

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF ALCOHOLIC BEVERAGE CONTROL

AN 2024-05 – ADVISORY NOTICE REGARDING
INTERMUNICIPAL LICENSE TRANSFER STATUTE (N.J.S.A. 33:1-24.3a)

The purpose of this Advisory Notice is to clarify and explain the new intermunicipal license transfer statute authorizing the transfer of an inactive plenary retail consumption license from the municipality that initially issued it, the “sending” municipality, to a contiguous municipality that solicited and acquired it through a request for proposal (RFP), the “receiving” municipality. The effective date of the intermunicipal license transfer statute is August 1, 2024.

By way of background, on January 16, 2024, Governor Philip D. Murphy signed into law [P.L. 2023, c.290](#). The new law makes significant changes to the Alcoholic Beverage Control Act, N.J.S.A. 33:1-1 to 33:5-5, including the authorization of intermunicipal transfers of inactive plenary retail consumption licenses for use in connection with a premises that is part of an economic redevelopment plan or a redevelopment, improvement or revitalization area (codified at N.J.S.A. 33:1-24.3a). As discussed below, there are numerous preconditions and preliminary steps that must be followed before a license can be transferred from a sending municipality to a receiving municipality, and participating municipalities must coordinate their efforts in conjunction with the transfer. In addition, in accordance with the terms of the intermunicipal license transfer statute, a transfer may only take place between municipalities adjoined by land (not water) and sharing a common boundary line. To be clear, the new law on intermunicipal transfers applies only to **inactive plenary retail consumption licenses**.

Qualifying Municipal Project in Receiving Municipality

1. A receiving municipality seeking to acquire an inactive license may only issue it in connection with a premises that is part of an “economic redevelopment plan” or a redevelopment, improvement, or revitalization area.” The intermunicipal license transfer statute defines a “redevelopment, improvement, or revitalization area” to mean the following: (1) an “urban enterprise zone” designated pursuant to N.J.S.A. 52:27H-60 *et seq.*; (2) a “downtown business improvement zone” designated pursuant to N.J.S.A. 40:56-71.1 *et seq.*; (3) a “pedestrian mall” or “pedestrian mall improvement” or a “special improvement district” as defined in N.J.S.A. 40:56-66; (4) a “transit oriented development” as defined by N.J.S.A. 34:1B-243; (5) an area of a municipality determined to be in need of redevelopment pursuant to N.J.S.A. 40A:12A-5 and 40A:12A-6; or (6) an area determined to be in need of rehabilitation pursuant to N.J.S.A. 40A:12A-14, or any improvement which is 100 percent new construction, which is an entirely new improvement not previously occupied or used for any purpose. The statute does not expressly define an “economic redevelopment plan.”

2. Generally, a municipality that has reached the population cap for plenary retail consumption licenses (one for every 3,000 municipal residents) cannot issue an additional license. N.J.S.A. 33:1-12.14. However, in accordance with the intermunicipal license transfer statute, a receiving municipality with a qualifying project—i.e., an economic redevelopment plan or a redevelopment, improvement, or revitalization area—may issue an RFP to acquire an inactive plenary retail consumption license initially issued by a “contiguous” sending municipality. Under the intermunicipal license transfer statute, the sending and receiving municipalities must be “contiguous,” meaning that they must be adjoining and share a common boundary line, and not separated solely by a river, lake, bay, or other body of water.
3. In effect, the receiving municipality would purchase the inactive license directly from a license holder in the sending municipality for the purpose of using that license in connection with a premises in the receiving municipality’s qualifying project area. (See below paragraphs for information on the RFP process.) The acquired license would not count towards the receiving municipality’s population cap.

