation;
- iv. Assessments for local improvements;
- v. Tax deductions and exemptions;
- vi. Billing duties;
- vii. Cashier duties;
- viii. Reports;
- ix. Interest;
- x. Enforcement duties prior to tax sale;
- xi. Personal property;
- xii. Miscellaneous duties;
- xiii. Office and duties of the treasurer;
- xiv. Office and duties of the utility collector;
- xv. Office and duties of the tax search officer;
- xvi. Treasurer of school monies; and
- xvii. Tax sale overview.

2. Principles of Municipal Tax Collection II, as follows:

i. Study of N.J.S.A. 54:5, Articles 1 through 11.

3. Principles of Municipal Tax Collection III, as follows:

- i. Setting up an office;
- ii. Management techniques;
- iii. Office procedures;
- iv. Internal control;
- v. Records;
- vi. Reconciliations;
- vii. Reports; and
- viii. Miscellaneous.

(b) Upon approval of the Director, for content and format, any of the training courses set forth in (a) above may be combined, or may be incorporated into a new or existing undergraduate or graduate-level course.

(c) Applicants for tax collector examination and certification shall submit to the Division, an application form approved by the Director. The application submission shall include proof(s) of meeting the requirements set forth in N.J.S.A. 40A:9-145.2. At the discretion of the Director, additional information and documentation may be required upon receipt of an application. Each completed application for examination shall be filed with the

Division at least 30 calendar days prior to the date of examination, and shall be accompanied by a fee in the amount of \$50.00, payable to the Treasurer, State of New Jersey. When the Director authorizes one or more tax collector examination sections to be taken separately, the fee for registering for a single examination sitting shall be \$25.00.

(d) The Director shall determine the content of the examination, which shall be of such character as to fairly test and determine the ability to perform the duties of tax collector. Examinations shall be written, unless the Director determines that an applicant's qualifications are better evaluated with an exam containing both written and oral components.

(e) Upon a finding by the Director that a candidate has successfully met the criteria set forth in N.J.S.A. 40A:9-145.2, a tax collector certificate shall be issued to the applicant, upon a payment of a fee of \$50.00 payable to the Treasurer, State of New Jersey.

5:32-3.3 Renewal of tax collector certificates

(a) Renewal of a tax collector certificate shall be required every two years, subject to the applicant's fulfillment of continuing education requirements, the submission of an application for renewal, and payment of a \$50.00 fee payable to the Treasurer, State of New Jersey. Renewal of a tax collector certificate shall be requested on a renewal form approved by and submitted to the Director.

1. Applicants shall obtain a minimum of 15 continuing education contact hours in the subject areas of enforcement, legislation, reporting/billing and collection, ethics, and general/secondary duties. Said credits shall be approved by the Director as relevant to the subject matter area and the duties of a tax collector pursuant to law, with the following minimum contact hours for each subject area:

- i. Three contact hours in the subject area of enforcement;
- ii. Two contact hours in the subject area of legislation;
- iii. Two contact hours in the subject area of reporting/billing collection;
- iv. Three contact hours in the subject area of ethics; and
- v. Two contact hours in the subject area of general/secondary duties.

2. If an applicant has earned at least 15 continuing education contact hours within the renewal period, but has not achieved the minimum number of contact hours in a given subject area, the Director has discretion to waive the required minimum upon written application and good cause shown, provided that the applicant has earned at least one contact hour in the given subject area.

3. At the option of the applicant, contact hours in the subject area of information technology approved by the Director for relevance to the subject matter area and the duties of a tax collector may be applied toward the 15 continuing education contact hours, required under (a)1 above, in addition to the required minimum contact hours.

4. An individual who holds a tax collector certificate and allows such certificate to lapse by failing to renew shall be required to apply to take the qualifying examination required pursuant to N.J.S.A. 40A:9-145.2, and pay the requisite fee for such application and certificate in order to obtain a new tax collector certificate, except that, when an individual applies within six months after the expiration of the certificate, the application may be made in the same manner as a renewal, but the application shall be accompanied by the fee required for a new application.

