

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:

Kathleen Asher
 Department of Community Affairs
 PO Box 800
 Trenton, New Jersey 08625
 E-mail: Kathleen.Asher@dca.nj.gov
 Fax Number: (609) 984-6696

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.

Proposed N.J.A.C. 5:40-1.2 provides the definitions applicable to the rules.

Proposed N.J.A.C. 5:40-2.1 sets forth the standards and procedures governing the implementation of the preference with regard to housing projects financed in whole or in part by New Jersey Housing and Mortgage Finance Agency (HMFA).

Proposed N.J.A.C. 5:40-2.2 sets forth the standards and procedures governing the implementation of the preference with regard to housing projects operated by a public housing authority or by a redevelopment agency pursuant to the Local Redevelopment Law, including the use of vouchers by such entities.

Proposed N.J.A.C. 5:40-2.3 sets forth the standards and procedures governing the implementation of the preference with regard to housing projects operated pursuant to the authority of the Local Redevelopment and Housing Law, with the exception of those projects covered by N.J.A.C. 5:40-2.2 above.

Proposed N.J.A.C. 5:40-2.4 sets forth the standards and procedures governing the implementation of the preference with regard to housing projects operated by a county improvement authority pursuant to the County Improvement Authority Law.

Proposed N.J.A.C. 5:40-2.5 sets forth the standards and procedures governing the implementation of the preference with regard to DCA's administration of housing vouchers.

As the Department has provided as 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 rules implement the intention of P.L. 2016, c. 19, and P.L. 2017, c. 19, to ensure that veterans and in some instances surviving spouses and certain family members of disabled veterans, who otherwise qualify for public housing assistance, receive a preference for such housing when it becomes available, with regard to the various housing projects and vouchers covered by the two acts. While this will move such applicants ahead of other qualified applicants, this reflects the Legislature's determination that such a result is desirable.

Economic Impact

The rules will impose certain costs on DCA, in terms of its administration of its housing choice voucher programs. DCA will be required to ensure that any use of such vouchers reflects the housing preference for veterans and surviving spouses. However, DCA already includes other preferences in its voucher programs, so the additional cost will not be substantial. A similar administrative cost will apply to HMFA and to public housing authorities.

Federal Standards Statement

No Federal standards analysis is required because the rules 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 Federal law, standards, or requirements.

Jobs Impact

DCA does not anticipate that the rules will result in the creation or the loss of any jobs.

Agriculture Impact Statement

DCA does not anticipate that the rules will in any manner impact the agriculture industry.

Regulatory Flexibility Analysis

There will be no imposition of reporting, recordkeeping, or other compliance requirements on small businesses. The rules implement a housing preference for veterans, and in some instances surviving spouses and certain family members of disabled veterans, with regards to housing projects and vouchers administered by the public entities covered by the two acts.

Housing Affordability Impact Analysis

The rules, which give veterans, surviving spouses, and certain family members of disabled veterans a preference for public housing assistance, relate exclusively to those individuals that already qualify for affordable housing. The rules will not generate new housing; as a result, DCA

believes that there is an extreme unlikelihood that the rules will evoke a change in the average costs of housing or evoke a change in the affordability of housing in the State.

Smart Growth Development Impact Analysis

The rules relate solely to assigning a preference to veterans, surviving spouses, and certain family members of disabled veterans for public housing assistance, where they qualify, and, thus, DCA does not anticipate that the rules will result in an increase or decrease in the availability of affordable housing, or that the rules will have any impact upon housing production within Planning Areas 1 or 2, or within designated centers.

Full text of the proposed new rules follows:

CHAPTER 40 HOUSING PREFERENCE FOR VETERANS AND SURVIVING SPOUSES

SUBCHAPTER 1. GENERAL PROVISIONS

5:40-1.1 Title; purpose

(a) The rules in this chapter shall be known and may be cited as the "Housing Preference for Veterans and Surviving Spouses."

(b) The rules in this chapter are established to implement the provisions of P.L. 2016, c. 19, and P.L. 2017, c. 19. These statutory enactments amended the New Jersey Housing and Mortgage Finance Agency Law, N.J.S.A. 55-14K-1 et seq., the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq., and the County Improvement Authorities Law, N.J.S.A. 40:37A-44 et seq. They direct the Department of Community Affairs to adopt rules that establish a housing preference for veterans and surviving spouses.

