

of this land area at the Lower Alloways Creek Township nuclear plant would evoke a change in the average costs associated with housing.

**Smart Growth Development Impact Analysis**

In accordance with N.J.S.A. 52:14B-4, as amended effective July 17, 2008, by P.L. 2008, c. 46, the Department has evaluated the proposed revisions to Coastal Wetlands Maps 224-1758, 231-1752, and 231-1758 to determine the impact, if any, on housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan (State Plan).

The site on which the reclassification of coastal wetlands as uplands would occur, located in Lower Alloways Creek Township, Salem County, is within Planning Areas 5 and 8 (environmentally sensitive planning areas and Federal park), under the State Plan. Accordingly, the reclassification of approximately 150 acres of coastal wetlands to uplands within these Planning Areas will not evoke a change in housing production in Planning Areas 1 or 2, or within designated centers.

**Racial and Ethnic Community Criminal Justice and Public Safety Impact**

In accordance with N.J.S.A. 52:14B-4(a)(2) and 2C:48B-2, the Department has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the proposal follows:

APPENDIX D  
COASTAL WETLANDS MAPS

(incorporated by reference at N.J.A.C. 7:7-2.3(c))

- 1-7. (No change.)
- 8. Salem County

(Agency Note: The following maps are proposed to be altered:)

- ... 224-1758
- ... 231-1752
- ... 231-1758
- ... 9.-11. (No change.)

**LAW AND PUBLIC SAFETY**

**(a)**

**DIVISION ON CIVIL RIGHTS**

**Display of Official Posters of the Division on Civil Rights**

**Proposed Amendments: N.J.A.C. 13:8-1.1, 1.2, 1.3, 1.4, and 2.2**

**Proposed New Rule: N.J.A.C. 13:8-1.5**

Authorized By: Rosemary DiSavino, Deputy Director, Division on Civil Rights.

Authority: N.J.S.A. 10:5-6, 10:5-8.g, 10:5-12, and 34:11B-6 and 16.

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

Proposal Number: PRN 2022-036.

Submit comments by May 20, 2022, to:

Aarin Williams, Interim Chief of Strategic Initiatives and Enforcement  
Department of Law and Public Safety  
Division on Civil Rights  
31 Clinton Street, 3rd Floor  
PO Box 46001

Newark, NJ 07102

or electronically at: [regulations@njcivilrights.gov](mailto:regulations@njcivilrights.gov)

The agency proposal follows:

**Summary**

The New Jersey Division on Civil Rights (“DCR” or “Division”) in the Department of Law and Public Safety, enforces the New Jersey Law Against Discrimination (LAD), N.J.S.A. 10:5-1 et seq., and the New Jersey Family Leave Act (NJFLA), N.J.S.A. 34B:11B-1 et seq. The Division has previously promulgated rules concerning Display of Official Posters of the Division on Civil Rights, N.J.A.C. 13:8, which require certain employers (in the case of the LAD and the NJFLA) as well as labor organizations, employment agencies, real estate brokers, persons who engage in the business of selling or renting their own real property, and places of public accommodation (in the case of the LAD) to prominently display “in places easily visible” to those who would be affected by violations of these laws, posters created by DCR to inform individuals and covered entities of their rights and obligations (see N.J.A.C. 13:8-1.2, 1.3, 1.4, and 2.2). The Division now proposes a new rule and amendments to update these rules to better inform New Jerseyans of their rights and obligations pursuant to the LAD and NJFLA.

The LAD prohibits discrimination and harassment in employment, housing, and places of public accommodation on the basis of a number of protected characteristics, including race, religion, gender, gender identity or expression, sexual orientation, disability, and national origin, among others. Additionally, the NJFLA ensures that employees of eligible employers may take up to 12 weeks of job-protected leave during any 24-month period to care for or bond with a child; to care for a family member, or someone who is the equivalent of family, with a serious health condition or who has been isolated or quarantined because of a suspected exposure to a communicable disease during a state of emergency; or to provide required care or treatment for a child during a state of emergency if their school or place of care is closed by an order of a public official due to an epidemic of a communicable disease or other public health emergency.

N.J.S.A. 10:5-12.j makes it unlawful “[f]or any person whose activities are included within the scope of [the LAD] to refuse to post or display such notices concerning the rights or responsibilities of persons affected by this act as the Attorney General may by regulation require.” Similarly, the NJFLA provides that an “employer shall display conspicuous notice of its employee’s rights and obligations pursuant to the provisions of this act,” and instructs DCR’s director to “promulgate rules and regulations ... necessary for the implementation and enforcement of this act.” N.J.S.A. 34:11B-6 and 34:11B-16.

As noted above, DCR has created posters, which are available on its website and in its offices, to promote public awareness of and compliance with the LAD and NJFLA and has required, by rulemaking, that they be posted in covered locations.

However, employees are increasingly working from home or in places other than an employer’s worksite. Additionally, safety precautions necessitated by the COVID-19 pandemic caused many workplaces to become “virtual,” with a substantial number of employees across the State working remotely.

Accordingly, DCR proposes amending N.J.A.C. 13:8-1.2 and 2.2 in order to ensure that employees who are working remotely still receive the information included in DCR’s official posters on the LAD’s employment protections and the NJFLA, even if they are not physically present in the workplace where such posters are displayed. DCR’s proposed amendments would allow employers with internet or intranet sites for use and access by their employees to satisfy the poster display rules by posting DCR’s official employment and NJFLA posters on such internet or intranet sites. DCR’s proposed amendments would also require that covered employers provide each employee with written copies of DCR’s official employment and NJFLA posters at least once a year. The proposed rule text provides employers with multiple options for how to transmit such material in order to satisfy this requirement.