5. Within 12 months after the expiration of the certificate, an application may be made in the same manner as renewal only if the Director determines that a certificate holder is prevented from earning the required continuing education units within six months of the expiration of the certificate. The applicant must demonstrate both a good faith effort to earn the required continuing education units within six months after the expiration of the certificate, and that either or both of the above conditions in (a)5i and/or ii below made it impossible to obtain the requisite continuing education

units. The circumstances preventing renewal that qualify under this paragraph are:

- i. A flood, hurricane, superstorm, tornado, or other natural disaster, and a state of emergency has been declared as a result thereof by the Governor; or
- ii. A medical event or condition.

SUBCHAPTER [5.] 4. QUALIFIED PURCHASING AGENTS

[5:34-5.1] 5:32-4.1 Qualified purchasing agent

(a) An individual shall be considered a qualified purchasing agent pursuant to N.J.S.A. 40A:11-9.b to exercise the supplemental authority as set forth in N.J.S.A. 40A:11-3 and 40A:11-4.3 or [N.J.S.A.] 18A:18A-3 and 18A:18A-4.3 upon meeting the criteria relevant to the individual as set forth in N.J.S.A. 40A:11-9.

(b) To meet the criteria of required training courses set forth in N.J.S.A. 40A:11-9.b(5), an applicant shall successfully complete the following courses[,] provided by the [Center for Government Services at Rutgers, the State University, the] Division of Local Government Services, or, with the approval of the Director, **the Center for Government Services at Rutgers, the State University of New Jersey** [an alternative State University] or a county college:

1.-4. (No change.)

(c) (No change.)

(d) **Upon approval of the Director, for content and format, any of the training courses set forth in (b) above may be combined, or may be incorporated into a new or existing undergraduate or graduate-level course.**

[(d)] (e) The following individuals who apply for qualified purchasing agent certification [after June 30, 2015,] must certify to having earned 2.0 contact hours of coursework on the subject area of green purchasing before being eligible to take the certification exam[,] **and** said coursework shall be approved by the Director as relevant to the subject matter area and the duties of a QPA pursuant to N.J.S.A. 40A:11-9 and this chapter:

1. [Successfully] **Individuals who have successfully** completed all training courses required pursuant to N.J.S.A. 40A:11-9.b(5) prior to October 20, 2014;

2. [Successfully] **Individuals who have successfully** completed one or more of the training courses required pursuant to N.J.S.A. 40A:11-9.b(5) prior to June 30, 2015, and whose remaining coursework will not cover green purchasing; **or**

3. [Are] **Individuals who are** otherwise exempt from taking the prerequisite training courses pursuant to N.J.S.A. 40A:11-9.b(7) or 40A:11-9.f.

[(e)] (f) [Those individuals] **Individuals** applying for a qualified purchasing agent certificate [after June 30, 2015,] who are exempt from the certification exam pursuant to N.J.S.A. 40A:11-9.e(2), must certify to having earned 2.0 contact hours of coursework on the subject area of green purchasing before being eligible to receive a qualified purchasing agent certificate. Said coursework shall be approved by the Director as relevant to the subject matter area and the duties of a QPA pursuant to N.J.S.A. 40A:11-9 and this chapter.