5:40-1.2 Definitions

The following words and terms when used in this subchapter shall have the following meaning, unless the context clearly indicates otherwise.

"Active service in time of war" means active service at some time during one of the following periods:

1. Operation "Iraqi Freedom," on or after the date the President of the United States or the United States Secretary of Defense designates as the inception date of that operation, who served in Iraq or in another area in the region in direct support of that operation for a period, continuously or in the aggregate, of at least 14 days in such active service commencing on or before the date the President of the United States or the United States Secretary of Defense designates as the termination date of that operation; provided, that any person receiving an actual service-incurred injury or disability while engaged in such service shall be classed as a veteran whether or not that person has completed the 14 days' service;

2. Operation "Enduring Freedom," on or after September 11, 2001, who served in a theater of operation and in direct support of that operation for a period, continuously or in the aggregate, of at least 14 days in such active service commencing on or before the date the President of the United States or the United States Secretary of Defense designates as the termination date of that operation; provided, that any person receiving an actual service-incurred injury or disability while engaged in such service shall be classed as a veteran whether or not that person has completed the 14 days' service;

3. Operation "Restore Hope" in Somalia, on or after December 5, 1992, or the date of inception of that operation as proclaimed by the President of the United States or Congress, whichever date is earliest, who has served in Somalia or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuously or in the aggregate, of at least 14 days in such active service commencing on or before March 31, 1994; provided that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14-day service;

4. Operations "Joint Endeavor" and "Joint Guard" in the Republic of Bosnia and Herzegovina, on or after November 20, 1995, who served in such active service in direct support of one or both of the operations for

at least 14 days, continuously or in the aggregate, commencing on or before June 20, 1998, and (1) was deployed in that nation or in another area in the region, or (2) was on board a United States naval vessel operating in the Adriatic Sea, or (3) operated in airspace above the Republic of Bosnia and Herzegovina; provided that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person completed the 14-day service requirement;

5. Operation Northern Watch and Operation Southern Watch, on or after August 27, 1992, or the date of inception of that operation, as proclaimed by the President of the United States, Congress or United States Secretary of Defense, whichever date of inception is earliest, who served in the theater of operation, including in the Arabian peninsula and the Persian Gulf, and in direct support of that operation for a period, continuously or in the aggregate, of at least 14 days in such active service, commencing on or before the date of termination as proclaimed by the President of the United States, Congress or United States Secretary of Defense, whichever date of termination is the latest; provided, that any person receiving an actual service-incurred injury or disability while engaged in such service shall be classed as a veteran whether or not that person has completed the 14 days' service;

6. Operation "Desert Shield/Desert Storm" mission in the Arabian peninsula and the Persian Gulf, on or after August 2, 1990, or the date of inception of that operation, as proclaimed by the President of the United States or Congress, whichever date of inception is earliest, who has served in the Arabian peninsula or on board any ship actively engaged in patrolling the Persian Gulf for a period, continuous or in the aggregate, of at least 14 days commencing on or before the date of termination of that mission, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service;

7. The Panama peacekeeping mission, on or after December 20, 1989, or the date of inception of that mission, as proclaimed by the President of the United States or Congress, whichever date of inception is earliest, who has served in Panama or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before January 31, 1990, or the date of termination of that mission, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service;

8. The Grenada peacekeeping mission, on or after October 23, 1983, who has served in Grenada or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before November 21, 1983, or the date of termination of that mission as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service;

9. The Lebanon peacekeeping mission, on or after September 26, 1982, who has served in Lebanon or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before December 1, 1987, or the date of termination of that mission, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service;

10. The Vietnam conflict, December 31, 1960, to May 7, 1975;

11. The Lebanon crisis, on or after July 1, 1958, who has served in Lebanon or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before November 1,

1958, or the date of termination of that conflict, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

12. The Korean conflict, June 23, 1950 to January 31, 1955;

13. World War II, September 16, 1940 to December 31, 1946;

14. World War I, April 6, 1917 to November 11, 1918, and in the case of service with the United States military forces in Russia, April 6, 1917 to April 1, 1920.

"County improvement authority" means a public entity created by a county pursuant to N.J.S.A. 40:37A-46.

"Department" means the State of New Jersey Department of Community Affairs.