These proposed amendments are modeled after similar rules promulgated by the New Jersey Department of Labor and Workforce Development requiring employers to notify employees of the employer’s obligation to maintain and report records regarding wages, benefits, taxes,

and other contributions and assessments pursuant to State wage, benefit, and tax laws, and of the employee's right to be free of gender inequity or bias in pay, compensation, benefits, or other terms and conditions of employment at N.J.A.C. 12:2-1.3 and 2.3.

Additionally, DCR proposes amending N.J.A.C. 13:8-1.3 and 1.4, applicable to housing providers and places of public accommodation, respectively, recognizing that not all housing providers or places of public accommodation are the same. DCR proposes amending N.J.A.C. 13:8-1.3 to require that housing posters be displayed by all persons engaged in the management of residential real property, in addition to the real estate brokers and persons engaged in the business of selling or renting real property who are subject to the existing rule. The proposed amendments provide that DCR create two types of official housing posters: one poster for housing providers engaged in sales and rentals, to inform prospective buyers and renters of their rights pursuant to the LAD; and a different poster for housing providers engaged in property management, to inform residents, whether owners or tenants, of their rights pursuant to the LAD. This is because certain rights against discrimination and bias-based harassment in housing are more relevant to prospective buyers and renters, while other such rights are more relevant to current residents. To help mitigate costs, and in recognition of the fact that many property management entities have intranet sites for residents and communicate important information to such residents electronically, the proposed amendments allow for housing providers engaged in property management to satisfy their obligations pursuant to N.J.A.C. 13:8-1.3 electronically, in the manner proposed for employers in the proposed amendments at N.J.A.C. 13:8-1.2 and 2.2. The proposed amendments also require property managers to transmit such posters to residents at least once annually, or upon request.

Similarly, the term "place of public accommodation," covers a broad range of entities, as can be seen in the illustrative list found at N.J.S.A. 10:5-5.1. Currently, there is one official public accommodation poster, generally applicable to all places of public accommodation at N.J.A.C. 13:8-1.4 that requires places of public accommodation to display this poster prominently. However, individuals may require different information about their rights depending on the type of place of public accommodation they are patronizing or attempting to patronize. Accordingly, DCR is proposing amendments that allow it to create category-specific posters (for example, specific posters applicable to schools, restaurants, or government buildings). Pursuant to the proposed amendments, a place of public accommodation for which DCR has created a category-specific poster would satisfy its preexisting obligation to post DCR's official public accommodation poster by instead posting DCR's official poster specific to that category.

Finally, DCR is proposing to codify, at N.J.A.C. 13:8-1.5, a requirement applicable specifically to health care entities, defined in the proposed amendment at N.J.A.C. 13:8-1.1, as any place of public accommodation that acts as a "dispensary, clinic, or hospital," or that provides medical or health "services" (N.J.S.A. 10:5-5.1) including, but not limited to, any healthcare facility licensed pursuant to N.J.S.A. 26:2H-12.56; any health maintenance organization authorized to operate pursuant to N.J.S.A. 26:2J-2; any carrier that offers a managed care plan pursuant to N.J.S.A. 26:2S-2; a State or county psychiatric hospital, a State developmental center, or a staffing registry (N.J.S.A. 26:2H-12.2.b); any mental health facility or substance use facility providing treatment services pursuant to N.J.S.A. 30:4-27.2; and any place open to the public where medical or health services are provided by an individual licensed pursuant to Title 45 of the New Jersey statutes (N.J.S.A. 45:1-34).

The proposed amendments to this section would authorize DCR to create, and require health care entities to prominently display, a "know your rights" poster specific to health care entities, in lieu of health care entities' preexisting obligation to display DCR's place of public accommodation poster.

The amendments to this section have been proposed so that patients and providers in the health care context receive information about the civil rights protections provided pursuant to the LAD at the point of treatment, especially when critical decisions are being made at a rapid pace and because laypersons often lack specific knowledge in this arena. Recent events have exposed systemic racial, ethnic, and national origin-based disparities in health care and medical treatment. "Know your rights"

posters specific to the health care context would provide crucial information to individuals who are seeking medical treatment. In other words, the proposed amendments to this section would create a more effective way for health care entities to comply with their preexisting obligation to display DCR's place of public accommodation poster.

Recognizing that not all health care entities are the same—emergency room patients may require different information than patients at a women's health care center—DCR has proposed amendments to this section that will allow for the creation and display of posters for specific categories of health care entities. Additionally, because many health care entities, such as hospitals, are large and treat patients in many different places and in many different ways, DCR is proposing to require health care entities to display the "know your rights" posters contemplated by this section near all entrances and in all public waiting rooms. The proposed amendments would also encourage these posters to be displayed in individual treatment rooms.

The following is a summary of the proposed new rules and amendments.

Proposed amendments at N.J.A.C. 13:8-1.1, Definitions, define "health care entity," the key definition relating to N.J.A.C. 13:8-1.5, and reflect that health care entities have long been included as a place of public accommodation, but are now specifically addressed.

N.J.A.C. 13:8-1.2 requires all labor organizations, employment agencies, and employers of employees covered by the LAD to display the official DCR employment poster in places easily visible to all employees and applicants for employment. DCR proposes amending the section to clarify that the Division will publish an official employment poster and to require that covered employers also provide each employee a written copy of the official employment poster at least once per year: annually, on or before December 31 of each year, as well as upon the first request of an employee. Another proposed amendment would provide that, in the event that an employer has an internet site or intranet site for use by its employees, to which all employees have access, and to which the employer customarily posts notices, posting of the official employment poster on the employer's internet site or intranet site shall satisfy the rulemaking's conspicuous posting requirement. A final proposed amendment would provide that the employer may comply with its annual obligation to provide each employee with a written copy of the official employment in at least one of three ways: email, printed material, or internet/intranet site.

