

**SENATE, No. 3100**

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**STATE OF NEW JERSEY**

**213th LEGISLATURE**

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INTRODUCED NOVEMBER 23, 2009

**Sponsored by:**

**Senator STEPHEN M. SWEENEY**

**District 3 (Salem, Cumberland and Gloucester)**

**SYNOPSIS**

The “Residential Property Lease-Purchase Act.”

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning certain residential lease-purchase transactions,  
2 and supplementing Title 46 of the Revised Statutes.

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

6  
7 1. This act shall be known and may be cited as the “Residential  
8 Property Lease-Purchase Act.”

9  
10 2. As used in this act:

11 “Option to purchase agreement” means a contract between a  
12 tenant-buyer and property owner which contains an exclusive,  
13 irrevocable right for a specified period, provided by the property  
14 owner to the tenant-buyer for a fee or other consideration, to  
15 purchase a property upon which the tenant-buyer resides pursuant to  
16 a related residential lease agreement for a determinable price. The  
17 tenant-buyer shall not be required to exercise the optional right to  
18 purchase the property under any contract agreed to with the owner.

19 “Owner” means any person who owns property, and who  
20 contracts with a tenant-buyer for a residential lease agreement with  
21 accompanying option to purchase agreement, permitting the tenant-  
22 buyer to reside at the property with the option of purchasing the  
23 property.

24 “Property” means residential real property in this State,  
25 consisting of one to four dwelling units, at least one of which is  
26 occupied by a tenant-buyer pursuant to a residential lease agreement  
27 with accompanying option to purchase agreement for the property.

28 “Residential lease agreement” means a contract, accompanied by  
29 an option to purchase agreement, between a property owner and  
30 tenant-buyer that contains terms under which the tenant-buyer is  
31 permitted to lease the property for a specified period and reside  
32 there as a tenant.

33

34 3. a. Any residential lease agreement with accompanying option  
35 to purchase agreement shall be in writing in a form containing at  
36 least 12-point type. The property owner shall provide an executed  
37 copy of the written lease agreement, properly notarized by a notary  
38 public who is commissioned pursuant to the “Notaries Public Act of  
39 1979,” P.L.1979, c.460 (C.52:7-10 et seq.), to the tenant-buyer who  
40 will reside at the property, at the time at which the tenant-buyer  
41 signs the agreement.

42 b. The written residential lease agreement shall contain at least  
43 the following:

44 (1) the name and mailing address of the property owner and any  
45 agent for the owner acting as a landlord for the property;

46 (2) the name of the person residing at, and responsible for, the  
47 property as a tenant;

48 (3) the name of any additional occupant residing at the property;

- 1       (4) the date on which the residential lease agreement is signed  
2 by both the tenant-buyer and the property owner;
- 3       (5) the recorded physical location of the property that is the  
4 subject of the residential lease agreement;
- 5       (6) the monthly rental obligation for the tenant-buyer residing  
6 on the property;
- 7       (7) the length of time of the residential lease agreement;
- 8       (8) the mailing address to which the monthly rental obligation  
9 shall be remitted, if different from the mailing address for the  
10 property owner and agent provided under paragraph (1) of this  
11 subsection;
- 12       (9) the amount of any security deposit required by the residential  
13 lease agreement, and an indication that all information concerning  
14 the investment or deposit of the security deposit shall be provided  
15 to the tenant-buyer under the agreement, as required by section 1 of  
16 P.L.1967, c.265 (C.46:8-19); and
- 17       (10) a notice that, as a condition of the residential lease  
18 agreement, an option to purchase agreement for the property shall  
19 be executed between the property owner and tenant-buyer pursuant  
20 to the provisions of section 4 of this act.
- 21
- 22       4. a. As a condition of a residential lease agreement executed  
23 pursuant to section 3 of this act, an option to purchase agreement  
24 shall be executed for the same property between the property owner  
25 and tenant-buyer. The terms and conditions of the option to  
26 purchase agreement shall be contingent upon the tenant-buyer's  
27 fulfillment of all obligations under the residential lease agreement.  
28 The failure to fulfill any obligation under the residential lease  
29 agreement shall render the option to purchase agreement voidable  
30 by the property owner.
- 31       b. The option to purchase agreement shall be in writing in a  
32 form containing at least 12-point type. The property owner shall  
33 provide an executed copy of the written option to purchase  
34 agreement, properly notarized by a notary public who is  
35 commissioned pursuant to the "Notaries Public Act of 1979,"  
36 P.L.1979, c.460 (C.52:7-10 et seq.), to the tenant-buyer at the time  
37 at which the tenant-buyer signs the agreement.
- 38       c. The written option to purchase agreement shall contain at  
39 least the following:
- 40       (1) the name and mailing address of the tenant-buyer under the  
41 executed residential lease agreement and the option to purchase  
42 agreement;
- 43       (2) the name and mailing address of the property owner;
- 44       (3) the date on which the option to purchase agreement is signed  
45 by both the tenant-buyer and the property owner;
- 46       (4) the recorded physical location of the property that is the  
47 subject of the option to purchase agreement, which shall be the

