

Committee to represent other relevant interests as the Commissioner deems appropriate.

(f) No individual shall serve on the Committee as the representative of more than one category in (b) and (d) above, even if he or she meets the qualifications for more than one category.

(g) No employee of the Department shall serve as an appointed member of the Committee pursuant to (d) or (e) above while employed by the Department.

7:3-6.3 Appointed members; term and compensation

(a) Appointed members shall serve at the pleasure of the Commissioner for a term of three calendar years.

(b) Notwithstanding (a) above, of the six members of the Committee to be initially appointed by the Commissioner in accordance with N.J.A.C. 7:3-6.2(d), two shall be appointed for a term of one calendar year (or part thereof), two for a term of two calendar years (or part thereof), two for a term of three years (or part thereof). Thereafter, each appointment under N.J.A.C. 7:3-6.2(d) shall be made for a term of three calendar years, except as set forth in (d) below.

(c) An appointed member shall serve for the term for which he or she is appointed, or until the member resigns or his or her term is terminated by the Commissioner.

(d) Each appointed member serving at the time of the expiration of his or her term, may continue to serve until he or she resigns or his or her successor is appointed, unless the Commissioner directs otherwise.

(e) Any vacancy occurring in the appointed membership of the Committee, by expiration of term or otherwise, shall be filled by the Commissioner in the same manner as the original appointment. A new appointee shall serve for the unexpired portion of the term.

(f) Appointed members shall serve without compensation.

7:3-6.4 Functions and authority of the Committee

(a) The Committee is authorized to perform any function assigned to it under Federal or State law, including, but not limited to:

1. Advising the Department in accordance with N.J.S.A. 13:1L-35 and 36, and the USDA Forest Service's National Forest Stewardship Guidelines; and

2. Serving as New Jersey's Forest Stewardship Coordinating Committee in accordance with the Food, Agriculture, Conservation, and Trade Act of 1990, 16 U.S.C. § 2103(c), and the Cooperative Forestry Assistance Act, 16 U.S.C. § 2113(b).

7:3-6.5 Organization and conduct of the Committee

(a) The chairperson shall, in accordance with N.J.A.C. 7:3-6.6, schedule and preside over Committee meetings and coordinate Committee activities. The Committee may take action by the affirmative vote of a majority of the members present at a meeting, provided that a quorum of 50 percent or more of the members of the Committee is in attendance.

(b) All Committee members shall be voting members, except that the chairperson shall vote only as necessary to break a tie.

(c) As soon as practical after the initial appointment of the Committee's members, the chairperson shall call a meeting of the Committee.

(d) The Committee shall elect a Vice-Chair from among its members. The Vice-Chair shall serve as chairperson in the event of the absence or recusal of the Committee Chair. The member elected Vice-Chair shall serve in that position for one year, unless he or she resigns the position or is no longer a member of the Committee. The Committee shall elect a Vice-Chair from among the Committee's membership whenever there is a vacancy in the position, but no less frequently than annually.

(e) The Committee may adopt bylaws for the regulation of its affairs, provided these are consistent with the provisions of this subchapter and are approved by the State Forester. Bylaws may include, but need not be limited to, how Committee meetings shall be conducted and the establishment of additional officer positions, temporary or ongoing.

7:3-6.6 Authority and responsibilities of the Chair

(a) Annually, after consulting with members at a regularly scheduled meeting, the Chair shall establish a schedule of Committee meetings, which shall provide for no fewer than three meetings per calendar year, and which shall fix the time and place of the meetings.

(b) The Chair shall prepare and distribute an agenda prior to each meeting and shall preside over the meeting.

(c) The Chair may call special meetings of the Committee on not less than 10 days' notice to each member, when the Chair determines such a meeting is necessary or advisable.

(d) Subject to Committee vote, the Chair may:

1. Establish a sub-committee for an assigned purpose, name a member to head the sub-committee, assign responsibilities to the sub-committee, and specify deadlines and obligations of the sub-committee to report to the Committee as a whole; and

2. Dissolve a sub-committee when its work is complete or it is otherwise no longer needed.

(e) Subject to Committee vote, the Chair may:

1. Establish one or more temporary officer positions, specify the duties of the position, and assign a member to the position; and

2. Eliminate any temporary officer position at the end of the term of the incumbent on the Committee or whenever the Chair determines that the position is no longer needed.

(f) The Chair shall sign, on behalf of the Committee, reports, letters, and other documents approved by the Committee.