N.J.A.C. 13:8-1.3 currently requires "all real estate brokers and all persons who engage in the business of selling or renting their own real property [to] display the official housing poster of the Division in places easily visible to all prospective tenants and purchasers." Proposed amendments to this section would expand the rule to also require that a housing poster be displayed by all persons who are engaged in the management of residential real property, including, but not limited to, landlords, property management companies, and cooperative and condominium associations. The proposed amendments would provide that DCR will create a poster specific to each group of entities—a "sales and rentals housing poster"—in addition to a poster specific to housing providers engaged in property management—a "property management housing poster." The posters would be made available for download by the Division on its website, and each type of entity would be required to display the poster applicable to such entity in a place easily visible to prospective or current residents.

DCR proposes further amending the section to require that housing providers required to display the "property management housing poster" provide each tenant with a written copy of the official property management poster at least once per year: annually, as well as upon the first request of a resident. Another proposed amendment would provide that, in the event the housing provider has an internet site or intranet site for use by its residents, to which all residents have access, and to which the housing provider customarily posts notices, posting of the official property management housing poster on the housing provider's internet site or intranet site shall satisfy the rulemaking's conspicuous posting requirement.

N.J.A.C. 13:8-1.4 requires all places of public accommodation to display the official public accommodation poster of the Division in places easily visible to all persons seeking to use, or using, the accommodations.

DCR proposes amending the section to state that DCR will publish an official public accommodation poster, while also permitting DCR to publish official posters specific to particular categories of places of public accommodation. An additional proposed amendment would provide that an entity for which DCR has created a category-specific poster will be required to display such category-specific poster to comply with N.J.A.C. 13:8-1.4, but need not display the generic official place of public accommodation poster.

Proposed new N.J.A.C. 13:8-1.5 would provide for the creation of a poster specific to health care entities. This proposed requirement would supplant health care entities' preexisting obligation to display the Division's official place of public accommodation poster and instead requires health care entities to display the Division's new health care entity poster. The proposed new section would also provide for the creation and display of category-specific health care entity posters. The proposed new section would clarify that health care entities must prominently display the applicable poster near each entrance and in each public waiting room. They may choose to display the posters in other locations such as treatment rooms or through a digitally accessible platform (for example, QR code) that is in plain view and accessible to those patronizing the entity. The proposed new section would provide that it applies only to health care entities providing health care services with a physical place of business that is open to the public. The proposed new section would require that if the Division has created and made available one or more official posters applicable to a specific type of health care facility, facilities belonging to that category shall display the category-specific poster. For example, if the Division has created a poster for a testing center and a women's health center, a women's health center that also serves as a testing center shall display either the women's health center poster or the testing center poster, but is not required to post both, although the facility may choose to do so.

N.J.A.C. 13:8-2.2 requires all employers covered by the New Jersey Family Leave Act, whether or not they have any eligible employees pursuant to the act, to display the official Family Leave Act poster of the Division in places easily visible to all employees. DCR proposes amending the section to clarify that the Division will publish an official Family Leave Act poster and to require that covered employers also provide each employee with a written copy of the official Family Leave Act poster at least once per year, annually, on or before December 31 of each year, as well as upon the first request of an employee. A proposed amendment allows the employer to comply with this obligation in one of three ways: email, printed material, or internet/intranet site. Another proposed amendment would provide that, in the event that an employer has an internet site or intranet site for use by its employees, to which all employees have access, and to which the employer customarily posts notices, posting of the official Family Leave Act poster on the employer's internet site or intranet site shall satisfy the rulemaking's conspicuous posting requirement.

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

#### **Social Impact**

The Division believes the proposed new rule and amendments will have a positive social impact on the general public in the State of New Jersey, as well as on the employers, employees, real estate brokers, persons who engage in sales and rentals of real property, housing providers who engage in property management, places of public accommodations, patrons, and prospective patrons of places of public accommodation.

Unlawful discrimination and bias-based harassment in employment, housing, and places of public accommodation (including health care entities), as well as improper withholding of earned family leave, threaten the rights and privileges of all New Jersey residents. The new rule and amendments DCR proposes provide additional ways in which employers may satisfy their obligation to inform affected individuals in New Jersey of their rights related to unlawful discrimination, bias-based harassment, and the NJFLA. Informing such individuals of their rights pursuant to the LAD and NJFLA and how to contact DCR to learn more or file a complaint, will help these individuals understand whether their rights

were violated and, if they were, how to seek redress. Requiring covered entities to provide employees, prospective and current residents, and patrons and patients, with notification of their rights will also serve the salutary purpose of reminding covered entities of their obligations pursuant to the LAD and NJFLA. The proposed amendments and new rule will have a beneficial impact on all persons protected by the LAD and by the NJFLA by accounting for the virtual nature of some workplaces, and by accounting for the different ways in which individuals might be affected by discrimination and bias-based harassment in different contexts. The proposed amendments and new rule may also benefit employers because they provide more avenues by which employers may satisfy their obligation to notify employees of their rights whether such employees are working in a traditional workplace or working remotely.

#### **Economic Impact**

The Division does not anticipate that the proposed amendments and new rule will have a significant economic impact on covered entities or potential complainants. For employers, they merely establish when a covered employer must provide a written copy of the official employment poster to each employee, identify the manner in which the poster may be provided to employees (including electronic means), and set forth alternative options for how covered entities may comply with preexisting rules requiring the display of posters in physical workspaces. Covered employers may incur minor administrative printing and mailing costs associated with the proposed amendment requiring employers to provide written notification of DCR's official employment and NJFLA posters at least once annually, if employers choose to do so through printed material rather than through email or over an internet or intranet site available to employees, but that is the employer's choice.