1 same property that is the subject of the residential lease agreement  
2 executed pursuant to section 3 of this act;

3 (5) (a) the purchase price or other consideration provided for  
4 the property that is the subject of the option to purchase agreement;  
5 or

6 (b) the manner in which the purchase price or other  
7 consideration shall be determined at the time the tenant-buyer  
8 exercises his optional right to purchase the property from the  
9 property owner, which shall include an appraisal of the property by  
10 a real estate appraiser licensed or certified pursuant to the "Real  
11 Estate Appraisers Act," P.L.1991, c.68 (C.45:14F-1 et al);

12 (6) the amount of any fee or other consideration provided by the  
13 tenant-buyer at the time of the execution of the option to purchase  
14 agreement as consideration for the agreement, and additionally, the  
15 amount, if any, of this fee or other consideration that shall be  
16 applied as credit towards the purchase of the property if the tenant-  
17 buyer exercises his optional right to purchase the property from the  
18 property owner;

19 (7) the amount of any money to be provided by the tenant-buyer  
20 to the property owner, to be credited toward the purchase of the  
21 property, remitted on a monthly basis in excess of the monthly  
22 rental obligation established pursuant to the executed residential  
23 lease agreement between the parties;

24 (8) the amount of any charge or fee to the tenant-buyer for  
25 services included in the option to purchase agreement that is distinct  
26 from the fee, money, or other consideration described in paragraphs  
27 (5) through (7) of this subsection;

28 (9) a notice that the property owner shall be responsible for the  
29 payment of taxes, insurance, assessments, and any other charges  
30 against the property during the length of time of the agreement, and  
31 if the tenant-buyer exercises his optional right to purchase the  
32 property, the property owner shall deliver the deed and convey title  
33 to the property free of any liens or encumbrances as a condition of  
34 the settlement of the option to purchase agreement; and

35 (10) a notice that the property owner, as a condition of the  
36 settlement of the option to purchase agreement, shall not possess a  
37 mortgage on the property in an amount greater than the purchase  
38 price or other consideration provided for the property as agreed to  
39 between the owner and tenant-buyer pursuant to paragraph (5) of  
40 this subsection.

41 d. With respect to the amount of any fee or other consideration  
42 provided by the tenant-buyer at the time of the execution of the  
43 option to purchase agreement as consideration for the agreement, as  
44 set forth in paragraph (6) of subsection c. of this section:

45 (1) the entire fee or other consideration shall be provided by the  
46 tenant-buyer at the time of the execution of the option to purchase  
47 agreement;

1       (2) the property owner may declare some or all of the fee or  
2 other consideration to be non-refundable, regardless of whether the  
3 tenant-buyer exercises his right to purchase the property from the  
4 property owner pursuant to the option to purchase agreement, or  
5 declare that some or all of the fee or other consideration shall be  
6 credited toward the purchase of the property, if the tenant-buyer  
7 does exercise his right to purchase the property, so long as this  
8 declaration is agreed to by the tenant-buyer and expressly stated in  
9 the agreement; and

10       (3) the fee or other consideration provided the property owner  
11 shall not constitute an equitable ownership interest in the property.

