

SENATE, No. 466

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator NICHOLAS J. SACCO

District 32 (Bergen and Hudson)

Senator RONALD L. RICE

District 28 (Essex)

SYNOPSIS

Requires notice of development applications be given to residential tenants on that property.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning notice of development applications to
2 residential tenants and amending P.L.1975, c.291.

3

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

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7 1. Section 7.1 of P.L.1975, c.291 (C.40:55D-12) is amended to
8 read as follows:

9 7.1. Notice pursuant to subsections a., b., d., e., f., g. **[and]**,
10 h. and k. of this section shall be given by the applicant unless a
11 particular municipal officer is so designated by ordinance; provided
12 that nothing contained herein shall prevent the applicant from
13 giving such notice if he so desires. Notice pursuant to subsections
14 a., b., d., e., f., g. **[and]**, h. and k. of this section shall be given at
15 least 10 days prior to the date of the hearing.

16 a. Public notice of a hearing shall be given for an extension of
17 approvals for five or more years under subsection d. of section 37
18 of P.L.1975, c.291 (C.40:55D-49) and subsection b. of section 40 of
19 P.L.1975, c.291 (C.40:55D-52); for modification or elimination of a
20 significant condition or conditions in a memorializing resolution in
21 any situation wherein the application for development for which the
22 memorializing resolution is proposed for adoption required public
23 notice, and for any other applications for development, with the
24 following exceptions: (1) conventional site plan review pursuant to
25 section 34 of P.L.1975, c.291 (C.40:55D-46), (2) minor
26 subdivisions pursuant to section 35 of P.L.1975, c.291 (C.40:55D-
27 47) or (3) final approval pursuant to section 38 of P.L.1975, c.291
28 (C.40:55D-50); notwithstanding the foregoing, the governing body
29 may by ordinance require public notice for such categories of site
30 plan review as may be specified by ordinance, for appeals of
31 determinations of administrative officers pursuant to subsection a.
32 of section 57 of P.L.1975, c.291 (C.40:55D-70), and for requests for
33 interpretation pursuant to subsection b. of section 57 of
34 P.L.1975, c.291 (C.40:55D-70). Public notice shall also be given in
35 the event that relief is requested pursuant to section 47 or 63 of
36 P.L.1975, c.291 (C.40:55D-60 or C.40:55D-76) as part of an
37 application for development otherwise excepted herein from public
38 notice.

39 In addition, public notice shall be given by a public entity
40 seeking to erect an outdoor advertising sign on land owned or
41 controlled by a public entity as required pursuant to section 22 of
42 P.L.1975, c.291 (C.40:55D-31) or, if so provided by ordinance
43 adopted pursuant to subsection g. of section 29.1 of P.L.1975, c.291
44 (C.40:55D-39), by a private entity seeking to erect an outdoor
45 advertising sign on public land or on land owned by a private entity.

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 Public notice shall be given by publication in the official
2 newspaper of the municipality, if there be one, or in a newspaper of
3 general circulation in the municipality.

4 b. Except as provided in paragraph (2) of subsection h. of this
5 section, notice of a hearing requiring public notice pursuant to
6 subsection a. of this section shall be given to the owners of all real
7 property as shown on the current tax duplicates, located in the State
8 and within 200 feet in all directions of the property which is the
9 subject of such hearing; provided that this requirement shall be
10 deemed satisfied by notice to the (1) condominium association, in
11 the case of any unit owner whose unit has a unit above or below it,
12 or (2) horizontal property regime, in the case of any co-owner
13 whose apartment has an apartment above or below it. Notice shall
14 be given by: (1) serving a copy thereof on the property owner as
15 shown on the said current tax duplicate, or his agent in charge of the
16 property, or (2) mailing a copy thereof by certified mail to the
17 property owner at his address as shown on the said current tax
18 duplicate.

19 Notice to a partnership owner may be made by service upon any
20 partner. Notice to a corporate owner may be made by service upon
21 its president, a vice president, secretary or other person authorized
22 by appointment or by law to accept service on behalf of the
23 corporation. Notice to a condominium association, horizontal
24 property regime, community trust or homeowners' association,
25 because of its ownership of common elements or areas located
26 within 200 feet of the property which is the subject of the hearing,
27 may be made in the same manner as to a corporation without further
28 notice to unit owners, co-owners, or homeowners on account of
29 such common elements or areas.