Some housing providers will be required to post a housing poster for the first time, and some health care entities may have to post posters in multiple locations when the rules previously did not specify that posters had to be posted in multiple locations. However, any administrative costs associated with printing and displaying, or in the case of housing providers engaged in property management, printing, and distributing, such posters, will be minimal. Additionally, housing providers with intranet websites may mitigate those costs by posting and distributing such posters electronically.

For housing providers already subject to the Division's existing poster rule, and for places of public accommodation that are not health care entities, the proposed amendments and new rule are not expected to materially affect compliance costs.

#### **Federal Standards Statement**

The proposed new rule and amendments relate to compliance with the notice posting requirements in the LAD and NJFLA. Accordingly, the proposed new rule and amendments are not intended to implement or comply with any program established pursuant to Federal law or pursuant to a State statute that incorporates or refers to Federal law, standards, or requirements. However, the Division's proposed new rule and amendments are similar to Federal rules that require the posting of different notices pursuant to various Federal laws. Accordingly, some persons and entities covered by the LAD and NJFLA's posting requirements are also required to post notices regarding unlawful discrimination or family leave pursuant to various Federal laws.

Specifically, 29 CFR 1601.30(a) requires employers and labor organizations, as defined at Title VII of the Civil Rights Act and by the Americans with Disabilities Act (ADA), to display posters that advise the public of the pertinent provisions of these Federal laws. Similarly, 24 CFR 110.10 and 110.25, promulgated pursuant to the Fair Housing Act, impose an obligation on persons who rent or sell real estate to display posters advising that it is a violation of Federal law to engage in unlawful housing discrimination based on race, color, religion, sex, national origin, handicap, or familial status. Moreover, Federal rules require certain state and local entities to disseminate information about the ADA. These rules include the posting of notices as one of several suggested means of meeting this requirement at 28 CFR 35.106. Further, the Federal Family and Medical Leave Act (FMLA) and its implementing rules require that employers covered by the FMLA post notices explaining the act's provisions and providing information concerning the filing of complaints. 29 U.S.C. § 2619 and 29 CFR 825.300.

Federal law includes various posting and dissemination requirements for hospitals. Most relevant here, Section 1557 of the Affordable Care Act requires health facilities receiving Federal financial assistance to post information about the Federal prohibition on discrimination on the basis of race, color, national origin, sex, age, or disability and the availability of language and disability assistance in conspicuous public locations.

The proposed new rule and amendments do not unnecessarily exceed or duplicate such Federal rules. Instead, the proposed new rule and amendments articulate requirements to display posters that explain the provisions of the LAD and NJFLA.

Accordingly, the Division's proposed new rule and amendments regarding the display and dissemination of official Division posters are necessary to further the statutory mandate to prevent and eliminate unlawful discrimination that violates the LAD and to fulfill the statutory notice requirements of the NJFLA. Although the requirement to display Division posters may reach individuals and entities that are also covered by corresponding Federal notice requirements described above, the LAD and NJFLA cover more individuals and entities pursuant to their respective definitions of "employer" and "health care entity" than their Federal counterparts. Moreover, there are significant differences in the coverage of Federal and State laws that are reflected in the contents of the Division's official posters.

#### Jobs Impact

The Division does not anticipate that the proposed new rule and amendments will have any impact on the number of jobs in this State.

#### Agriculture Industry Impact

The Division does not anticipate that the proposed new rule and amendments will have any impact on the agriculture industry of this State.

#### Regulatory Flexibility Statement

The Division does not anticipate that the proposed amendments and new rule will impose any reporting or recordkeeping requirements on small businesses, as the term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

However, the proposed new rule and amendments would apply to all small businesses in New Jersey, because the LAD applies to all employers, housing providers, and places of publication, regardless of size. According to the United States Small Business Administration, as of 2013, New Jersey had roughly 410,971 small businesses (defined by the Regulatory Flexibility Act as businesses with fewer than 100 full-time employees). The only compliance requirement proposed is the requirement that covered entities prominently display an applicable poster created by DCR and provided free of charge on DCR's website. Small businesses that are employers or housing providers engaged in property management will be required to provide copies of the applicable poster at least once annually, or upon request, by an employee or resident. A small business is not likely to need any professional services to comply with this requirement.

Costs of complying with the proposed new rule and amendments are estimated to be *de minimis*. Small businesses whose employees or residents have access to email or which have an employer or residential internet or intranet available to all employees or residents may comply with the proposed new rule and amendments without cost by providing written notification of the official posters described above through email or by posting them on the employer or housing provider's internet or intranet. Small businesses without an internet or intranet, or whose employees or residents do not have access to email, will incur minor administrative costs associated with printing and distributing one-page posters to employees and/or residents. Health care providers that are small businesses may also incur additional costs associated with having to display posters in multiple locations, if they have more than one entrance and/or more than one public waiting room, but such costs will be minimal as well. The proposed new rule and amendments are designed to minimize any adverse economic impact on small businesses in the following ways:

- The proposed amendments provide businesses with a number of methods for complying with the rulemaking, including in the case of employers and property managers, a method of complying electronically at no cost;

- The proposed amendments require compliance only once annually, except in cases where an employee makes a request for the written notification required by the rulemaking; and
- The proposed amendments applicable to health care entities state the number of posters that need to be displayed according to the size of the entity. A small health care entity with only one entrance and only one public waiting room may only need to display two posters, while a larger entity with multiple entrances or waiting rooms would need to display the number of posters commensurate with its size.

Given the minimal burden on businesses and the importance of requiring businesses to inform their employees and patrons of their rights and obligations pursuant to the LAD and NJFLA, DCR does not believe it is appropriate to provide an exemption from coverage of the rulemaking, or by any part thereof, for small businesses.