Appraisal, Minimum Bid Amount, and Awarding of RFP by Receiving Municipality

4. The intermunicipal license transfer statute sets forth the notice requirements and procurement procedures that receiving municipalities must follow for appraising the value of a plenary retail consumption license and issuing the RFP to acquire an inactive license in a sending municipality. N.J.S.A. 33:1-24.3a(c). The RFP must establish a “minimum bid amount” based on (a) the average sales price of the three most recent plenary retail consumption licenses sales in the receiving municipality, or (b) an appraisal completed at the receiving municipality’s expense. Whichever amount is greater determines the minimum bid amount, i.e., the minimum price that a receiving municipality must pay to acquire an inactive plenary retail consumption license initially issued by a contiguous sending municipality.
5. The receiving municipality’s appraisal process must include an examination of previous transactions in the receiving municipality or surrounding municipalities, and “reflect what a willing buyer, under no pressure to buy, would pay a willing seller, under no pressure to sell, for a plenary retail consumption license in that municipality or municipalities, as the case may be.”

Example: Municipality A has a downtown business improvement zone and shares a contiguous border with Municipalities B and C. However, Municipality A has reached the population cap and cannot issue additional plenary retail consumption licenses. Before Municipality A can issue an RFP to acquire an inactive license initially issued by Municipalities B or C, it must complete a liquor license appraisal at its own expense, and must also determine the average price of the three most recent sales of plenary retail consumption licenses in Municipality A. If the appraisal value of a plenary retail consumption license in Municipality A is \$150,000, whereas the average price of the three most recent license sales in Municipality A is \$100,000, the minimum bid amount in the RFP must be \$150,000.

6. The RFP issued by the receiving municipality must require that all bids be sealed and remain confidential to other bidders. Following a review of qualified bids, the intermunicipal license transfer statute requires that “the license shall be awarded to the highest qualified bidder.” N.J.S.A. 33:1-24.3a(c).
7. Prior to its submission of a bid in response to a receiving municipality’s RFP, a license holder with an inactive plenary retail consumption license in a contiguous sending municipality must first apply for and receive permission from the sending municipality. N.J.S.A. 33:1-24.3a(d). The license holder is not required to disclose the location of the proposed licensed premises in the receiving municipality. The sending municipality may grant permission only by resolution adopted by a majority vote.

Notice of Intent to Transfer, Identical Resolutions

8. Once the receiving municipality receives a “successful bid” and designates the winning bidder, the sending municipality must submit to the Director of the Division a Notice of Intent to transfer the license at least 90 days in advance of the transfer. N.J.S.A. 33:1-24.3a(d). The Notice of Intent should include supporting documentation showing that the pending transfer has conformed with the intermunicipal license transfer statute.
9. In addition, both the sending and receiving municipalities must adopt identical resolutions authorizing the transfer and establishing a license transfer fee of \$25,000 or more, which the inactive license holder must pay to the sending municipality. Before adopting the resolutions, both the sending and receiving municipalities must give “special consideration as to whether sufficient attempts were made by the license holder to use or transfer the license for use in connection with a premises located in the sending municipality.” N.J.S.A. 33:1-24.3a(d).
10. Once the license transfer is ratified by resolution, the receiving municipality is entitled to offer the acquired license at public sale in accordance with N.J.S.A. 33:1-19.1 to -19.6 to be used in connection with a premises in the qualifying “economic redevelopment plan” or a redevelopment, improvement, or revitalization area.” N.J.S.A. 33:1-24.3a(e). The Division will assign a license number for this new category of retail consumption license when it is issued. (See below for timelines for usage and other limitations for transferred licenses issued by the receiving municipality.)

Limitations, Restrictions

11. An intermunicipal retail consumption license issued by a receiving municipality to a qualified bidder that is not actively used within two years of the issuance date will automatically expire and cannot be reissued by the receiving municipality. N.J.S.A. 33:1-24.3a(e). Nor can the license holder appeal the expiration of the license unless it has been deprived of the use of the licensed premises as a result of eminent

domain, fire, or other casualty, and establishes by affidavit that the license holder is making a good faith effort to resume active use of the license.

