

- x. A statement of the relationship of the developer to the service provider, if any;
- xi. The amount that it is reasonably anticipated that a prospective purchaser would be required to pay, currently and in the near future, for the operation and maintenance of the common facilities, including the amount set aside for reserves, and information as to how a prospective purchaser may review the current budget; and
- xii. Information as to how a prospective purchaser may review a copy of the final plat plan, as approved and signed by the local planning board, showing all amenities, facilities and improvements; or

11. Of any form of timesharing.

As amended, R.1979 d.439, eff. November 1, 1979.
 See: 11 N.J.R. 497(a), 11 N.J.R. 610(b).
 Amended by R.1990 d.408, effective August 20, 1990.
 See: 22 N.J.R. 1872(a), 22 N.J.R. 2505(a).
 Exemptions and conditions for such exemptions added at (a)10.
 Amended by R.1996 d.94, effective February 20, 1996.
 See: 27 N.J.R. 4478(a), 28 N.J.R. 1226(a).
 Amended by R.2007 d.76, effective March 5, 2007.
 See: 38 N.J.R. 4970(a), 39 N.J.R. 767(a).
 In (a)7, inserted a comma following "that", and deleted "; timesharing" following "cooperatives"; in (a)10xii, substituted "; or" for a period at the end; and added (a)11.

5:26-2.3 Requests for exemption

(a) Any person who believes that a planned real estate development or retirement community may be exempt from the provisions of the Act, or who is contemplating establishment of a planned real estate development or retirement community that he or she believes may be exempt, may apply to the Director for a Letter of Exemption.

- 1. Such application shall be in writing and shall list the reasons why such planned real estate development or retirement community, or proposed planned real estate development or proposed retirement community, may be exempt from the Act.
- 2. An application for exemption pursuant to N.J.A.C. 5:26-2.2(a) shall be accompanied by a fee of \$141.00.
 - i. No fee shall be charged for any development consisting entirely of units legally restricted to occupancy by households of low or moderated income.

(b) In the event the Director shall determine that such planned real estate development or proposed retirement community is exempt from the Act, he shall issue a Letter of Exemption setting forth the facts upon which his determination is based.

(c) In the event the Director shall determine that such planned real estate development or retirement community or proposed planned real estate development or proposed retirement community is not exempt from the provisions of the Act, he shall deny the request for exemption setting forth

the facts upon which his determination is based and shall notify the applicant of his findings.

(d) Any person who is aggrieved by the determination by the Director pursuant to (a) and (b) above is entitled to a hearing on such determination provided said hearing is requested, in writing, no later than 15 days from the date of such determination.

(e) The Director shall issue his determination as to whether a planned real estate development or retirement community is exempt or not within 30 days of the receipt of the request.

Amended by R.1983 d.446, effective October 17, 1983.
 See: 15 N.J.R. 1055(a), 15 N.J.R. 1758(b).
 Added last sentence to (a).
 Amended by R.1987 d.490, effective November 16, 1987.
 See: 19 N.J.R. 1684(a), 19 N.J.R. 2134(a).
 Fee raised from \$50.00 to \$80.00.
 Emergency amendment, R.1989 d.405, effective July 3, 1989 (expires September 1, 1989).
 See: 21 N.J.R. 2127(b).
 In (a): raised fee from \$80.00 to \$104.00 for exemption application.
 Added (a)1.
 Adopted concurrent proposal, R.1989 d.512, effective September 1, 1989.
 See: 21 N.J.R. 2127(a), 21 N.J.R. 3086(a).
 Provisions of emergency amendment R.1989 d.405 readopted without change.

Amended by R.1992 d.392, effective October 5, 1992.
 See: 24 N.J.R. 2657(a), 24 N.J.R. 3521(b).
 Fees increased.
 Amended by R.2009 d.77, effective March 2, 2009.
 See: 40 N.J.R. 5895(a), 41 N.J.R. 1009(b).
 Section was "Request for exemptions". In the introductory paragraph of (a), inserted "establishment of" and "or she"; and in the introductory paragraph of (a)2, substituted "\$141.00" for "\$112.00"

5:26-2.4 Application for registration; submission and fees

(a) An application for registration shall consist of a statement containing the items set forth in N.J.A.C. 5:26-3 and shall be submitted in the manner and form provided therein, together with the filing fee in the amount of \$1,361, plus \$136.00 per lot, parcel, unit or interest, made payable to the Treasurer, State of New Jersey.

- 1. In the event that lots, parcels, units or interests are added during registration, an additional fee of \$136.00 per lot, parcel, unit or interest added shall be paid. There shall be no refunds for deletions.
- 2. No fee shall be charged for units legally restricted to occupancy by households of low or moderate income.

(b) In the event that the Agency determines that an additional engineering study by an engineer designated by the Agency is necessary because of the inadequacy of the engineering survey submitted by the developer, the developer shall pay to the Agency an additional fee in the amount of the cost to the Agency of such additional engineering survey.

Amended by R.1981 d.365, effective October 8, 1981.
 See: 13 N.J.R. 474(a), 13 N.J.R. 704(b).