#### Housing Affordability Impact Analysis

The Division does not anticipate that the proposed amendments and new rule will have any impact on the affordability of housing in New Jersey or would change the average costs associated with housing, because the rules pertain to obligations and rights pursuant to the LAD and NJFLA.

#### Smart Growth Development Impact Analysis

The Division does not anticipate that the proposed amendments and new rule will have any impact on smart growth or would 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 proposed rule amendments, because the rules pertain to obligations and rights pursuant to the LAD and NJFLA.

#### Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Division has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

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

### SUBCHAPTER 1. LAW AGAINST DISCRIMINATION POSTERS

#### 13:8-1.1 Definitions

(a) The definitions set forth [in] at N.J.S.A. 10:5-1 et seq. shall apply to this subchapter[.], **in addition to the definitions stated below:**

**1. For purposes of this chapter, a "health care entity" means any place of public accommodation that acts as a "dispensary, clinic, or hospital," or that provides medical or health "services" (N.J.S.A. 10:5-5.1) including, but not limited to, any healthcare facility licensed pursuant to N.J.S.A. 26:2H-12.56; any health maintenance organization authorized to operate pursuant to N.J.S.A. 26:2J-2; any carrier that offers a managed care plan pursuant to N.J.S.A. 26:2S-2; a State or county psychiatric hospital, a State developmental center, or a staffing registry (N.J.S.A. 26:2H-12.2.b); any mental health facility or substance abuse treatment facility providing treatment services pursuant to N.J.S.A. 30:4-27.2; and any place open to the public where medical or health services are provided by an individual licensed pursuant to Title 45 of the New Jersey statutes (N.J.S.A. 45:1-34).**

#### 13:8-1.2 Display of employment poster

(a) **The Division shall publish an official employment poster.**

(b) All labor organizations, employment agencies, and employers of employees covered by the Law Against Discrimination (N.J.S.A. 10:5-1 et seq.) shall display the official employment poster of the Division in places easily visible to all employees and applicants for employment. The official employment poster of the Division is available for downloading and printing on the Division's website, [www.njcivilrights.gov](http://www.njcivilrights.gov), or at any of the Division's offices. Any poster printed from the Division's website shall be printed on no smaller than letter size paper (8½ by 11 inches) and contain text that is fully legible and large enough to be easily read. Whenever the poster is modified, the Division shall issue and publicize a

public notice consistent with N.J.A.C. 13:1E-4.4 to alert covered entities that a revised poster has been published and is available from the Division.

(c) Each employer covered by the Law Against Discrimination shall provide each employee with a written copy of the official employment poster:

1. Annually, on or before December 31 of each year; and
2. Upon the first request of an employee.

(d) In the event that an employer has an internet site or intranet site for use by its employees to which all employees have access and the employer customarily posts notices to affected employees or other affected individuals electronically on the site, posting of the official employment poster on the employer's internet site or intranet site shall satisfy the posting requirement set forth at (b) above.

(e) An employer shall make the written copy of the poster available to each worker pursuant to (c) above using one of the following methods:

1. By email delivery;
2. Through printed material, including, but not limited to, paycheck inserts; brochure or similar informational packet provided to new hires; an attachment to an employee manual or policy book; or flyer distributed at an employee meeting; or
3. Through an internet or intranet website, if the site is for the use of all employees, can be accessed by all employees, and the employer provides notice to the employees of its posting.

#### 13:8-1.3 Display of housing poster

(a) The Division shall publish an official sales and rentals housing poster and an official property management housing poster. If an entity engages in both the sale and rental of real property and engages in management of residential real property, the entity shall display both the official sales and rentals housing poster and the official property management housing poster, in places easily visible to all prospective tenants, purchasers, residents (including tenants or owners), and all prospective tenants and purchasers.

[(a)] (b) All real estate brokers and all persons who engage in the business of selling or renting their own or others' real property shall display the official sales and rentals housing poster of the Division in places easily visible to all prospective tenants and purchasers. [The official housing poster of the Division is available for downloading and printing on the Division's website, [www.njcivilrights.gov](http://www.njcivilrights.gov), or at any of the Division's offices. Any poster printed from the Division's website shall be printed on no smaller than letter size paper (8 ½ by 11 inches) and contain text that is fully legible and large enough to be easily read. Whenever the poster is modified, the Division shall issue and publicize a public notice consistent with N.J.A.C. 13:1E-4.4 to alert covered entities that a revised poster has been published and is available from the Division.]

[(b)] 1. For the purpose of this [Section] subsection, a person is not engaged in the business of selling real property solely because he or she sells, or attempts to negotiate the sale of, his or her own residence.

(c) All persons who are engaged in the management of residential real property, including, but not limited to, landlords, property management companies, and cooperative and condominium associations, shall display the official property management housing poster of the Division in places easily visible to all residents, whether tenants or owners, and all prospective tenants and purchasers.

(d) Each covered entity subject to the requirements at (c) above shall provide to the residents of each property managed by the covered entity, a written copy of the official property management housing poster:

1. Annually, on or before December 31 of each year; and
2. Upon the first request of a resident.

(e) In the event that a covered entity subject to the requirements at (c) above has an internet site or intranet site for use by residents of properties managed by the covered entities to which all residents have access and the entity customarily posts notices to affected individuals electronically on the site, posting of the official property management poster on the employer's internet site or intranet site shall satisfy the posting requirement set forth at (d) above.

(f) The official housing posters of the Division are available for downloading and printing on the Division's website, [www.njcivilrights.gov](http://www.njcivilrights.gov), or at any of the Division's offices. Any poster printed from the Division's website shall be printed on no smaller than letter size paper (8 ½ by 11 inches) and contain text that is fully legible and large enough to be easily read. Whenever the poster is modified, the Division shall issue and publicize a public notice consistent with N.J.A.C. 13:1E-4.4 to alert covered entities that a revised poster has been published and is available from the Division.

