

NJ First Exemption Process

1.0 Application Requirements:

- 1) Applications must be legible, complete (e.g., includes an email address), be dated, and have the applicant's **handwritten, wet signature**.
- 2) Applicants must **indicate the grounds** for seeking an exemption **and provide supporting documentation**. The ERRC has not historically approved applications without sufficient supporting documentation (See examples below in **2.0 Grounds for Exemption**).
- 3) Applicants must choose either employer need or personal hardship. Please note that if documentation related to both is submitted, the ERRC will default to considering the request based on employer need. **Applications based on personal hardship typically have a more favorable outcome if they participate in the hearing.**
- 4) The ERRC reserves the right to request updated documents if any portion of the application is more than 90 days old (e.g., proof of income and employer letter).
- 5) To be considered as part of an application file, all application documentation must be received by the ERRC **no later than noon of the Monday of the week preceding the hearing**.
- 6) Once an agenda has been locked and published, no further additions will be made.
- 7) Applicants are encouraged to submit their request at least three months before their one-year hire anniversary date to allow for exigent circumstances.

2.0 Grounds for Exemption:

(1) Employer Critical Need (ECN) Letter:

- 1) An administratively complete ECN letter:
 - a. Is written on official letterhead,
 - b. Dated no more than 90 days before the date of the hearing,
 - c. Is authored by a director, department head, equivalent, or higher,
 - d. Explains why the employer critically needs the applicant (e.g., what makes this individual unique and of operational importance to the organization), and
 - e. Contains **a handwritten/wet signature** (not a typed cursive signature, a copied/pasted photo of a signature or a digital signature).
- 2) Administratively complete ECN letters are placed on a consent list and voted on (e.g., granted) as a group. As such, this request does not require the applicant to participate in the teleconference.

(2) Personal Hardship (PH):

- 1) **Supporting documentation should establish a clear relationship between the hardship and why the applicant cannot live or move to the State of New Jersey.**
- 2) **Applicants applying based on personal hardship are strongly encouraged to participate in the teleconference hearing.** Historically, applicants who provide a completed application, a detailed explanation of the circumstances posing the hardship, and **independent documentation corroborating the hardship** have a more favorable outcome.
- 3) **Some examples of personal hardship and related documentation are below:**
 - a. **Medical-related:** Typically, this hardship includes medical documentation such as a physician’s letter explaining why the applicant's medical condition/treatment requires the applicant to live outside of New Jersey.
 - b. **Caregiver-related:** Typically, this type of hardship includes a physician's letter stating that the applicant must provide care for a relative and establish why the applicant cannot live in New Jersey while doing so.
 - c. **Child(ren)/childcare-related:** Typically, this type of hardship includes documentation related to a separation or divorce, a co-parenting agreement, evidence of family assistance with childcare, or documentation regarding a child's special needs (e.g., IEP or 504 plan, a letter from a school counselor).
 - d. **Housing-related:** Typically, this hardship includes examples of housing or rental listings in NJ and the out-of-state area for comparison. In the past, applicants working with a realtor have provided a letter on official letterhead, dated and hand-signed, that verifies the applicant has unsuccessfully attempted to purchase or rent housing in NJ. Other successful applicants have included research of comparable listings inside and outside NJ. Housing-related requests typically **also include the financial hardship documentation listed below.**
 - e. **Financial hardship-related:** Typically, this hardship includes a budget spreadsheet, proof of income (including spouse and partner, as applicable), and debt payments that correspond with the line items in the budget. **Historically, applicants who fail to provide all the elements listed have an unfavorable outcome.**
 - f. **Budget Spreadsheet Example & Instructions:** Please provide and label supporting documentation to facilitate pairing with the line items in the spreadsheet. If you are unable to provide supporting documentation for an expense included in the budget, please explain, or do not include it in the spreadsheet. (Add or subtract categories below, as appropriate.)

Cost of Living Comparison	
Current Status	Proposed New Address
<i>Indicate NJ or Out-of-State Below</i>	<i>Indicate NJ or Out-of-State Below</i>
<i>(e.g., currently living in NJ)</i>	<i>Planned Non-NJ State (e.g., PA)</i>

Monthly Income		Monthly Income	
1. Applicant		1. Applicant	
2. Partner/Spouse		2. Partner/Spouse	
3. Additional Income		3. Additional Income	
TOTAL NET INCOME		TOTAL NET INCOME	
Expenses		Expenses	
4. Mortgage/Rent		4. Mortgage/Rent	
5. Auto Loan		5. Auto Loan	
6. Auto Insurance		6. Auto Insurance	
7. Utilities		7. Utilities	
8. Internet		8. Internet	
9. Cell Phone		9. Cell Phone	
10. Groceries		10. Groceries	
11. Entertainment		11. Entertainment	
12. Student Loans		12. Student Loans	
13. Alimony		13. Alimony	
14. Child Support		14. Child Support	
15. Childcare		15. Childcare	
16. Medical Expenses		16. Medical Expenses	
TOTAL EXPENSES		TOTAL EXPENSES	
(Minus Net Income)		(Minus Net Income)	
NET CASH FLOW		NET CASH FLOW	

3.0 Teleconference Hearings:

- 1) **ERRC hearings are held via an AT&T teleconference**, where applicants call in to speak to the ERRC members. The ERRC does **not** call applicants on the day of the meeting. Historically, meetings are held from **2:30 p.m. until 4:30 p.m.** but may run longer. The agenda posted on the [NJ First website](#) (about a week before a hearing) also contains call-in information.
- 2) **Every effort is made to ensure the applicant's call-in phone number and access code remain consistent monthly (Toll-Free: 877-226-8216; Access code: 1689646)**. However, applicants are encouraged to verify that there have been no changes to the call-in numbers before the start of the meeting. If a change has been made, it will be reflected on the agenda posted on the [NJ First website](#).
- 3) **Applicants must call in and wait for their names to be called for consideration.** They will then be sworn in before giving testimony. Further, applicants may have additional people present to testify to support their request; however, like applicants, they must also be sworn in before giving testimony. If

the applicant is absent, the request will be considered based on the merits of the application and supporting documents.

4.0 Decisions/ Results:

- 1) **The ERRC does not provide individual decision letters**, nor does it provide individual results upon request. Instead, the hearing application decisions are posted on the NJ First website under the meeting Results link (<https://www.nj.gov/labor/research-info/njfirst.shtml>), usually within a week.
- 2) Employers may contact the ERRC Administrator via this email address [NJFIRST@dol.nj.gov] if they have questions.

5.0 Exemption Limitations:

- 1) **Exemptions are granted based on the applicant's circumstances.** If the circumstances change, the exemption may become invalid. For example, an exemption granted based on an employer's critical need becomes invalid if the applicant changes employers, and the individual would need to file a new request for exemption.
- 2) **The ERRC administrator is not authorized to interpret the NJ First Act.** The ERRC does not serve as the enforcement mechanism for the NJ First Act. If you need legal advice, you are encouraged to seek legal counsel.
- 3) An ERRC exemption does not supersede an employer's requirement that the employee report to work in person. Further, an NJ First Act exemption provided by the ERRC does not supersede other residency requirements established by Federal or State laws, regulations, or local ordinances.