[(f)] (g) Applicants for a qualified purchasing agent examination and certification shall submit to **the Division** an application form [available under the Professional Certification section on the Division website (www.nj.gov/dca/divisions/dlgs) to the Director] **approved by the Director**. The application submission shall include proof(s) of meeting the requirements in N.J.S.A. 40A:11-9 and as described as part of the application form. [Applications may be submitted at any time.] At the discretion of the Director, additional **information** and documentation may be required upon receipt of an application. **Each completed application shall be filed with the Division at least 30 calendar days prior to the date of the examination, and shall be accompanied by a fee in the amount of \$150.00 payable to the Treasurer, State of New Jersey. The Director shall determine the content of the examination.**

(h) Upon meeting the requirements of law, the applicant shall be issued a certificate as a qualified purchasing agent **upon payment to the Director of a fee of \$25.00 payable to the Treasurer, State of New Jersey.**

[5:34-5.2] 5:32-4.2 Continuing education requirements

(a) Renewal of a qualified purchasing agent certificate shall be required every three years, subject to the applicant's fulfillment of continuing education requirements, the submission of an application for renewal, and payment of a \$35.00 fee payable to the order of the Treasurer, State of New Jersey.

1. Applicants shall obtain 20 continuing education contact hours in subject areas of procurement procedures, office administrative/general duties, ethics, and green purchasing[, said]. **Said** credits shall be approved by the Director as relevant to the subject matter area and the duties of a QPA pursuant to N.J.S.A. 40A:11-9 and this chapter, with the following minimum contact hours for each subject area:

i. [2.0] **Two** contact hours in the subject area of procurement procedures;

ii. [2.0] **Two** contact hours in the subject area of office administrative/general duties;

iii. [3.0] **Three** contact hours in the subject area of ethics; and

iv. [2.0] **Two** contact hours in the subject area of green purchasing.

2. At the option of the applicant, contact hours in the subject area of information technology approved by the Director for relevance to the subject matter area and the duties of a QPA pursuant to N.J.S.A. 40A:11-9 and this chapter may be applied toward the 20 continuing education contact hours, required under (a) above, in addition to the required minimum contact hours [for procurement procedures, office administrative/general duties, ethics, and green purchasing].

3. If an applicant has earned at least 20 continuing education contact hours within the renewal period, but has not achieved the minimum number of contact hours in a given subject area, the Director has discretion to waive the required minimum upon application and good cause shown, **provided that the applicant has earned at least one contact hour in the given subject area.** This waiver discretion shall not apply to the minimum number of green purchasing contact hours for certificate renewal cycles expiring no later than June 30, 2019.

4. Qualified purchasing agent certificates shall expire and be due for renewal according to the following schedule:

i.-ii. (No change.)

iii. All qualified purchasing agent certificates issued between January 1, 2010 and April 11, 2012, shall first expire and be due for renewal as of June 30, 2016, and every three years thereafter. All qualified purchasing agent certificates issued after April 11, 2012, shall first expire and be due for renewal either on June 30 or December 31, whichever is sooner, at least three years from when they are first issued, and every three years thereafter, except that no qualified purchasing agent certificate issued after April 11, 2012, shall expire sooner than June 30, 2016.

5. Renewal of qualified purchasing agent certificates shall be requested on [the] a renewal form [available under the Professional Certification section on the Division website www.nj.gov/dca/divisions/dlgs, or an approved copy thereof. The form shall be] **approved by and** submitted to the Director.

6. An individual who holds a qualified purchasing agent certificate and allows such certificate to lapse by failing to renew shall be required to apply to take the qualifying examination [required pursuant to N.J.A.C. 5:34-5.1(c),] and pay the requisite fee for such application in order to obtain a new qualified purchasing agent certification, except that, when an individual applies within six months [of] **after** the expiration of the certificate, the application may be made in the same manner as a renewal.

7. Within 12 months after the expiration of the certificate, an application may be made in the same manner as renewal, only if the Director determines that a certificate holder is prevented from earning the required continuing education units within six months of the expiration of the certificate. The applicant must demonstrate a good faith effort to earn the required continuing education units within six months after the expiration of the certificate, and that either or both of the conditions in (a)7i and/or ii below made it impossible to obtain the requisite continuing education units. The circumstances preventing renewal that qualify under this paragraph are:

i. A flood, hurricane, superstorm, tornado, or other natural disaster, and a state of emergency has been declared as a result thereof by the Governor; or

ii. A medical event or condition.

