

ASSEMBLY, No. 3500

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED NOVEMBER 22, 2010

Sponsored by:
Assemblyman VINCENT PRIETO
District 32 (Bergen and Hudson)

SYNOPSIS

Expresses legislative intent that “The Planned Real Estate Development Full Disclosure Act” notice provisions apply to housing cooperatives.

CURRENT VERSION OF TEXT

As introduced.



A3500 PRIETO

2

1 AN ACT clarifying the registration requirements for certain planned
2 developments and amending and supplementing P.L.1977, c.419.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 3 of P.L.1977, c.419 (C.45:22A-23) is amended to
8 read as follows:

9 3. As used in this act unless the context clearly indicates
10 otherwise:

11 a. "Disposition" means any sales, contract, lease, assignment,
12 or other transaction concerning a planned real estate development
13 and shall include the conversion of a cooperative housing
14 corporation into a condominium form of ownership of the housing
15 unit.

16 b. "Developer" or "subdivider" means any person who disposes
17 or offers to dispose of any lot, parcel, unit, or interest in a planned
18 real estate development.

19 c. "Offer" means any inducement, solicitation, advertisement,
20 or attempt to encourage a person to acquire a unit, parcel, lot, or
21 interest in a planned real estate development.

22 d. "Purchaser" or "owner" means any person or persons who
23 acquires a legal or equitable interest in a unit, lot, or parcel in a
24 planned real estate development, and shall be deemed to include a
25 prospective purchaser or owner.

26 e. "State" means the State of New Jersey.

27 f. "Commissioner" means the Commissioner of Community
28 Affairs.

29 g. "Person" shall be defined as in R.S.1:1-2.

30 h. "Planned real estate development" or "development" means
31 any real property situated within the State, whether contiguous or
32 not, which consists of or will consist of, separately owned areas,
33 irrespective of form, be it lots, parcels, units, or interest, and which
34 are offered or disposed of pursuant to a common promotional plan,
35 and providing for common or shared elements or interests in real
36 property. This definition shall not apply to any form of
37 timesharing.

38 This definition shall specifically include, but shall not be limited
39 to, property subject to the "Condominium Act," P.L.1969, c.257
40 (C.46:8B-1 et seq.), any form of homeowners' association, any
41 housing cooperative or to any community trust or other trust device.

42 This definition shall be construed liberally to effectuate the
43 purposes of this act.

44 i. "Common promotional plan" means any offer for the
45 disposition of lots, parcels, units or interests of real property by a

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 single person or group of persons acting in concert, where such lots,
2 parcels, units or interests are contiguous, or are known, designated
3 or advertised as a common entity or by a common name.

4 j. "Advertising" means and includes the publication or causing
5 to be published of any information offering for disposition or for
6 the purpose of causing or inducing any other person to purchase an
7 interest in a planned real estate development, including the land
8 sales contract to be used and any photographs or drawings or artist's
9 representations of physical conditions or facilities on the property
10 existing or to exist by means of any:

- 11 (1) Newspaper or periodical;
- 12 (2) Radio or television broadcast;
- 13 (3) Written or printed or photographic matter;
- 14 (4) Billboards or signs;
- 15 (5) Display of model houses or units;
- 16 (6) Material used in connection with the disposition or offer of
17 the development by radio, television, telephone or any other
18 electronic means; or

19 (7) Material used by developers or their agents to induce
20 prospective purchasers to visit the development, particularly
21 vacation certificates which require the holders of such certificates to
22 attend or submit to a sales presentation by a developer or his agents.

23 "Advertising" does not mean and shall not be deemed to include:
24 Stockholder communications such as annual reports and interim
25 financial reports, proxy materials, registration statements, securities
26 prospectuses, applications for listing securities on stock exchanges,
27 and the like; all communications addressed to and relating to the
28 account of any person who has previously executed a contract for
29 the purchase of the subdivider's lands except when directed to the
30 sale of additional lands.

31 k. "Non-binding reservation agreement" means an agreement
32 between the developer and a purchaser and which may be canceled
33 without penalty by either party upon written notice at any time prior
34 to the formation of a contract for the disposition of any lot, parcel,
35 unit or interest in a planned real estate development.

36 l. "Blanket encumbrance" means a trust deed, mortgage,
37 judgment, or any other lien or encumbrance, including an option or
38 contract to sell or a trust agreement, affecting a development or
39 affecting more than one lot, unit, parcel, or interest therein, but does
40 not include any lien or other encumbrance arising as the result of
41 the imposition of any tax assessment by any public authority.