12. Unlike a regular retail plenary consumption license, an intermunicipal retail consumption license does not include the privilege of selling alcoholic beverages for off-premises consumption. N.J.S.A. 33:1-24.3a(g).
13. A receiving municipality is entitled to acquire one inactive license in each calendar year, but not more than two inactive licenses in five calendar years. N.J.S.A. 33:1-24.3a(f).

Expiration of Inactive Licenses, Quartiles (N.J.S.A. 33:1-12.39)

14. The new law ([P.L. 2023, c.290](#)) also amended N.J.S.A. 33:1-12.39, effective August 1, 2024. The statute, as amended, provides that inactive Class C licenses (including inactive plenary retail consumption licenses) shall not be renewed if the licenses have not been actively used in connection with the operation of a licensed premises within two consecutive license terms. The Division recently issued an [Administrative Order Granting 12.39 Relief to Inactive Class C Licenses and Establishing Quartiles](#) that further summarizes the statute, as amended.
15. The statute, as amended, required the Director to divide inactive plenary retail consumption licenses into quartiles based on the total length of time the licenses have been inactive. N.J.S.A. 33:1-12.39(d). A [list of these inactive licenses has been compiled and divided into quartiles](#) based on the terms when the licenses became inactive: first quartile (1993-1994 through 2000-2001); second quartile (2001-2002 through 2008-2009); third quartile (2009-2010 through 2016-2017); and fourth quartile (2017-2018 through 2023-2024). Each quartile has a statutory expiration date: first quartile (**August 1, 2025**); second quartile (**August 1, 2026**); third quartile (**August 1, 2027**); and fourth quartile (**August 1, 2028**).
16. An inactive plenary retail consumption on the quartile list must either be (1) activated by the license holder; (2) transferred for fair market value to another person who shall actively use the license in connection with a premises upon receipt of the license; or (3) transferred from a sending municipality to a receiving municipality (in accordance with the intermunicipal license transfer statute) prior to the statutory deadline. N.J.S.A. 33:1-12.39(c).

Example: A plenary retail consumption license became inactive during the 2000-2001 license term and remained inactive on August 1, 2024. As a consequence, the license is assigned to the first quartile, with a statutory expiration date of August 1, 2025. Thus, the license holder has until August 1, 2025 to activate its license; sell and transfer its license to a buyer for fair market value (provided the buyer actively uses the license upon receipt); or sell and transfer its license to a receiving municipality in conjunction with the intermunicipal license transfer statute. Unless the license holder takes one of these actions, the license will expire on August 1, 2025.

In sum, the intermunicipal license transfer statute authorizes a receiving municipality with a qualifying project to issue an RFP and acquire an inactive plenary retail consumption license initially issued by a contiguous sending municipality under limited circumstances. Interested municipalities should review the statute carefully in advance of soliciting or participating in an intermunicipal license transfer. Inactive license holders, developers, redevelopers, municipalities, agencies, or other interested parties are encouraged to request a meeting with the Division to discuss particular projects that may qualify for an intermunicipal license transfer.

This Advisory Notice does not impose any new or additional requirements that are not already required by existing statute or regulation, nor does it establish any rights or obligations on any person or party. N.J.S.A. 52:14B-3a(d). This is a regulatory guidance document and does not provide legal advice, nor should it be treated as providing legal advice. Licensees should speak to a qualified attorney for legal advice.

Any specific questions concerning this Advisory Notice should be directed to DAG Ray Lamboy (ray.lamboy@njoag.gov, 609-376-2774).