"Disabled veteran" means any resident of the State who has been honorably discharged or released under honorable circumstances from active service in any branch of the Armed Forces of the United States, and who has been or shall be declared by the United States Veterans Administration, or its successor, to have a service-connected disability.

"HMFA" means the State of New Jersey Housing and Mortgage Finance Agency.

"Honorably discharged or released under honorable circumstances from active service in time of war" means and includes every form of separation from active, full-time duty with military or naval pay and allowances in some branch of the Armed Forces of the United States in time of war, other than those marked "dishonorable," "undesirable," "bad conduct," "by sentence of general court martial," "by sentence of summary court martial," or similar expression indicating that the discharge or release was not under honorable circumstances. A disenrollment certificate or other form of release terminating temporary service in a military or naval branch of the armed forces rendered on a voluntary and part-time basis without pay, or a release from or deferment of induction into the active military or naval service shall not be deemed to be included in the aforementioned phrase.

"Housing project" means:

1. For purposes of HMFA, as it is defined in N.J.S.A. 55:14K-3.h.

2. For purposes of entities engaging in housing projects under the authority of the Local Redevelopment and Housing Law, as it is defined in N.J.S.A. 40A:12A-3.

3. For purposes of an authority created pursuant to the County Improvement Authorities Law, as it is defined in N.J.S.A. 40:37A-107.f.

"Housing voucher" means a rental assistance subsidy administered by a public housing authority and paid to a landlord on behalf of a participating household.

"Public housing authority" means a public entity created by a county or municipality pursuant to the Redevelopment and Housing Law, N.J.S.A. 40A:12A-17. It may also include the Department in those instances when it is acting in such a capacity.

"Redevelopment agency" means a public entity created by a municipality pursuant to the Redevelopment and Housing Law, N.J.S.A. 40A:12A-11. A public housing authority may be permitted by a municipality to act as a redevelopment agency pursuant to N.J.S.A. 40A:12A-21.

"Resident" means a person legally domiciled within the State of New Jersey. Mere seasonal or temporary residence within the State, of whatever duration, shall not constitute domicile within the State for the purposes of this chapter. Absence from this State for a period of 12 months shall be prima facie evidence of abandonment of domicile in this State. The burden of establishing legal domicile within the State shall be upon the claimant.

"Surviving spouse" means the surviving wife or husband of any of the following, while he or she is a resident of this State, during widowhood or widowerhood:

1. A citizen and resident of this State who has died or shall die while on active duty in time of war in any branch of the Armed Forces of the United States;

2. A citizen and resident of this State who has had or shall hereafter have active service in time of war in any branch of the Armed Forces of

the United States and who died or shall die while on active duty in a branch of the Armed Forces of the United States; or

3. A citizen and resident of this State who has been or may hereafter be honorably discharged or released under honorable circumstances from active service in time of war in any branch of the Armed Forces of the United States.

“Veteran,” as used in N.J.A.C. 5:40-2.1 and 2.5, means any citizen and resident of this State honorably discharged or released under honorable circumstances from active service in time of war in any branch of the Armed Forces of the United States.

As used in N.J.A.C. 5:40-2.2, 2.3, and 2.4, “veteran” means any resident of the State who has been honorably discharged or released under honorable circumstances from active service in any branch of the Armed Forces of the United States, or any honorably discharged member of the American Merchant Marine who served during World War II and is declared by the United States Department of Defense to be eligible for Federal veterans’ benefits.

“Waiting list” means a formal record of applications for housing assistance that identifies the applicant’s name and time of application, and other information pertinent to the application.

SUBCHAPTER 2. HOUSING PREFERENCES

5:40-2.1 Housing preference; HMFA

(a) Housing projects, financed in whole or in part by loans authorized by HMFA, shall provide for a housing preference for veterans and surviving spouses as set forth in this subsection.

1. For existing housing projects financed in whole or in part by HMFA, where an open waiting list for applications for housing units exists, or where such a list is opened or reopened in the future in order to accept additional applications, a preference must be created for veterans and surviving spouses. These preferences shall take priority over all other preferences.

2. For future housing projects that are financed in whole or in part by HMFA, a housing preference must be created for veterans and surviving spouses. These preferences shall take priority over all other preferences.

3. Within the preference for veterans and surviving spouses, HMFA shall have the discretion to implement more specific preferences; for example, to prioritize homeless veterans or disabled veterans based on an applicant’s status as homeless or disabled, and may include family members who are the primary residential caregivers to disabled veterans and who are residing with them.

