

## CHAPTER 105

AN ACT concerning alternate members of municipal zoning boards of adjustment and amending P.L.1975, c.291.

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

1. Section 56 of P.L.1975, c.291 (C.40:55D-69) is amended to read as follows:

C.40:55D-69 Zoning board of adjustment.

56. Zoning board of adjustment. Upon the adoption of a zoning ordinance, the governing body shall create, by ordinance, a zoning board of adjustment unless the municipality is eligible for, and exercises, the option provided by subsection c. of section 16 of P.L.1975, c.291 (C.40:55D-25). A zoning board of adjustment shall consist of seven regular members and may have not more than four alternate members. All regular members and any alternate members shall be municipal residents. Notwithstanding the provisions of any other law or charter heretofore adopted, such ordinance shall provide the method of appointment of all such members. Alternate members shall be designated at the time of appointment by the authority appointing them as "Alternate No. 1" and "Alternate No. 2," and, in the case of a municipality in which more than two alternates have been appointed, "Alternate No. 1," "Alternate No. 2," "Alternate No. 3," and "Alternate No. 4," as appropriate. The terms of the members first appointed under P.L.1975, c.291 (C.40:55D-1 et seq.) shall be so determined that to the greatest practicable extent, the expiration of such terms shall be distributed, in the case of regular members, evenly over the first four years after their appointment, and in the case of alternate members, evenly over the first two years after their appointment; provided that the initial term of no regular members shall exceed four years and that the initial term of no alternate member shall exceed two years. Thereafter, the term of each regular member shall be four years, and the term of each alternate member shall be two years. In any municipality in which more than two alternates have been appointed, the terms of not more than two alternate members shall expire in any one year. No member may hold any elective office or position under the municipality. No member of the board of adjustment shall be permitted to act on any matter in which he has, either directly or indirectly, any personal or financial interest. A member may, after public hearing if he requests it, be removed by the governing body for cause. A vacancy occurring otherwise than by expiration of term shall be filled for the unexpired term only.

The board of adjustment shall elect a chairman and vice chairman from its regular members and select a secretary, who may or may not be a member of the board of adjustment or a municipal employee.

Alternate members may participate in all matters but may not vote except in the absence or disqualification of a regular member. Participation of alternate members shall not be deemed to increase the size of the zoning board of adjustment established by ordinance of the governing body pursuant to section 56 of P.L.1975, c.291 (C.40:55D-69). A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, alternate members shall vote in the order of their numerical designations.

2. This act shall take effect immediately.

Approved July 14, 2004.