#### 13:8-1.4 Display of public accommodation poster; generally

(a) The Division shall publish an official public accommodation poster. In addition, the Division may publish official posters specific to particular categories of places of public accommodation, including, but not limited to, the categories identified at N.J.S.A. 10:5-5.1.

(b) All places of public accommodation shall display the official public accommodation poster of the Division in places easily visible to all persons seeking or using the accommodations. [The official public accommodations poster of the Division is available for downloading and printing on the Division's website, [www.njcivilrights.gov](http://www.njcivilrights.gov), or at any of the Division's offices. Any poster printed from the Division's website shall be printed on no smaller than letter size paper (8 ½ by 11 inches) and contain text that is fully legible and large enough to be easily read. Whenever the poster is modified, the Division shall issue and publicize a public notice consistent with N.J.A.C. 13:1E-4.4 to alert covered entities that a revised poster has been published and is available from the Division.]

(c) If the Division has created and made available on the Division's website one or more official posters specific to a particular category of place of public accommodation, including, but not limited to, the categories identified at N.J.S.A. 10:5-5.1, a place of public accommodation belonging to that category shall display, in lieu of the poster identified at (a) above, the category-specific posters in one or more places easily visible to all persons seeking or using the accommodations.

(d) All official public accommodations posters of the Division are available for downloading and printing on the Division's website, [www.njcivilrights.gov](http://www.njcivilrights.gov) or at any of the Division's offices. Any poster printed from the Division's website shall be printed on no smaller than letter size paper (8 ½ by 11 inches) and contain text that is fully legible and large enough to be easily read. Whenever a poster is modified, the Division shall issue and publicize a public notice consistent with N.J.A.C. 13:1E-4.4 to alert covered entities that a revised poster has been published and is available from the Division.

#### 13:8-1.5 Public accommodation poster at health care entities

(a) Health care entities subject to the requirements in this section shall not be required to separately comply with the poster requirement at N.J.A.C. 13:8-1.4(b). This section shall apply only to health care entities with a physical place of business at which individuals are eligible to receive health care services.

(b) The Division shall publish one or more official health care entity posters.

(c) All health care entities shall display an official health care entity poster of the Division in places easily visible to all persons seeking or using the entities. Such places shall include, but need not to be limited to, a location near each entrance through which the public can enter or exit and all public waiting rooms. In addition to displaying the health care entity poster in those places required by this subsection, the health care entity may also choose to display the health care entity posters in other locations, including individual treatment rooms, or on a digitally accessible platform code (QR Code) posted in plain view around the entity.

(d) The Division may publish official posters specific to particular categories of health care entities, including, but not limited to, hospitals, outpatient offices, urgent care clinics, testing sites, and women's health centers.

(e) If the Division has created and made available on the Division's website, [www.njcivilrights.gov](http://www.njcivilrights.gov), one or more official posters specific to a particular category of health care entity, a health care entity belonging to that category shall display, in lieu of the poster identified

at (d) above, one or more of such category-specific posters in the places identified at (c) above.

(f) All official health care entity posters of the Division are available for downloading and printing on the Division's website, [www.njcivilrights.gov](http://www.njcivilrights.gov), or at any of the Division's offices. Any poster printed from the Division's website shall be printed on no smaller than letter size paper (8½ by 11 inches) and contain text that is fully legible and large enough to be easily read. Whenever a poster is modified, the Division shall issue and publicize a public notice consistent with N.J.A.C. 13:1E-4.4 to alert covered entities that a revised poster has been published and is available from the Division.

13:8-[1.5]1.6 (No change in text.)

## SUBCHAPTER 2. FAMILY LEAVE ACT POSTER

### 13:8-2.2 Display of Family Leave Act poster

(a) The Division shall publish an official Family Leave Act poster.

(b) All employers covered by the Family Leave Act (N.J.S.A. 34:11B-1 et seq.), whether or not they have any eligible employees [under] pursuant to the act, shall display the official Family Leave Act poster of the Division in places easily visible to all employees. The official Family Leave Act poster of the Division is available for downloading and printing on the Division's website, [www.njcivilrights.gov](http://www.njcivilrights.gov), or at any of the Division's offices. Any poster printed from the Division's website shall be printed on no smaller than letter size paper (8 ½ by 11 inches) and contain text that is fully legible and large enough to be easily read. Whenever the poster is modified, the Division shall issue and publicize a public notice consistent with N.J.A.C. 13:1E-4.4 to alert covered employers that a revised poster has been published and is available from the Division.

(c) Each covered employer shall provide each employee with a written copy of the official Family Leave Act poster:

1. Annually, on or before December 31 of each year; and
2. Upon the first request of an employee.

(d) In the event that an employer has an internet site or intranet site for use by its employees to which all employees have access and the employer customarily posts notices to affected employees or other affected individuals electronically on the site, posting of the official Family Leave Act poster on the employer's internet site or intranet site shall satisfy the conspicuous posting requirement set forth at (b) above.

(e) An employer shall make the written copy of the poster available to each worker pursuant to (b) above using one of the following methods:

1. By email delivery;
2. Through printed material, including, but not limited to, paycheck inserts; brochure or similar informational packet provided to new hires; an attachment to an employee manual or policy book; or flyer distributed at an employee meeting; or
3. Through an internet or intranet website, if the site is for the use of all employees, can be accessed by all employees, and the employer provides notice to the employees of its posting.

(a)

## DIVISION OF CONSUMER AFFAIRS STATE BOARD OF REAL ESTATE APPRAISERS Scope of Practice, Continuing Education, and Mixed Practice Proposed Amendments: N.J.A.C. 13:40A-1.3, 5.4, 5.6, and 7.5

Authorized By: State Board of Real Estate Appraisers, Charles Kirk,  
Executive Director.