(g) The Chair shall track the participation and terms of Committee members and may request that the Commissioner:

1. Dismiss, and thereafter replace, an appointed member who does not attend three or more meetings in a calendar year, or three consecutive meetings;

2. Replace a member who resigns or who is dismissed by the Commissioner; and

3. Reappoint or replace a member whose term expires.

(h) The Chair shall ensure that the following are made and maintained in accordance with the applicable requirements for retention and disposition of public records at N.J.A.C. 15:3:

1. Records of members' attendance at Committee meetings;

2. Minutes of all Committee meetings;

3. Reports and other such products of the Committee conveying its advice and/or recommendations pursuant to N.J.A.C. 7:3-6.4, together with any and all supporting documentation; and

4. Committee correspondence.

LAW AND PUBLIC SAFETY

(a)

DIVISION ON CIVIL RIGHTS

Multiple Dwelling Reports

Proposed Readoption with Amendments: N.J.A.C. 13:10

Authorized By: Craig Sashihara, Director, Division on Civil Rights.

Authority: N.J.S.A. 10:5-8 and 10:5-12.

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

Proposal Number: PRN 2017-059.

Submit written comments by June 16, 2017, to:

Estelle Bronstein, Deputy Executive Director

Department of Law and Public Safety

Division on Civil Rights

PO Box 089

Trenton, New Jersey 08625-0089

or electronically at: Estelle.Bronstein@njcivilrights.gov

The agency proposal follows:

Summary

The New Jersey Division on Civil Rights (DCR), in the Department of Law and Public Safety, enforces the New Jersey Law Against Discrimination (LAD), N.J.S.A. 10:5-1 through 49. Pursuant to N.J.S.A. 52:14B-5.1, DCR's rules concerning Multiple Dwelling Reports, N.J.A.C. 13:10, were set to expire on March 16, 2017. As the Division on Civil Rights submitted this notice of proposal to the Office of Administrative Law prior to that date, the expiration date is extended 180 days to September 12, 2017, pursuant to N.J.S.A. 52:14B-5.1.c(2). DCR has reviewed these rules and determined that they are necessary, reasonable, and proper for the purpose for which they were originally promulgated; however, pursuant to its rulemaking authority found at N.J.S.A. 10:5-8, DCR proposes amendments to N.J.A.C. 13:10-2.7 to improve efficiency and clarity, and to comport with Executive Order No. 2 (2010) (EO#2). In addition, DCR proposes a technical amendment to N.J.A.C. 13:10-2.3 to update the Uniform Resource Locator (URL), also known as a "website address" listed in the rule.

First enacted in 1945, among its many prohibitions, the LAD makes it unlawful to discriminate on the basis of race, color, ancestry, nationality, national origin, or disability in the rental of any real property or in the terms and conditions of such rental. See N.J.S.A. 10:5-12.g and 10:5-12.h. DCR promulgated N.J.A.C. 13:10, the Multiple Dwelling Reports Rule (MDRR) in 1970, to provide DCR with data necessary to "study patterns of housing occupancy, investigate practices of discrimination and affirmatively administer the Law Against Discrimination ..." N.J.A.C. 13:10-2.1. The validity of the MDRR was upheld as a "proper exercise of the rule making power" in *New Jersey Builders, Owners and Managers Ass'n v. Blair*, 60 N.J. 330, 339 (1972). The MDRR requires owners of multiple apartment developments with 25 or more units to retain certain records and file an annual report with DCR containing the racial/ethnic identity of apartment applicants and leaseholders, rental recruitment techniques, and whether its rentals are barrier-free. For the 2015 filing year, DCR identified 3,800 multiple apartment development owners.

Since its initial promulgation, DCR has amended the MDRR several times to improve its usefulness and efficiency. In 1999, the rule was amended to obtain more accurate data, by changing the term "racial designation" to "racial/ethnic designation" and identifying more comprehensive racial/ethnic categories: Black or African American; American Indian or Alaska Native; Asian; Hispanic or Latino; Native Hawaiian or Other Pacific Islander; and White or Caucasian. In 2004, the rule was amended to permit optional online filing, and in 2008, it was amended to make online filing mandatory. To assist property owners in collecting and retaining the required information, DCR provided detailed forms and instructions, as well as forms for owners to distribute to applicants and leaseholders to explain the purpose and requirements of the MDRR.

The following is a summary of the existing rules in Chapter 10, which DCR proposes to readopt with amendments.

N.J.A.C. 13:10-1.1 contains definitions of relevant terms and phrases used throughout the chapter. It is proposed for readoption without change.

Subchapter 2 contains the reporting requirements. N.J.A.C. 13:10-2.1 states the purpose of the subchapter and N.J.A.C. 13:10-2.2 identifies the property owners who must file reports under the chapter. 13:10-2.1 and 2.2 are proposed for readoption without change.

