

ASSEMBLY, No. 3659

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MARCH 16, 2020

Sponsored by:

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

SYNOPSIS

Permits qualified municipalities to prohibit conversion of affordable residential rental units to certain forms of ownership housing.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/28/2020)

1 AN ACT concerning the conversion of certain residential rental
2 premises and amending and supplementing P.L.1991, c.509.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 2 of P.L.1991, c.509 (C.2A:18-61.41) is amended to
8 read as follows:

9 2. a. The Legislature finds that the provision and maintenance
10 of an adequate supply of housing affordable to persons of low and
11 moderate income in this State has been and is becoming
12 increasingly difficult as a result of economic and market forces
13 which require special public actions or subsidies to counteract.

14 b. One particularly acute result of **[this]** these forces has been
15 the continual increase in the number of displaced or homeless
16 persons who, lacking permanent shelter, require special assistance
17 from public services in this State and in surrounding states in order
18 to remain alive.

19 c. The Legislature has **[in the past]** taken various actions **[**,
20 and is currently considering several measures,**]** to increase the
21 supply of affordable housing in the State. **[At the same time, it]**
22 However, it also is necessary to protect residential tenants,
23 particularly those of advanced age or disability, or lower economic
24 status, from the effects of eviction from affordable housing in
25 recognition of the high costs, both financial and social, to the public
26 of displacement from affordable housing and of homelessness.

27 d. The Legislature **[has in the past through various enactments**
28 **recognized]** recognizes that the eviction of residential tenants
29 pursuant to the process of conversion of residential premises to
30 condominiums or cooperatives exacerbates homelessness and makes
31 more difficult the maintenance of an adequate supply of low and
32 moderate income housing.

33 e. The Legislature, therefore, declares that it is in the public
34 interest to establish a tenant protection program specifically
35 designed to provide protection to residential tenants, particularly the
36 aged and disabled and those of low and moderate income, from
37 eviction resulting from condominium or cooperative conversion.

38 f. Despite its laudable objectives, the Legislature finds that the
39 “Tenant Protection Act of 1992,” P.L.1991, c.509 (C.2A:18-61.40
40 et al.) has yet to adequately preserve the supply of affordable
41 housing in certain municipalities in which condominium and
42 cooperative conversions have been especially common.
43 Accordingly, the Legislature also finds that condominium and
44 cooperative conversions remove affordable rental housing from the
45 market.

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 g. In the public interest of preserving affordable housing, the
2 Legislature therefore declares that qualified municipalities may
3 prohibit the conversion of affordable rental housing units.
4 (cf: P.L.1991, c.509, s.2)

5
6 2. Section 3 of P.L.1991, c.509 (C.2A:18-61.42) is amended to
7 read as follows:

8 3. As used in this act:

9 "Administrative agency" means the municipal board, officer or
10 agency designated, or the county agency contracted with, pursuant
11 to section 6 of this act.

12 "Affordable rental housing unit" means a rental housing unit that
13 is subject to a rent control ordinance.

14 "Annual household income" means the total income from all
15 sources during the last full calendar year, or the annual average of
16 that total income during the last two calendar years, whichever is
17 less, of a tenant and all members of the household who are residing
18 in the tenant's dwelling unit when the tenant applies for protected
19 tenancy, whether or not such income is subject to taxation by any
20 taxing authority.

21 "Commissioner" means the Commissioner of Community
22 Affairs.

23 "Conversion" means conversion as defined in section 3 of "The
24 Planned Real Estate Development Full Disclosure Act,"
25 P.L.1977, c.419 (C.45:22A-23).

26 "Conversion recording" means the recording with the appropriate
27 county officer of a master deed for a condominium or a deed to a
28 cooperative corporation for a planned residential development or
29 separable fee simple ownership of the dwelling units.

30 "County rental housing shortage" means a certification issued by
31 the Commissioner of Community Affairs that there has occurred a
32 significant decline in the availability of rental dwelling units in the
33 county due to conversions; provided, however, that the
34 commissioner shall not issue any such certification unless during
35 the immediately preceding 10 year period:

36 a. The aggregate number of rental units subject to registrations
37 of conversion during any three consecutive years in the county
38 exceeds 10,000; and

39 b. The aggregate number of rental units subject to registrations
40 of conversion in at least one of those three years exceeds 5,000.

41 "Department" means the Department of Community Affairs.

