

P.L. 2020, CHAPTER 40, *approved June 26, 2020*
Senate, No. 1055

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

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 cooperative conversions have been especially common.
2 Accordingly, the Legislature also finds that condominium and
3 cooperative conversions remove affordable rental housing from the
4 market.

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

9
10 2. Section 3 of P.L.1991, c.509 (C.2A:18-61.42) is amended to
11 read as follows:

12 3. As used in this act:

13 "Administrative agency" means the municipal board, officer or
14 agency designated, or the county agency contracted with, pursuant
15 to section 6 of this act.

16 "Affordable rental housing unit" means a rental housing unit that
17 is subject to a rent control ordinance.

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

25 "Commissioner" means the Commissioner of Community
26 Affairs.

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

30 "Conversion recording" means the recording with the appropriate
31 county officer of a master deed for a condominium or a deed to a
32 cooperative corporation for a planned residential development or
33 separable fee simple ownership of the dwelling units.

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

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

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

45 "Department" means the Department of Community Affairs.

46 "Index" means the annual average over a 12-month period
47 beginning September 1 and ending August 31 of the Consumer
48 Price Index for Urban Wage Earners and Clerical Workers (CPI-W),

1 All Items Series A, of the United States Department of Labor
2 (1957-1959 = 100), for either the New York, NY-Northeastern New
3 Jersey or the Philadelphia, PA-New Jersey region, according as
4 either shall have been determined by the commissioner to be
5 applicable in the locality of a property undergoing conversion.

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

12 "Qualified county" means:

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

16 b. Any county wherein there exists a county rental housing
17 shortage.

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

22 "Qualified tenant" means a tenant who is a resident in a qualified
23 county and:

24 (1) Applied for protected tenancy status on or before the date of
25 registration of conversion by the department, or within one year of
26 the effective date of **[this act]** P.L.1991, c.509 (C.2A:18-
27 61.40 et al.), whichever is later;

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

31 (3) Has an annual household income that does not at the time of
32 application exceed the maximum qualifying income as determined
33 pursuant to section 4 of **[this act]** P.L.1991, c.509 (C.2A:18-61.43),
34 except that this income limitation shall not apply to any tenant who
35 is age 75 or more years or is disabled within the meaning of section
36 3 of P.L.1981, c.226 (C.2A:18-61.24).

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

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

46 (cf: P.L.1991, c.509, s.3)

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

3 9. **【No】** In addition to the limitations set forth in section 4 of
4 P.L. , c. (C.) (pending before the Legislature as this bill), a
5 registration of conversion for a building or structure located in a
6 qualified county shall not be approved until the department receives
7 proof that the provisions of section 8 of **【this act】** P.L.1991, c.509
8 (C.2A:18-61.47) have been complied with, and that notification as
9 required in **【that】** section 8 of P.L.1991, c.509 (C.2A:18A-61.47)
10 has been made to all tenants who filed application for protected
11 tenancy status on or before the application deadline prescribed in
12 the notice given pursuant to section 7 of **【this act】** P.L.1991, c.509
13 (C.2A:18-61.46). The proof shall be by affidavit or in such form as
14 the department may require.
15 (cf: P.L.1991, c.509, s.9)

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

26 (1) recognize a shortage of affordable rental housing within the
27 municipality and the public need to prevent the loss of affordable
28 rental housing units through conversions;

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

37 (3) provide for the suspension of the prohibition, by resolution,
38 upon finding that the criteria established pursuant to paragraph 2 of
39 this subsection have been met. If after adopting a resolution to
40 suspend the prohibition, the governing body of the qualified
41 municipality finds that the criteria established pursuant to paragraph
42 2 of this subsection are no longer met, then the governing body
43 may, by resolution, reinstate the prohibition.

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

47 c. Notwithstanding any other provision of law, rule, or
48 regulation to the contrary, the department shall not approve an

1 application for registration for the conversion of any affordable
2 rental housing unit located in a qualified municipality during such
3 time as the ordinance adopted pursuant to subsection a. of this
4 section remains in effect.

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

18
19 5. This act shall take effect immediately.
20
21

22 STATEMENT 23

24 This bill permits qualified municipalities to prohibit the
25 conversion of affordable rental housing units to certain forms of
26 ownership housing, such as condominiums or cooperatives.

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

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

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

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

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

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

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

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

21

22

23

24

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