12       e. With respect to any money provided by the tenant-buyer to  
13 the property owner, remitted as a monthly credit towards the  
14 purchase of the property in excess of the monthly rental obligation  
15 established pursuant to the executed residential lease agreement  
16 between the parties, as set forth in paragraph (7) of subsection c. of  
17 this section:

18       (1) the property owner may declare some or all of the money to  
19 be non-refundable, if the tenant-buyer does not exercise his right to  
20 purchase the property from the property owner pursuant to the  
21 option to purchase agreement, so long as this declaration is agreed  
22 to by the tenant-buyer and expressly stated in the agreement; and

23       (2) the money provided to the property owner shall not  
24 constitute an equitable ownership interest in the property.

25       f. If the tenant-buyer exercises his right to purchase the property  
26 from the property owner pursuant to the option to purchase  
27 agreement, any amount still owed toward the purchase price or  
28 other consideration for the property, as set forth in the agreement,  
29 following the application of any fee, money, or other consideration  
30 described under paragraphs (6) and (7) of subsection c. of this  
31 section by the property owner and credited toward the purchase,  
32 shall be the sole responsibility of the tenant-buyer.

33

34       5. a. A tenant-buyer or property owner may bring an action in a  
35 court of competent jurisdiction for legal and equitable relief against  
36 the other party for failing to comply with the provisions of this act,  
37 or if the other party violates any of the contract provisions set forth  
38 in any written agreement for a residential lease agreement or  
39 accompanying option to purchase agreement between the parties.  
40 The relief sought by the tenant-buyer or property owner may  
41 include enforcement or rescission of any agreement, damages,  
42 including consequential damages, and restitution.

43       b. A property owner, in accordance with N.J.S.2A:18-51 et seq.  
44 and any other applicable State eviction law, may initiate an eviction  
45 action against a tenant-buyer as a tenant under a residential lease  
46 agreement, for failure to comply with the provisions of that  
47 agreement.

1       6. The provisions of this act shall not be construed to affect,  
2 modify, or rescind any right, benefit, privilege or obligation, or  
3 available legal remedy to enforce or cancel any right, benefit,  
4 privilege or obligation, under any applicable State and federal law  
5 concerning the purchase of a property, and any mortgage or other  
6 financing of the purchase, that is the subject of a residential lease  
7 agreement with accompanying option to purchase agreement.

8  
9       7. This act shall take effect on the first day of the third month  
10 next following enactment, and shall apply to any residential lease  
11 agreement and accompanying option to purchase agreement  
12 executed on or after the effective date.

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14  
15                               **STATEMENT**

16  
17       This bill, titled the “Residential Property Lease-Purchase Act,”  
18 regulates those transactions in which a property owner contracts  
19 with a tenant-buyer for a residential lease agreement with  
20 accompanying option to purchase agreement, with the intention of  
21 permitting the tenant-buyer to reside at the property with the option  
22 of purchasing the property. The bill applies to residential real  
23 property in this State, consisting of one to four dwelling units, at  
24 least one of which is occupied by the tenant-buyer as a primary  
25 residence.

26       Any residential lease agreement with accompanying option to  
27 purchase agreement shall be in writing in a form containing at least  
28 12-point type. The property owner shall provide an executed copy  
29 of the written lease agreement, properly notarized by a notary  
30 public who is commissioned pursuant to the “Notaries Public Act of  
31 1979,” P.L.1979, c.460 (C.52:7-10 et seq.), to the tenant-buyer who  
32 will reside at the property, at the time at which the tenant-buyer  
33 signs the agreement.