42 "Index" means the annual average over a 12-month period
43 beginning September 1 and ending August 31 of the Consumer
44 Price Index for Urban Wage Earners and Clerical Workers (CPI-W),
45 All Items Series A, of the United States Department of Labor
46 (1957-1959 = 100), for either the New York, NY-Northeastern New
47 Jersey or the Philadelphia, PA-New Jersey region, according as

1 either shall have been determined by the commissioner to be
2 applicable in the locality of a property undergoing conversion.

3 "Protected tenancy period" means, except as otherwise provided
4 in section 11 of this act, all that time following the conversion
5 recording for a building or structure during which a qualified tenant
6 in that building or structure continues to be a qualified tenant and
7 continues to occupy a dwelling unit therein as his principal
8 residence.

9 "Qualified county" means:

10 a. Any county with a population in excess of 500,000 and a
11 population density in excess of 8,500 per square mile, according to
12 the most recent federal decennial census; or

13 b. Any county wherein there exists a county rental housing
14 shortage.

15 "Qualified municipality" means any municipality with a
16 population density in excess of 25,000 per square mile, according to
17 the most recent federal decennial census, and which has adopted a
18 rent control ordinance.

19 "Qualified tenant" means a tenant who is a resident in a qualified
20 county and:

21 (1) Applied for protected tenancy status on or before the date of
22 registration of conversion by the department, or within one year of
23 the effective date of **[this act]** P.L.1991, c.509 (C.2A:18-61.40 et
24 al.), whichever is later;

25 (2) Has occupied the premises as his principal residence for at
26 least 12 consecutive months next preceding the date of application;
27 and

28 (3) Has an annual household income that does not at the time of
29 application exceed the maximum qualifying income as determined
30 pursuant to section 4 of **[this act]** P.L.1991, c.509 (C.2A:18-61.43),
31 except that this income limitation shall not apply to any tenant who
32 is age 75 or more years or is disabled within the meaning of section
33 3 of P.L.1981, c.226 (C.2A:18-61.24).

34 "Registration of conversion" means an approval of an application
35 for registration by the department in accordance with "The Planned
36 Real Estate Development Full Disclosure Act," P.L.1977, c.419
37 (C.45:22A-21 et seq.).

38 "Tenant in need of comparable housing" means a tenant who is
39 not a qualified tenant under **[this act]** P.L.1991, c.509 (C.2A:18-
40 61.40 et al.) and is not eligible for protected tenancy under the
41 "Senior Citizens and Disabled Protected Tenancy Act,"
42 P.L.1981, c.226 (C.2A:18-61.22 et al.).
43 (cf: P.L.1991, c.509, s.3)

44
45 3. Section 9 of P.L.1991, c.509 (C.2A:18-61.48) is amended to
46 read as follows:

47 9. **[No]** In addition to the limitations set forth in section 4 of
48 P.L. , c. (C.) (pending before the Legislature as this bill), a

1 registration of conversion for a building or structure located in a
2 qualified county shall not be approved until the department receives
3 proof that the provisions of section 8 of **【this act】** P.L.1991, c.509
4 (C.2A:18-61.47) have been complied with, and that notification as
5 required in **【that】** section 8 of P.L.1991, c.509 (C.2A:18A-61.47)
6 has been made to all tenants who filed application for protected
7 tenancy status on or before the application deadline prescribed in
8 the notice given pursuant to section 7 of **【this act】** P.L.1991, c.509
9 (C.2A:18-61.46). The proof shall be by affidavit or in such form as
10 the department may require.
11 (cf: P.L.1991, c.509, s.9)

12
13 4. (New section) a. A qualified municipality may, by
14 ordinance, prohibit the conversion of any affordable rental housing
15 unit to a condominium or cooperative form of ownership. Upon the
16 adoption of the ordinance to prohibit the conversion of affordable
17 rental housing units, the prohibition shall remain in effect until such
18 time as the governing body adopts a resolution to suspend the
19 prohibition, as set forth in paragraph 3 of this subsection. An
20 ordinance to prohibit the conversion of affordable rental housing
21 units shall:

22 (1) recognize a shortage of affordable rental housing within the
23 municipality and the public need to prevent the loss of affordable
24 rental housing units through conversions;

25 (2) establish criteria to determine the minimum number of
26 affordable rental housing units required in the municipality. The
27 criteria may include, but not be limited to, the vacancy rate of
28 affordable rental housing units, the proportion of affordable rental
29 housing units to total housing units, the proportion of existing
30 affordable housing units to condominium and cooperative units, or
31 any other consideration that the governing body may deem
32 appropriate; and

33 (3) provide for the suspension of the prohibition, by resolution,
34 upon finding that the criteria established pursuant to paragraph 2 of
35 this subsection have been met. If after adopting a resolution to
36 suspend the prohibition, the governing body of the qualified
37 municipality finds that the criteria established pursuant to paragraph
38 2 of this subsection are no longer met, then the governing body
39 may, by resolution, reinstate the prohibition.