30 c. Upon the written request of an applicant, the administrative
31 officer of a municipality shall, within seven days, make and certify
32 a list from said current tax duplicates of names and addresses of
33 owners to whom the applicant is required to give notice pursuant to
34 subsection b. of this section. In addition, the administrative officer
35 shall include on the list the names, addresses and positions of those
36 persons who, not less than seven days prior to the date on which the
37 applicant requested the list, have registered to receive notice
38 pursuant to subsection h. of this section. The applicant shall be
39 entitled to rely upon the information contained in such list, and
40 failure to give notice to any owner, to any public utility, cable
41 television company, or local utility or to any military facility
42 commander not on the list shall not invalidate any hearing or
43 proceeding. A sum not to exceed \$0.25 per name, or \$10.00,
44 whichever is greater, may be charged for such list.

45 d. Notice of hearings on applications for development
46 involving property located within 200 feet of an adjoining
47 municipality shall be given by personal service or certified mail to
48 the clerk of such municipality.

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- 1 e. Notice shall be given by personal service or certified mail to
2 the county planning board of a hearing on an application for
3 development of property adjacent to an existing county road or
4 proposed road shown on the official county map or on the county
5 master plan, adjoining other county land or situated within 200 feet
6 of a municipal boundary.
- 7 f. Notice shall be given by personal service or certified mail to
8 the Commissioner of Transportation of a hearing on an application
9 for development of property adjacent to a State highway.
- 10 g. Notice shall be given by personal service or certified mail to
11 the State Planning Commission of a hearing on an application for
12 development of property which exceeds 150 acres or 500 dwelling
13 units. The notice shall include a copy of any maps or documents
14 required to be on file with the municipal clerk pursuant to
15 subsection b. of section 6 of P.L.1975, c.291 (C.40:55D-10).
- 16 h. Notice of hearings on applications for approval of a major
17 subdivision or a site plan not defined as a minor site plan under this
18 act requiring public notice pursuant to subsection a. of this section
19 shall be given: (1) in the case of a public utility, cable television
20 company or local utility which possesses a right-of-way or
21 easement within the municipality and which has registered with the
22 municipality in accordance with section 5 of P.L.1991, c.412
23 (C.40:55D-12.1), by (i) serving a copy of the notice on the person
24 whose name appears on the registration form on behalf of the public
25 utility, cable television company or local utility or (ii) mailing a
26 copy thereof by certified mail to the person whose name appears on
27 the registration form at the address shown on that form; (2) in the
28 case of a military facility which has registered with the municipality
29 and which is situated within 3,000 feet in all directions of the
30 property which is the subject of the hearing, by (i) serving a copy of
31 the notice on the military facility commander whose name appears
32 on the registration form or (ii) mailing a copy thereof by certified
33 mail to the military facility commander at the address shown on that
34 form.
- 35 i. The applicant shall file an affidavit of proof of service with
36 the municipal agency holding the hearing on the application for
37 development in the event that the applicant is required to give
38 notice pursuant to this section.
- 39 j. Notice pursuant to subsections d., e., f., g. **[and]**, h, and k.
40 of this section shall not be deemed to be required, unless public
41 notice pursuant to subsection a. and notice pursuant to subsection b.
42 of this section are required.
- 43 k. Notice of a hearing on an application for development for a
44 property with a residential tenant shall be given to each residential
45 tenant either (1) by personal service, or (2) by mailing a copy by
46 certified mail to the tenant's mailing address, as known to the
47 property owner or landlord, or (3) by requiring that the property
48 owner or landlord shall post the hearing notice in a conspicuous

1 place in at least one interior common area accessible to residential
2 tenants, at least 10 days prior to the date of the hearing and, to the
3 extent practicable, maintain the posting until the day following the
4 date of the hearing; provided, however, that this posting
5 requirement shall not be an option if there is no interior common
6 area. An application for development for a property with a
7 residential tenant shall not be approved until the owner or landlord
8 files a certification with the municipal agency that notices have
9 been provided to every tenant as required pursuant to this
10 subsection.

11 (cf: P.L.2005, c.41, s.3)

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13 2. This act shall take effect immediately.

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STATEMENT

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18 This bill is intended to ensure that residential tenants receive
19 notice of hearings on applications for development of the property
20 on which the tenancy is located. The bill requires owners or
21 landlords who are development applicants to deliver notice of a
22 hearing on the development application to each residential tenant by
23 either provide that notice of a hearing on an application for
24 development for a property with a residential tenant shall be given
25 to each residential tenant by one of three procedures: (1) by
26 personal service, or (2) by mailing a copy by certified mail to the
27 tenant's mailing address, as known to the property owner or
28 landlord, or (3) by requiring that the property owner or landlord
29 shall post the hearing notice in a conspicuous place in at least one
30 interior common area accessible to residential tenants, at least 10
31 days prior to the date of the hearing and, to the extent practicable,
32 maintain the posting until the day following the date of the hearing.
33 The posting requirement would not be an option if there is no
34 interior common area. A landlord or owner would not be able to
35 obtain approval for a development application until filing a
36 certification with the municipal agency that he or she has complied
37 with the tenants' notice requirements.