[5:34-5.4] 5:32-4.3 Procedures for increasing the bid threshold

A contracting unit with a purchasing agent who possesses a qualified purchasing agent certificate pursuant to N.J.S.A. 40A:11-9 desiring to take advantage of the supplemental authority of N.J.S.A. 40A:11-3 and 40A:11-4.3 or [N.J.S.A.] 18A:18-3 and 18A:18A-4.3 shall have its governing body pass a resolution authorizing the amount of a higher bid threshold for the contracting unit, the amount of which shall not exceed the statutory maximum bid threshold.

[5:34-5.5] 5:32-4.4 Vacancy in the office of purchasing agent

(a) Following the appointment of a purchasing agent for a contracting unit, if the person appointed no longer performs such duties, the governing body or chief executive officer, as appropriate to the form of government, may appoint, for a period not to exceed one year commencing from the date of the vacancy, a person who does not possess a qualified purchasing agent certificate to serve as a temporary purchasing agent. Any person so appointed may, with the approval of the Director, be reappointed as a temporary purchasing agent for a maximum of one additional year following the end of the first temporary appointment. No contracting unit shall employ a temporary purchasing agent for more than two consecutive years.

1. Prior to the end of the first year appointment of a temporary purchasing agent, the governing body, or chief executive officer, as appropriate, shall request, in writing, permission from the Director to appoint a temporary purchasing agent for a second year. A questionnaire approved by the Director shall be completed and included with the written request. The completed questionnaire and any documents submitted in support of said questionnaire shall be exempt from disclosure under the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

2. Before granting approval to appoint a temporary purchasing agent for a second year, the Director shall be satisfied that the individual is of good moral character and can satisfactorily fulfill the duties of a purchasing agent. Any request to the Director shall provide the following information:

i. The candidate's efforts to obtain a qualified purchasing agent certificate;

ii. Whether, as a condition of hiring, the contracting unit performed a criminal background check, credit check and judgment search, along with the results thereof;

iii. An explanation of any repeat comments on the most recent annual audit, attributable to the office of purchasing agent; and

iv. An explanation of any complaints against the office of purchasing agent from a member of the public or other persons that are of a serious nature, such as those involving potential, ongoing, or prior litigation.

3. The Director may request from the governing body or chief executive officer of the contracting unit, as appropriate, such other information as may be necessary to determine the individual's good moral character and ability to fulfill the duties of purchasing agent.

[2.] (b) (No change in text.)

SUBCHAPTER 5. REGISTERED MUNICIPAL CLERKS

5:32-5.1 Certification of registered municipal clerks

(a) No person shall be appointed or reappointed as a municipal clerk by a municipality, unless they have been issued a registered municipal clerk certificate by the Director of the Division of Local Government Services.

(b) Candidates for registered municipal clerk certification shall first successfully complete an examination administered by the Division. The examination shall be held on a semi-annual basis.

(c) Candidates for the registered municipal clerk certification exam shall meet the age, citizenship, character, and education/experience requirements set forth in N.J.S.A. 40A:9-133.2.a and b. In addition, candidates for examination shall furnish proof of

successfully completing the following courses, provided by Rutgers, the State University of New Jersey or similar courses offered at a college or university approved by the Division:

1. Introduction to the Duties of the Municipal Clerk;

2. Advanced Duties of the Municipal Clerk;

3. Local Elections Administration;

4. Information and Records Management; and

5. Municipal Finance Administration for Municipal Clerks or Municipal Finance Administration for Purchasing Agents.

(d) Upon approval of the Director, for content and format, any of the training courses set forth in (c) above may be combined, or may be incorporated into a new or existing undergraduate or graduate-level course.