(a) "\$500.00 plus \$20.00" was "\$10.00".

(b) and (c) added.

Amended by R.1982 d.260, effective August 16, 1982.

See: 14 N.J.R. 609(a), 14 N.J.R. 912(a).

Increased fees from \$20.00 to \$35.00 per unit.

Amended, R.1983 d.370, effective September 6, 1983.

See: 15 N.J.R. 1059(a), 15 N.J.R. 1468(a).

Increased fee for lot, parcel, unit or interest from \$35.00 to \$45.00.

Amended by R.1987 d.490, effective November 16, 1987.

See: 19 N.J.R. 1684(a), 19 N.J.R. 2134(a).

Amounts of fees raised from \$500.00 to \$775.00 plus from \$40.00 to \$75.00 per lot, parcel, unit and additional fee from \$45.00 to \$75.00.

(c) deleted.

Emergency amendment, R.1989 d.405, effective July 3, 1989 (expires September 1, 1989).

See: 21 N.J.R. 2127(b).

In (a): raised fees from \$775.00 to \$1,000.00 and from \$75.00 to \$100.00.

Changed "will" to "shall" regarding no refunds for deletions.

Added (a)1.

Adopted concurrent proposal, R.1989 d.512, effective September 1, 1989.

See: 21 N.J.R. 2127(a), 21 N.J.R. 3086(a).

Provisions of emergency amendment R.1989 d.405 readopted without change.

Amended by R.1992 d.392, effective October 5, 1992.

See: 24 N.J.R. 2657(a), 24 N.J.R. 3521(b).

Fees increased.

Amended by R.2009 d.77, effective March 2, 2009.

See: 40 N.J.R. 5895(a), 41 N.J.R. 1009(b).

In the introductory paragraph of (a), deleted "as" following "form", and substituted "\$1,361," for "\$1,080" and "\$136.00" for "\$108.00"; redesignated the former second and third sentences of (a) as new (a)1; recodified former (a)1 as (a)2; and in (a)1, inserted "that" and "added", and substituted "\$136.00" for "\$108.00".

5:26-2.5 Notice of filing

Upon receipt of an application for registration in proper form, accompanied by payment of the required filing fee, the Agency shall, within 10 business days, issue a notice of filing to the applicant. The notice of filing shall not be construed as an approval of the application for registration or any portion thereof.

5:26-2.6 Order of registration

Within 90 days from the date of the notice of filing or notice of correction as provided below, the Agency shall enter an order registering the development if the Agency affirmatively determines that the requirements of N.J.A.C. 5:26-1.2 and Section 9 of the Act have been met.

5:26-2.7 Notice of correction

When the Agency determines, upon inquiry and examination, that any of the requirements of N.J.A.C. 5:26-1.2 and Section 9 of the Act have not been met, the Agency shall notify the applicant that the application for registration must be corrected in such particulars within 30 days.

5:26-2.8 Order of rejection

(a) In the event the requirements of the notice of correction are not met within the time allowed, the Agency may enter an order rejecting the registration which shall include the findings of fact upon which the order is based.

(b) The Order of Rejection shall not take effect for a period of 20 days from the expiration of the 30 day period mentioned in N.J.A.C. 5:26-2.7.

5:26-2.9 Petition for reconsideration

(a) Upon the issuance of an Order of Rejection, the applicant shall have the right to file a petition for a reconsideration with the Agency and shall be entitled to a hearing thereon, provided the petition for reconsideration shall be filed within 20 days of the Order of Rejection.

(b) In the event a petition for reconsideration is filed by the applicant, as provided, the Order of Rejection shall not take effect until such time as the hearing has been held and a determination rendered.

5:26-2.10 Automatic registration

The planned real estate development or retirement community shall be deemed to be registered pursuant to N.J.A.C. 5:26-2.6, if within 90 days of the notice of filing or notice of correction, the Agency has not issued an Order of Rejection or the applicant has not consented to a delay in writing.

5:26-2.11 Order of revocation

(a) The Agency may revoke a registration after notice and upon finding of fact that the developer has:

1. Failed to comply with the terms of a cease and desist order;
2. Been convicted, subsequent to the filing of the application for registration, in any court, of a crime involving fraud, deception, false pretenses, misrepresentations, false advertising, dishonest dealing or other like offenses;
3. Disposed of, concealed or diverted any funds or assets of any person so as to defeat the rights of purchasers;
4. Failed faithfully to perform any stipulation or agreement made with the Agency as an inducement to grant or reinstate any registration, to approve any promotional plan or public offering statement, or to rescind or modify any order or rule issued by the Agency.
5. Advertised the planned real estate development or retirement community, or responded to applications for the planned real estate development or retirement community, in a manner which was discriminatory on the basis of marital status, sex, race, color, creed, religious principles, national origin, ancestry, affectional or sexual orientation, or on any other basis that may be prohibited under the Law Against Discrimination (N.J.S.A. 10:5-1 et seq.);
6. Willfully violated any provision of the Act or of these regulations; or
7. Made an intentional misrepresentation or concealed a material fact in an application for registration.