40 b. The governing body of a qualified municipality shall
41 transmit any ordinance or resolution adopted pursuant to subsection
42 a. of this section to the department within five days of adoption.

43 c. Notwithstanding any other provision of law, rule, or
44 regulation to the contrary, the department shall not approve an
45 application for registration for the conversion of any affordable
46 rental housing unit located in a qualified municipality during such
47 time as the ordinance adopted pursuant to subsection a. of this
48 section remains in effect.

1 d. Notwithstanding any other provision of law, rule, or
2 regulation to the contrary, any application for registration of
3 conversion, notice of intention to convert, full plan of conversion,
4 public offering statement, or other required documentation
5 submitted pursuant to any law or regulation, including but not
6 limited to, P.L.1991, c.509 (C.2A:18-61.40 et al.), P.L.1981, c.226
7 (C.2A:18-61.22 et al.), P.L.1974, c.49 (C.2A:18-61.1 et al.), or
8 P.L.1977, c.419 (C.45:22A-21 et seq.), and that is associated with
9 the conversion of any affordable rental housing unit located in a
10 qualified municipality, shall be deemed null and void if submitted
11 to the department, designated administrative agency, or tenant
12 during such time as the ordinance adopted pursuant to subsection a.
13 of this section remains in effect.

14
15 5. This act shall take effect immediately.

16
17
18 STATEMENT

19
20 This bill permits qualified municipalities to prohibit the
21 conversion of affordable rental housing units to certain forms of
22 ownership housing, such as condominiums or cooperatives.

23 Pursuant to the “Tenant Protection Act of 1992,” P.L.1991, c.509
24 (C.2A:18-61.40 et al.), the State currently provides certain poor,
25 elderly, and disabled tenants residing in qualified counties with
26 tenancy protection status in the event of a condominium conversion.
27 The provisions of this law were intended to mitigate the deleterious
28 effects of condominium conversions on the supply of affordable
29 housing in certain areas of the State. This bill amends the “Tenant
30 Protection Act of 1992” to also permit qualified municipalities to
31 prohibit certain types of conversions.

32 Under the bill, the governing body of a qualified municipality
33 may adopt an ordinance to prohibit the conversion of affordable
34 rental housing units. Upon the adoption of the ordinance to prohibit
35 the conversion of affordable rental housing units, the prohibition
36 would remain in effect until the governing body adopts a resolution
37 to suspend the prohibition. Additionally, the governing body would
38 be required to transmit any applicable ordinance or resolution to the
39 Department of Community Affairs (DCA) within five days of
40 adoption. Thereafter, the DCA would be required to deny any
41 application for the conversion of an affordable rental housing unit
42 during such time as the ordinance remains in effect.

43 Specifically, an ordinance to prohibit the conversion of
44 affordable rental housing units would be required to:

45 (1) recognize a shortage of affordable rental housing within the
46 municipality and the public need to prevent the loss of affordable
47 rental housing units through conversions;

1 (2) establish criteria to determine the minimum number of
2 affordable rental housing units required in the municipality; and

3 (3) provide for the suspension of the prohibition, by resolution
4 of the governing body, upon finding that the criteria concerning the
5 minimum number of affordable rental housing units have been met.

6 The bill defines a “qualified municipality” as any municipality
7 with a population density in excess of 25,000 per square mile,
8 according to the most recent federal decennial census, and which
9 has adopted a rent control ordinance. Additionally, an “affordable
10 rental housing unit” is defined in the bill as any rental housing unit
11 that is subject to a rent control ordinance.

12 As used in the bill, conversion is defined as any change to an
13 apartment complex or other residential housing development which
14 would cause the complex or development to constitute a planned
15 real estate development (e.g., condominium or cooperative), as
16 defined by “The Planned Real Estate Development Full Disclosure
17 Act,” P.L.1977, c.419 (C.45:22A-21 et seq.).