34       Among the requirements for inclusion in the residential lease  
35 agreement are: the monthly rental obligation for the tenant-buyer  
36 residing on the property; the length of time of the residential lease  
37 agreement; the mailing address to which the monthly rental  
38 obligation shall be remitted; the amount of any security deposit  
39 required; and an indication that all information concerning the  
40 investment or deposit of the security deposit shall be provided to  
41 the tenant-buyer under the agreement, as required by section 1 of  
42 P.L.1967, c.265 (C.46:8-19).

43       As a condition of a residential lease agreement executed pursuant  
44 to the bill’s provisions, an option to purchase agreement shall be  
45 executed for the same property between the property owner and  
46 tenant-buyer. As with the residential lease agreement, the option to  
47 purchase agreement shall be in writing, and notarized by a notary  
48 public at the time the tenant-buyer signs the agreement.

1       The terms and conditions of the option to purchase agreement  
2 shall be contingent upon the tenant-buyer's fulfillment of all  
3 obligations under the residential lease agreement. The failure to  
4 fulfill any obligation under the residential lease agreement shall  
5 render the option to purchase agreement voidable by the property  
6 owner.

7       The option to purchase agreement shall contain provisions  
8 concerning any fee or other consideration provided by the tenant-  
9 buyer as consideration for the agreement, as well as provisions  
10 concerning the amount of money to be provided, in monthly  
11 installments in excess of the monthly rental obligation, and credited  
12 toward the purchase of the property.

13       With respect to the amount of any fee or other consideration  
14 provided as consideration for the option to purchase agreement: (1)  
15 the entire fee or other consideration shall be provided by the tenant-  
16 buyer at the time the agreement is executed; (2) the property owner  
17 may declare some or all of the fee or other consideration to be non-  
18 refundable, regardless of whether the tenant-buyer exercises his  
19 right to purchase the property from the property owner pursuant to  
20 the option to purchase agreement, or declare that some or all of the  
21 fee or other consideration shall be credited toward the purchase of  
22 the property, if the tenant-buyer does exercise his right to purchase  
23 the property, so long as this declaration is agreed to by the tenant-  
24 buyer and expressly stated in the agreement; and (3) the fee or  
25 other consideration provided to the property owner shall not  
26 constitute an equitable ownership interest in the property.

27       With respect to any money provided as a monthly credit towards  
28 the purchase of the property: (1) the property owner may declare  
29 some or all of the money to be non-refundable, if the tenant-buyer  
30 does not exercise his right to purchase the property from the  
31 property owner pursuant to the option to purchase agreement, so  
32 long as this declaration is agreed to by the tenant-buyer and  
33 expressly stated in the agreement; and (2) the money provided to  
34 the property owner shall not constitute an equitable ownership  
35 interest in the property.

36       If the tenant-buyer exercises his right to purchase the property  
37 from the property owner pursuant to the option to purchase  
38 agreement, any amount still owed toward the purchase price or  
39 other consideration on the property, as set forth in the agreement,  
40 following the application of any of the above described fee, money,  
41 or other consideration credited toward the purchase, shall be the  
42 sole responsibility of the tenant-buyer.

43       A tenant-buyer or property owner may bring an action in a court  
44 of competent jurisdiction for legal and equitable relief against the  
45 other party for failing to comply with the provisions of the bill, or if  
46 the other party violates any of the provisions set forth in any written  
47 residential lease agreement or option to purchase agreement  
48 between the parties. The relief sought by the tenant-buyer or

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1 property owner may include enforcement or rescission of any  
2 agreement, damages, including consequential damages, and  
3 restitution.

4 In addition, a property owner, in accordance with N.J.S.2A:18-  
5 51 et seq. and any other applicable State eviction law, may initiate  
6 an eviction action against a tenant-buyer as a tenant under a  
7 residential lease agreement, for failure to comply with the  
8 provisions of that agreement.