Authority: N.J.S.A. 45:14F-8.

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

Proposal Number: PRN 2022-033.

Submit written comments by May 20, 2022, to:

Charles Kirk, Executive Director  
State Board of Real Estate Appraisers  
PO Box 45032  
Newark, New Jersey 07101  
or electronically at: <http://www.njconsumeraffairs.gov/Proposals/Pages/default.aspx>.

The agency proposal follows:

### Summary

The State Board of Real Estate Appraisers (Board) is proposing amendments to its scope of practice, continuing education, and mixed practice rules at N.J.A.C. 13:40A to provide clarity and to update the rules. The Board is clarifying that complex residential property excludes a property that has any commercial use. Further, the Board is expanding the scope of topics covered in a required continuing education course on New Jersey law and rules to encompass the law and regulations concerning appraisal management companies. In addition, the Board proposes to delete the provisions that prohibit an appraiser from appraising his or her employing broker's listing and from conducting an appraisal on behalf of any real estate agent under the employ of the broker.

The Board is proposing to amend N.J.A.C. 13:40A-1.3 to specify that complex residential property excludes a property that has any commercial use. The Board believes that this guidance is necessary because the absence of a uniform definition in the industry has led to confusion in the marketplace and results in appraisers performing appraisals beyond their scope of practice. Specifically, the Board proposes to amend subsections (a) and (b) to specify that licensed real estate appraisers and certified residential real estate appraisers, respectively, cannot appraise a property that includes any commercial use. The Board notes that these proposed amendments protect the public by ensuring that the regulated community and public are aware that the appraisal of commercial properties is limited to certified general real estate appraisers whose education and experience includes commercial properties.

On May 15, 2020, the Appraiser Qualifications Board (AQB) of the Appraisal Foundation, a not-for-profit entity authorized by Federal law to set nationwide appraisal standards, adopted changes, effective January 1, 2021, to the Real Property Appraiser Qualification Criteria. Previously, licensed real estate appraisers were permitted to perform appraisals of complex one-to-four residential units with a maximum transaction value of \$250,000. The newly adopted changes amend the scope of practice of licensed real estate appraisers to allow them to perform appraisals of complex one-to-four residential units with a transaction value up to \$400,000. Consistent with the AQB's adopted change, the Board proposes to amend N.J.A.C. 13:40A-1.3(a) to increase the maximum transaction value of complex one-to-four-unit residential units from \$250,000 to \$400,000. The Board also proposes to amend N.J.A.C. 13:40A-1.3 to add a definition of a complex one-to-four-unit residential property appraisal that is consistent with AQB criteria.

The Board proposes to amend N.J.A.C. 13:40A-5.4(b) to expand the topics required in the mandatory continuing education course on New Jersey law and rules governing the practice of real estate appraising to specifically encompass the law and regulations concerning appraisal management companies. This proposed amendment is consistent with the Board now registering and supervising State appraisal management companies since July 2019. Additionally, the Board is expanding the examples of acceptable continuing education course topics at N.J.A.C. 13:40A-5.6 to include: automated valuation models and artificial intelligence, fair housing laws, natural resources, environmental impacts on real estate, and developing opinions on real estate value that include intangible assets.

In addition, the Board proposes to delete N.J.A.C. 13:40A-7.5(b)2 and 3 to reflect changes in the brokerage industry and to align its rules with those of other states' jurisdictions.

These Board provisions currently prohibit an appraiser from appraising his or her employing broker's listing and from conducting an appraisal on behalf of any real estate agent under the employ of the broker. The Board notes that it enacted these provisions prior to the 2010 changes to the Uniform Standards of Professional Appraisal Practice (USPAP) ethics

rule mandating disclosure of conflicts to the client prior to services being retained concerning the property to be appraised. The Board believes that the USPAP ethics rule sufficiently protects clients and, therefore, N.J.A.C. 13:40A-7.5(b)2 and 3 are no longer necessary. In addition, the Board notes that because of the consolidation of the real estate brokerage industry over the past 15 years, there are only a handful of commercial real estate brokerages that handle leasing and sales of multi-tenanted properties. The Board further notes that the now smaller industry has multiple divisions, including appraisal divisions, that, under the Board's existing mixed practice rule, are forced to decline services because many of the appraisers hold a real estate license. The Board believes, therefore, that the existing prohibitions limit the public's access to a broad pool of qualified appraisers. Large brokerage companies employ in-house appraisers that are highly qualified to complete such assignments and if they are forced to decline work through association with the "mother" company by virtue of their real estate license, the public has a smaller pool of qualified professionals from which to choose. The Board also notes that New Jersey is the only state that prohibits mixed practice.

The Board has determined that the comment period for this notice of proposal shall be 60 days; therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, this notice is excepted from the rulemaking calendar requirement.

**Social Impact**

The Board believes that the proposed amendments at N.J.A.C. 13:40A-7.5 will have a positive social impact upon the regulated community by reducing the circumstances in which the appraiser cannot perform an appraisal due to a conflict, as well as a positive social impact on the public by expanding the available pool of real estate appraisers. The Board also believes that the proposed amendments at N.J.A.C. 13:40A-1.3 and 5.4 will have a positive social impact upon members of the regulated community and the public.

The proposed amendments at N.J.A.C. 13:40A-1.3 clarify for the regulated community the scope of practice of licensed real estate appraisers and certified residential real estate appraisers. In addition, these proposed amendments protect the public by ensuring that the regulated community and the public are aware that the appraisal of commercial properties is limited to certified general real estate appraisers whose education and experience includes commercial properties.

The proposed amendment at N.J.A.C. 13:40A-5.4 will ensure that certified and licensed real estate appraisers are familiar with legal and regulatory developments in the Board's oversight of appraisal management companies.