KIRSTIN L. KRUEGER
INTERIM DIRECTOR

Dated: July 26, 2024

Checklist for Intermunicipal License Transfers (N.J.S.A. 33:1-24.3a)

Qualifying Municipal Project in “Receiving” Municipality at Population Cap

- “Redevelopment, improvement or revitalization area”
 - Urban enterprise zone (N.J.S.A. 52:27H-60 *et seq.*, N.J.S.A. 52:27H-66.2 *et seq.*).
 - Downtown business improvement zone (N.J.S.A. 40:56-71.1 *et seq.*).
 - Pedestrian mall, pedestrian mall improvement, or special improvement district (N.J.S.A. 40:56-66).
 - Transit oriented development (N.J.S.A. 34:1B-243).
 - Area of municipality determined to be in need of redevelopment (N.J.S.A. 40A:12A-5, 40A:12A-6).
 - Area of municipality determined to be in need of rehabilitation (N.J.S.A. 40A:12A-14), or any improvement which is 100 percent new construction, which is an entirely new improvement not previously occupied or used for any purpose.
- “Economic redevelopment plan”

Request For Proposal (RFP) to Acquire Additional Inactive Plenary Retail Consumption License

- RFP shall specify date and time after which no bids will be accepted.
- RFP shall be published in generally circulating newspaper by at least two insertions, one week apart; second insertion not less than 30 days prior to date and time after which no bids will be accepted.
- RFP shall be posted on municipality’s website.
- RFP shall require that all bids be sealed and remain confidential.
- RFP shall include a minimum bid amount the receiving municipality will pay for an inactive plenary retail consumption license.
- RFP shall establish a “minimum bid amount.”
- RFP shall be awarded to the highest qualified bidder.

Minimum Bid Amount in RFP

- “Minimum bid amount” is the greater of:

- Average sales price of the three most recent plenary retail consumption licenses sales in the receiving municipality;
- Price in appraisal completed at the receiving municipality's expense.
 - Appraisal process shall include an examination of previous transactions in the receiving municipality or surrounding municipalities, as the case may be, and shall reflect what a willing buyer, under no pressure to buy, would pay a willing seller, under no pressure to sell, for a plenary retail consumption license in that municipality or municipalities, as the case may be.

Eligible Bidders in Contiguous "Sending" Municipalities

- Inactive plenary retail consumption licensees in sending municipalities that are adjoined by land and share a common boundary line (not including municipalities that are separated solely by body of water).
- Inactive plenary retail consumption licensees must apply to the governing bodies of their "sending municipalities for permission to transfer their licenses prior to submitting a bid.
- Governing body of sending municipality may approve the submission of a bid only by resolution adopted by majority vote.
- Sending municipality shall not require bidding licensee to disclose the location of the proposed licensed premises.

Winning Bid, Notice of Transfer

- RFP shall be awarded to the highest qualified bidder (i.e., inactive plenary retail consumption licensee in contiguous sending municipality that has permission from the municipality to submit a bid).
- Sending municipality shall submit Notice of Intent to Transfer License to the Director of the Division of Alcoholic Beverage Control at least 90 days prior to the transfer.

Identical Resolutions by Sending and Receiving Municipalities Authorizing License Transfer

- Sending and receiving municipalities shall give special consideration as to whether sufficient attempts were made by the license holder to use or transfer the license for

use in connection with a premises located in the sending municipality prior to adopting identical resolutions authorizing the transfer of the license from the sending municipality to the receiving municipality.

□ Identical resolutions shall establish the license transfer fee of \$25,000 or more, which shall be paid by the winning license holder and deposited in the general fund of the sending municipality.

Post-Transfer of Inactive License, Restrictions, Limitations

□ After the inactive license is transferred, the receiving municipality shall be entitled to offer the license at public sale pursuant to N.J.S.A. 33:1-19.1 to -19.6.

□ After the license is issued by the receiving municipality to a qualified bidder, the license must be actively used in connection with the operation of a premises within two years of the issuance date.

□ If the license is not actively used within two years, it will expire with no right of appeal (unless the license holder has been deprived of using the licensed premises as a result of eminent domain, fire or other casualty). If the license expires, the receiving municipality may not re-issue it.

□ A receiving municipality is entitled to acquire one inactive license (through intermunicipal transfer) in each calendar year, but not more than two inactive licenses in five calendar years.

Limited Privileges of Intermunicipal Retail Consumption License

□ An intermunicipal retail consumption license does not include the privilege of selling alcoholic beverages for off-premises consumption.