DCR proposes to amend N.J.A.C. 13:10-2.3, which establishes the form and contents of the required annual reports, to update the Uniform Resource Locator (URL), also known as a "website address" listed in the rule.

DCR proposes to readopt N.J.A.C. 13:10-2.4, 2.5, and 2.6 without change. N.J.A.C. 13:10-2.4 explains the electronic report-filing process, the timeframe to be covered by each report, and the due date for each report. N.J.A.C. 13:10-2.5 identifies the records that property owners must maintain for a period of three years, and provides that the Attorney General may require retention of additional records and that the DCR may inspect records maintained pursuant to the chapter during business hours. N.J.A.C. 13:10-2.6 provides that failure to comply with the chapter constitutes a violation of the LAD.

N.J.A.C. 13:10-2.7 establishes a schedule of penalties for late filing of annual MDRR reports. Under the rule, an owner who files a report more than 15 calendar days after the deadline, but not later than 30 days, automatically incurs a \$100.00 penalty. The penalty increases to \$250.00, if the owner files at least 30 days, but not later than 60 days late, and to \$500.00, if the owner files more than 60, but not later than 90 days late. Once a report is over 90 days late, the rule gives the DCR Director the discretion to designate the penalty amount, pursuant to N.J.S.A. 10:5-14.1a.

Pursuant to EO#2's directives, DCR conducted an administrative review and determined that the MDRR should provide "waiver" procedures for relaxation of strict compliance with the MDRR's penalty schedule. EO#2 directed State agencies to adopt waivers "to cultivate an approach to regulations that value performance-based outcomes and compliance." In recent years, DCR received several requests for relaxation of the penalty schedule for late filing.

Without undermining the importance and purpose of the rule, DCR has found that there are certain circumstances that warrant a relaxation of the penalties provided by the schedule. The penalty schedule was intended to encourage timely filing and provide standards for penalty assessments. It was not intended to punish entities that were not able to timely file the required report due to exceptional circumstances. For these reasons, the DCR seeks to amend N.J.A.C. 13:10-2.7 to permit the Director, for good cause shown, to waive all or part of a late filing fee imposed by the rule. The proposed amendment to N.J.A.C. 13:10-2.7 sets forth specific factors and bases for relaxing the rule's penalty schedule.

Proposed new N.J.A.C. 13:10-2.7(f) permits DCR's Director to waive penalties incurred for delinquent MDRR reports at the timely request of a multiple apartment development's owner, or a representative of the owner, based on good cause shown, so long as the waiver is consistent with the underlying purposes of the LAD and DCR's rules. The proposed amendment includes factors that the Director may consider, such as the owner's previous history of filing reports; the owner's promptness in filing the report upon notice of delinquency; DCR resources expended on addressing the delinquency; and any exceptional circumstances related to the delinquency, which may include an owner's undue hardship, economic or otherwise. The new subsection is intended to provide flexibility and leniency in applying the penalty schedule for exceptional circumstances, without undermining the importance of the rule for combating housing discrimination. Additionally, the proposed amendment seeks to provide affected stakeholders with transparency in enforcement and application of both the MDRR and its penalty provisions.

DCR also proposes to amend the heading for N.J.A.C. 13:10-2.7, to delete the word "fees" and replace it with the word "penalties." This will make the heading consistent with the language used in the body of the rule and in the penalty provision of the LAD, N.J.S.A. 10:5-14.1a, which both reference "penalties" rather than "fees."

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

Social Impact

Unlawful discrimination threatens the rights and privileges of all inhabitants of the State. The rules proposed for readoption with amendments provide important data to study patterns of housing occupancy and investigate practices of housing discrimination. The rules advance equal access and choice in the housing rental market. The proposed amendment to N.J.A.C. 13:10-2.7 would create a positive social impact, as it provides DCR with the ability to reduce or waive late penalties for owners of multiple apartment developments who file reports late as a result of exceptional circumstances.

Economic Impact

The rules proposed for readoption with amendments are designed to provide DCR with annual data related to residential rentals and housing discrimination and their effectiveness is strongly tied to the timely filing of the collected data from all multiple apartment development owners. As adopted in 2004, the penalty schedule for late filings was intended to create an incentive for multiple apartment development owners to file

reports on time, but was not intended to be unnecessarily punitive. DCR now recognizes that for good cause shown, penalties should be reduced or waived. As the proposed amendment to N.J.A.C. 13:10-2.7 permits the Director to waive or reduce penalties where appropriate, it will have a positive economic impact on those owners who file reports late as a result of exceptional circumstances.