(e) Applicants for registered municipal clerk examination and certification shall submit to the Division an application form approved by the Director. The application submission shall include proof(s) of meeting the requirements set forth in N.J.S.A. 40A:9-133.2. At the discretion of the Director, additional information and documentation may be required upon receipt of an application. Each completed application shall be filed with the Division at least 30 calendar days prior to the date of examination, and shall be accompanied by a fee in the amount of \$50.00, payable to the Treasurer, State of New Jersey.

(f) The Director shall determine the content of the examination, which shall be of such character as to fairly test and determine the ability to perform the duties of a registered municipal clerk. Examinations shall be written, unless the Director determines that an applicant's qualifications are better evaluated with an exam containing both written and oral components.

(g) Upon a finding by the Director that a candidate has successfully completed the examination, a registered municipal clerk certificate shall be issued to the applicant, upon a payment of a fee of \$50.00 payable to the Treasurer, State of New Jersey.

5:32-5.2 Renewal of registered municipal clerk certificates

(a) Renewal of a registered municipal clerk certificate shall be required every two years, subject to the applicant's fulfillment of continuing education requirements, the submission of an application for renewal, and payment of a \$50.00 fee payable to the Treasurer, State of New Jersey. Renewal of registered municipal clerk certificates shall be requested on a renewal form approved by and submitted to the Director.

1. Applicants shall obtain a minimum of 20 continuing education contact hours in the subject areas of elections, finance, licensing, records, ethics, and professional development. Said credits shall be approved by the Director as relevant to the subject matter area and the duties of a registered municipal clerk pursuant to N.J.S.A. 40A:9-133(e), with the following minimum contact hours for each subject area:

i. Two contact hours in the subject area of elections;

ii. Two contact hours in the subject area of finance;

iii. Three contact hours in the subject area of ethics;

iv. Two contact hours in the subject area of licensing;

v. Two contact hours in the subject area of records; and

vi. Two contact hours in subject area of professional development.

2. If an applicant has earned at least 20 continuing education contact hours within the renewal period, but has not achieved the minimum number of contact hours in a given subject area, the Director has discretion to waive the required minimum upon written application and good cause shown, provided that the applicant has earned at least one contact hour in the given subject area.

3. At the option of the applicant, contact hours in the subject area of information technology approved by the Director for relevance to the subject matter area and the duties of a chief financial officer may be applied toward the 20 continuing education contact hours, required under (a)1 above, in addition to the required minimum contact hours.

4. An individual who holds a registered municipal clerk certificate and allows such certificate to lapse by failing to renew shall be required to apply to take the qualifying examination required pursuant to N.J.S.A. 40A:9-133.2, and pay the requisite fee for such application and certificate in order to obtain a new registered municipal clerk certificate, except that, when an individual applies within six months after the expiration of the certificate, the application may be made in the same manner as a renewal but the application shall be accompanied by the fee required for a new application.

5. Within 12 months after the expiration of the certificate, an application may be made in the same manner as renewal only if the Director determines that a certificate holder is prevented from earning the required continuing education units within six months of the expiration of the certificate. The applicant must demonstrate a good faith effort to earn the required continuing education units within six months after the expiration of the certificate, and that either or both of the above conditions in (a)5i and ii below made it impossible to obtain the requisite continuing education units. The circumstances preventing renewal that qualify under this paragraph are:

- i. A flood, hurricane, superstorm, tornado, or other natural disaster, and a state of emergency has been declared as a result thereof by the Governor; or
- ii. A medical event or condition.

5:32-5.3 Vacancy in the office of municipal clerk by reason of departure of a registered municipal clerk

(a) When a vacancy occurs in the office of municipal clerk by reason of departure of a registered municipal clerk, the municipality's governing body may appoint, for a period not to exceed one year commencing from the date of the vacancy, a person who does not possess a registered municipal clerk certificate to serve as acting municipal clerk. Any person so appointed may, with the approval of the Director, based on (a)2 and 3 below, be reappointed as an acting municipal clerk for up to two additional one-year terms following the end of the first temporary appointment. No municipality shall have an acting municipal clerk for more than three consecutive years.