**Economic Impact**

The Board believes that the proposed amendments at N.J.A.C. 13:40A-7.5 will have a positive economic impact on the regulated community and the public by expanding access to the pool of qualified real estate appraisers. The Board does not believe that the proposed amendments at N.J.A.C. 13:40A-1.3 and 5.4 will have any economic impact on the regulated community or the public.

**Federal Standards Statement**

A Federal standards analysis is not required for the Board's proposed amendments because the proposed amendments are governed by N.J.S.A. 45:14F-1 et seq., and they do not exceed standards and requirements set forth by the AQB, which may be viewed as establishing and setting forth Federal standards and requirements.

**Jobs Impact**

The Board does not believe that the proposed amendments will either increase or decrease the number of jobs in the State.

**Agriculture Industry Impact**

The proposed amendments will have no impact on the agriculture industry in this State.

**Regulatory Flexibility Analysis**

The Board certifies approximately 1,075 general real estate appraisers, and 1,100 residential real estate appraisers, and licenses 310 residential real estate appraisers. Any certified or licensed real estate appraiser that is a "business which is resident in this State, independently owned and operated and not dominant in its field, and which employs fewer than 100 full-time employees" would constitute a "small business" within the

meaning of the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. (RFA), N.J.S.A. 52:14B-17. In addition, certified or licensed real estate appraisers may be employed by a "small business" within the meaning of the RFA. To the extent a certified or licensed real estate appraiser qualifies as a "small business" or is employed by a "small business" under the RFA, the following analysis applies pursuant to N.J.S.A. 52:14B-19.

The proposed amendments do not impose any new recordkeeping, compliance, or reporting requirements. There are no costs associated with the proposed amendments and the positive economic impact is discussed in the Economic Impact statement above. No professional services will be needed to comply with the proposed amendments. The Board believes that the proposed amendments must be uniformly applied to all licensed or certified real estate appraisers. Therefore, no differing compliance requirements are provided based upon the size of the business.

**Housing Affordability Impact Analysis**

The proposed amendments will have an insignificant impact on the affordability of housing in New Jersey and there is an extreme unlikelihood that the proposed amendments would evoke a change in the average costs associated with housing because the proposed amendments merely refine an existing regulatory scheme to bring it into further alignment with AQB and USPAP standards.

**Smart Growth Development Impact Analysis**

The proposed amendments will have an insignificant impact on smart growth and there is an extreme unlikelihood that the proposed amendments would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the proposed amendments concern the practice of real estate appraisal.

**Racial and Ethnic Community Criminal Justice and Public Safety Impact**

The Board has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

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

SUBCHAPTER 1. PURPOSE AND SCOPE; DEFINITIONS; SCOPE OF PRACTICE

13:40A-1.3 Scope of practice

(a) The scope of practice of appraisers with the licensed real estate appraiser qualification is the appraisal of non-complex [one to four] **one-to-four** residential units having a transaction value less than \$1,000,000 and complex one to four residential units having a transaction value less than [\$250,000] **\$400,000**.

**1. "Complex one-to-four-unit residential property appraisal" means one in which the property to be appraised, the form of ownership, or the market conditions are atypical. Licensed real estate appraisers shall not appraise a property that includes any commercial use.**

(b) The scope of practice of appraisers with the certified residential real estate appraiser qualification is the appraisal of [one to four] **one-to-four** residential units without regard to transaction value or complexity. **Certified residential real estate appraisers shall not appraise a property that includes any commercial use.**

(c)-(d) (No change.)

SUBCHAPTER 5. CONTINUING PROFESSIONAL EDUCATION

13:40A-5.4 Special course requirement(s)

(a) (No change.)

(b) All licensed and certified real estate appraisers shall be required to complete a two-hour course on New Jersey law and rules governing the practice of real estate appraising. The course, at a minimum, shall include: the origin and history of the Real Estate Appraisers Act, the Board composition, scope of practice, mixed practice conflicts of interest, continuing education requirements and criteria, temporary visiting certificates, trainee and supervisor requirements, appraisal reporting,

[and] common deficiencies, **appraisal management companies**, and the complaint process.

13:40A-5.6 Acceptable course topics

(a) The Board shall approve only those continuing education activities and course topics as are deemed by the Board to be consistent with the purpose of continuing education. Examples of such course topics may include, but are not limited to: changes in the Uniform Standards of Professional Appraisal Practice; ad valorem taxation; arbitration; business courses related to practice of real estate appraisal; construction estimating; land use planning; zoning and taxation; management, leasing, brokerage, **and** timesharing; property development; State law and rules governing the practice of real estate appraising; real estate appraisal (valuation/evaluations), law, litigation, financing, and investment; real estate appraisal related computer applications; **automated valuation models and artificial intelligence**; real estate securities and syndication; real property exchange; green building; seller concessions; **fair housing laws; natural resources; environmental impacts on real estate**; and developing opinions on real estate value in appraisals that also include personal property and/or [business value] **business value/intangible assets**.

(b)-(c) (No change.)

SUBCHAPTER 7. GENERAL PROVISIONS

13:40A-7.5 Mixed practice; conflict of interest

(a) (No change.)

(b) A real estate appraiser, who is also a real estate licensee or who is employed as an appraiser by a licensed real estate broker, shall not prepare an appraisal upon a property while[:

1. The] **the** real estate appraiser also is acting in the capacity of a real estate licensee for any party with respect to any transaction involving the property to be appraised[;].

[2. The employing broker of the real estate appraiser is acting as a real estate licensee for any party with respect to any transaction involving the property to be appraised; or

3. Any real estate licensee who is working for the employing broker of the real estate appraiser acts as a real estate licensee for any party with respect to such transaction.]

(c)-(d) (No change.)

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