Further, DCR will experience positive economic impact, since the proposed amendment would reduce DCR's costs associated with tracking and collecting late filing penalties. By including a waiver procedure and waiver standards in the rule, DCR will be able to more quickly identify the owners who qualify for waivers, process waiver requests more efficiently, and devote its limited resources to fully enforcing the penalty provisions where owners willfully or repeatedly neglect their filing obligations.

Federal Standards Statement

A Federal standards analysis is not necessary because the rules proposed for readoption with amendments are not intended to implement or comply with any programs established under Federal law or under a State statute that incorporates or refers to Federal law.

Jobs Impact

The rules proposed for readoption with amendments will not increase or decrease the number of jobs in New Jersey. The rules proposed for readoption with amendments will have no impact on the increase or decrease of staff positions in DCR.

Agriculture Industry Impact

The rules proposed for readoption with amendments will not have any impact on the agriculture industry in New Jersey.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act (the Act), N.J.S.A. 52:14B-16 et seq., requires DCR to give a description of the types, and an estimate of the number of small businesses to which the MDRR will apply. The rules proposed for readoption with amendments will apply only to owners of multiple apartment developments with at least 25 units, of which there are approximately 3,800 throughout New Jersey. Some of these may be considered a "small business" under the Act. The rules proposed for readoption with amendments will not, however, impose new reporting, recordkeeping, or other compliance requirements on owners of multiple apartment developments. There will be no additional costs to continued compliance or need to employ professional services incident to following the proposed amendment to N.J.A.C. 13:10-2.7. Instead, the proposed amendment provides a process for these owners to apply for a waiver of incurred penalties for good cause shown.

Housing Affordability Impact Analysis

DCR anticipates that the rules proposed for readoption with amendments may have an insignificant impact on the affordability of housing in New Jersey and is extremely unlikely to evoke a change in the average costs associated with housing, because the rules proposed for readoption with amendments clarify existing State law, and concern a small percentage of multiple apartment development owners.

Smart Growth Development Impact Analysis

DCR does not anticipate that the rules proposed for readoption with amendments will have any impact on smart growth and would pose an extreme unlikelihood to evoke a change housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the rules proposed for readoption with amendments clarify existing State law, and provide for waiver or relaxation of penalties for late filing of reports.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 13:10.

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

SUBCHAPTER 2. REPORTING

13:10-2.3 Form and contents of report

(a) The report shall be submitted on forms approved by the Attorney General and said forms shall be available on the website of the Division on Civil Rights (www.NJCivilRights.org) www.NJCivilRights.gov.

(b) (No change.)

13:10-2.7 Late filing [fees] penalties

(a)-(e) (No change.)

(f) The Director of the Division on Civil Rights may, in his or her discretion, waive all or part of the penalties incurred with the late filing of a report or reports for good cause shown, so long as such waiver would not compromise the purpose of the reports as set forth in N.J.A.C. 13:10-2.1. An owner of a multiple apartment development may apply to the Director of the Division on Civil Rights for a waiver or relaxation of the penalties incurred because of the late filing or failure to file a report or reports. Such request shall be made in writing, and shall set forth, with specificity, the owner's reasons for late filing or failure to file. If applicable, documentation supporting the request should be included. The Director may consider such factors as the owner's previous filing history, the owner's promptness in filing the report upon notice of delinquency, DCR resources expended on addressing the delinquency, and any exceptional circumstances related to the delinquency (which may include an owner's undue hardship, economic or otherwise).

TRANSPORTATION

(a)

MOTOR VEHICLE COMMISSION

**Licensing Service
Entity Identification Number**

Proposed New Rules: N.J.A.C. 13:21-25

Authorized By: Raymond P. Martinez, Chairman, Motor Vehicle Commission.

Authority: N.J.S.A. 39:2-3, 39:2A-2, 39:2A-21, 39:2A-28, 39:3-4, and 39:10-4.

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

Proposal Number: PRN 2017-057.

Submit comments by June 16, 2017, to:

Kate Tasch
APO
Motor Vehicle Commission
225 East State Street
PO Box 162
Trenton, NJ 08666-0162
or via e-mail to: rulecomments@mvc.nj.gov

The agency proposal follows:

Summary

This notice of proposal is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5 as the public comment period for this notice will be 60 days.

The Motor Vehicle Commission (the Commission) proposes new N.J.A.C. 13:21-25, which would establish procedural requirements for the issuance of an Entity Identification Number. These identification numbers allow businesses, organizations, and government entities to conduct motor vehicle activity, such as titling and registering motor vehicles, obtaining licenses from the Commission, such as a dealer's license, and/or to obtain motor vehicle related information from the Commission, such as by insurance companies, under the name of the entity. The Commission has issued such identification numbers in the past and does so presently. The activities that may be conducted using an