4. Veterans and surviving spouses must meet all eligibility criteria for a housing project.

5:40-2.2 Housing preference; public housing authorities and redevelopment agencies

(a) Housing projects operated by a public housing authority created pursuant to N.J.S.A. 40A:12A-17, by a public housing authority acting as a redevelopment agency authorized pursuant to N.J.S.A. 40A:12A-21, or by a redevelopment agency created pursuant to N.J.S.A. 40A:12A-11, shall provide for a housing preference for veterans and surviving spouses as set forth in this subsection.

1. For existing housing projects or housing vouchers administered by a public housing authority or redevelopment agency, where an open waiting list for housing units exists, or where such a list is opened or reopened in the future to accept additional applications, a preference must be created for veterans and surviving spouses. These preferences shall take priority over all other preferences.

2. For future housing projects or housing vouchers undertaken by a public housing authority or redevelopment agency, a housing preference must be created for veterans and surviving spouses. These preferences shall take priority over all other preferences.

3. Within the preference for veterans and surviving spouses, a public housing authority or redevelopment agency shall provide a priority to applicants in the following order:

- i. Veterans who are both homeless and disabled;
- ii. Homeless veterans; and
- iii. Disabled veterans. The preference for disabled veterans shall include family members who are the primary residential caregivers to such veterans and who are residing with them.

4. Veterans and surviving spouses must meet all eligibility criteria for a housing project or housing voucher.

5:40-2.3 Housing preference; Local Redevelopment and Housing Law

(a) Housing projects operated pursuant to the authority of the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq., with the exception of those projects covered by N.J.A.C. 5:40-2.2, shall provide for a housing preference for homeless and disabled veterans, as set forth in this subsection.

1. For existing housing projects undertaken pursuant to the authority of the Local Redevelopment and Housing Law, where an open list for housing units exists, or where such a list is opened or reopened in the future in order to accept additional applications, a preference must be created for homeless and disabled veterans. The preference shall take priority over all other preferences.

2. For future housing projects undertaken pursuant to the authority of the Local Redevelopment and Housing Law, a housing preference must be created for homeless and disabled veterans. This preference shall take priority over all other preferences.

3. Within the preference for veterans, the appropriate entity shall provide for a priority to applicants in the following order:

- i. Veterans who are both homeless and disabled;
- ii. Homeless veterans; and
- iii. Disabled veterans. Any preference for veterans who are disabled shall include family members who are the primary residential caregivers to such veterans and who are residing with them.

4. Veterans must meet all eligibility criteria for a housing project.

5:40-2.4 Housing preference; county improvement authorities

(a) Housing projects operated by a county improvement authority created pursuant to N.J.S.A. 40:37A-46 shall provide for a housing preference for homeless and disabled veterans, as set forth in this subsection.

1. For existing housing projects undertaken by a county improvement authority, where an open waiting list for housing units exists, or where such a list is opened or reopened in the future in order to accept additional applications, a preference must be created for homeless and disabled veterans. This preference shall take priority over all other preferences.

2. For future housing projects undertaken by a county improvement authority, a housing preference must be created for homeless and disabled veterans. This preference shall take priority over all other preferences.

3. Within the preference for veterans, a county improvement authority shall provide for a priority to applicants in the following order:

- i. Veterans who are both homeless and disabled;
- ii. Homeless veterans; and
- iii. Disabled veterans. Any preference for veterans who are disabled shall include family members who are the primary residential caregivers to such veterans and who are residing with them.

4. Veterans must meet all eligibility criteria for a housing project.

5:40-2.5 Housing preference; Department of Community Affairs housing vouchers

(a) Housing vouchers administered by the Department shall provide for a housing preference for veterans and surviving spouses, as set forth in this subsection.

1. For all housing vouchers administered by the Department, a preference shall be created for veterans and surviving spouses. These preferences shall take priority over all other preferences.

2. Within the preference for veterans and surviving spouses, the Department shall have the discretion to implement more specific preferences; for example, to prioritize homeless veterans or disabled veterans based on an applicant’s status as homeless or disabled, and may include family members who are the primary residential caregivers for disabled veterans and who are residing with them.

3. Veterans and surviving spouses must meet all eligibility criteria for the housing vouchers at issue.