1. Prior to the end of the first-year appointment of an acting municipal clerk, the governing body shall request, in writing, permission from the Director to reappoint an acting municipal clerk for an additional one-year term. A questionnaire approved by the Director shall be completed and included with the written request. A request for Director approval of a third one-year term shall follow the same procedure. The completed questionnaire and any documents submitted in support of said questionnaire shall be exempt from disclosure under the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

2. Before granting approval to reappoint an acting municipal clerk for a second or third consecutive one-year term, the Director shall be satisfied that the individual is of good moral character and can satisfactorily fulfill the duties of a municipal clerk. Any request to the Director shall provide the following information:

- i. The candidate's efforts to seek a registered municipal clerk certificate;
- ii. Whether, as a condition of hiring, the municipality performed a criminal background check, credit check, and judgement search, along with the results thereof. For requests to reappoint the same individual to another one-year term, any updates to such information shall be disclosed;
- iii. An explanation of any repeat comments on the most recent annual audit, attributable to the office of municipal clerk;
- iv. An explanation of any Open Public Records Act complaints involving the acting municipal clerk; and
- v. An explanation of any complaints against the office of municipal clerk from a member of the public or other persons that are of a serious nature, such as those involving potential, ongoing, or prior litigation.

3. The Director may request from the municipality's governing body such other information as may be necessary to determine the individual's good moral character and ability to fulfill the duties of a municipal clerk.

(a)

DIVISION OF HOUSING AND COMMUNITY RESOURCES

Rules for Housing Preference for Veterans and Surviving Spouses

Proposed New Rules: N.J.A.C. 5:40

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

Authority: P.L. 2016, c. 19, and P.L. 2017, c. 19.

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

Proposal Number: PRN 2017-180.

Submit written comments by October 6, 2017, to:

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The agency proposal follows:

Summary

These rules are proposed by the Department in order to implement P.L. 2016, c. 19, and P.L. 2017, c. 19. Those acts amended various statutes to create a housing preference for veterans, and in some cases for their surviving spouses and certain family members of disabled veterans.

P.L. 2016, c. 19, amended the New Jersey Housing and Mortgage Finance Agency Law of 1983, N.J.S.A. 55:14K-1 et seq. The current legislation adds new N.J.S.A. 55:14K-8.f, which provides that notwithstanding other housing priorities, the Commissioner of the Department of Community Affairs (DCA) in consultation with the Adjutant General of Military and Veterans' Affairs, "shall promulgate admission rules and regulations for any housing project, financed in whole or in part by loans authorized hereunder, to provide a housing preference for veterans and surviving spouses" as those terms are defined in N.J.S.A. 54:4-8.10, where they qualify for public housing assistance.

In addition, P.L. 2016, c. 19, also amends the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq., with the creation of new N.J.S.A. 40A:12A-20.1. That new section provides that the DCA Commissioner, again in consultation with the Adjutant General, "shall promulgate admission rules and regulations for public housing authorities and redevelopment agencies created pursuant to [N.J.S.A. 40A:12A-17 and 21] and [DCA] when acting as a public housing authority, to provide a housing preference for veterans and surviving spouses" as those terms are defined in N.J.S.A. 54:4-8.10, where they qualify for public housing assistance.

P.L. 2017, c. 19, amends the County Improvement Authority Law, N.J.S.A. 40:37A-44 et seq. The act requires the DCA Commissioner to establish rules to provide a preference for veterans for affordable housing in housing projects as defined in N.J.S.A. 40:37A-107. Veterans shall be eligible in the following order of priority: homeless veterans, followed by disabled veterans, followed by family members of disabled veterans who are the primary residential caregivers and reside with them. In addition, P.L. 2017, c.19, also amends the Redevelopment Law, cited above, to create the same preference and priorities for projects covered by that act.

Proposed N.J.A.C. 5:40-1.1 sets forth the title and purpose of the rules.