42 m. "Conversion" means any change with respect to a real estate
43 development or subdivision, apartment complex, cooperative
44 housing corporation, or other entity concerned with the ownership,
45 use or management of real property which would make such entity a
46 planned real estate development including a termination and
47 transfer of a cooperative housing corporation into a condominium
48 form of ownership.

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1 n. "Association" means an association for the management of
2 common elements and facilities, organized pursuant to section 1 of
3 P.L.1993, c.30 (C.45:22A-43).

4 o. "Executive board" means the executive board of an
5 association, as provided for in section 3 of P.L.1993, c.30
6 (C.45:22A- 45).

7 p. "Unit" means any lot, parcel, unit or interest in a planned
8 real estate development that is, or is intended to be, a separately
9 owned area thereof.
10 (cf: P.L.2006, c.63, s.39)

11

12 2. Section 6 of P.L.1977, c.419 (C.45:22A-26) is amended to
13 read as follows:

14 6. a. Unless otherwise exempted:

15 (1) No developer may offer or dispose of any interest in a
16 planned real estate development, including the conversion of
17 housing cooperative corporation to a condominium, prior to the
18 registration of such development with the agency.

19 (2) No developer may dispose of any lot, parcel, unit, or interest
20 in a planned real estate development, including the conversion of
21 housing cooperative corporation to a condominium, unless he:
22 delivers to the purchaser a current public offering statement, on or
23 before the contract date of such disposition.

24 b. Any contract or agreement for the purchase of any parcel,
25 lot, unit, or interest in a planned real estate development may be
26 canceled without cause by the purchaser by sending or delivering
27 written notice of cancellation by midnight of the seventh calendar
28 day following the day on which the purchaser has executed such
29 contract or agreement. Every such contract or agreement shall
30 contain, in writing, the following notice in 10-point bold type or
31 larger, directly above the space provided for the signature of the
32 purchaser:

33 "NOTICE TO THE PURCHASER: you have the right to cancel
34 this contract by sending or delivering written notice of cancellation
35 to the developer by midnight of the seventh calendar day following
36 the day on which it was executed. Such cancellation is without
37 penalty, and any deposit made by you shall be promptly refunded in
38 its entirety."

39 c. Notice as required in subsection b. shall, in addition to all
40 other requirements, be conspicuously located and simply stated in
41 the public offering statement.

42 d. The developer shall make copies of the public offering
43 statement freely available to prospective purchasers prior to the
44 contract date of disposition.

45 (cf: P.L.1977, c.419, s.6)

46

47 3. (New section) Any vote taken by the shareholders of a
48 cooperative housing corporation concerning a conversion or transfer

1 of the real estate to a condominium form of ownership shall be null
2 and void unless and until the registration and public offering
3 statement requirements of P.L.1977, c.419 (C.45:22A-21 et seq.)
4 have been met. This section shall apply to all pending cooperative
5 housing corporation conversions pending on or before the effective
6 date of P.L. , c. (C) (pending before the Legislature as this
7 bill).

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9 4. This act shall take effect immediately.

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STATEMENT

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14 This bill is to clarify the intent of the Legislature concerning the
15 requirement that conversions from a housing cooperative to
16 condominiums are subject to the registration and public offering
17 disclosure required by “The Planned Real Estate Development Full
18 Disclosure Act.” Recently, Department of Community Affairs has
19 refused to apply the consumer protection provisions of “The
20 Planned Real Estate Development Full Disclosure Act” to units
21 undergoing a conversion from a housing cooperative corporation to
22 a condominium form of planned real estate development.

23

24 That act has been construed by the courts very broadly in its
25 protection of prospective purchasers in planned real estate
26 developments. This bill clarifies that purchasers of condominiums
27 in a conversion from a cooperative housing corporation are within
28 the class of prospective purchasers that the Legislature sought to
29 protect through the enactment of P.L.1977, c.419.

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31 The bill further directs that whenever a vote has been taken to
32 terminate a cooperative in order to convert to a condominium, if the
33 new condominium was not registered with the Department of
34 Community Affairs, and a public offering statement has not been
35 provided to the prospective purchasers, then the vote is nullified.
36 The bill specifies that it will apply to all pending conversions. The
37 bill also specifies that the change of a cooperative housing
38 corporation into a condominium development will be considered a
39 conversion, and shall be registered as such under “The Planned Real
40 Estate Full Disclosure Act.” Finally, the bill requires that the
41 tenants in a cooperative that is converting to a condominium be
entitled to the same protections under the State law that protects
tenants under converted ownership.