

CHAPTER 31

AN ACT concerning swimming pools in health clubs and amending P.L.1991, c.135.

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

1. Section 1 of P.L.1991, c.135 (C.26:4A-4) is amended to read as follows:

C.26:4A-4 Definitions relative to lifeguard and first aid personnel requirements at certain swimming areas.

1. As used in this act:

"Campground" means a plot of ground upon which two or more campsites are located, established or maintained for occupancy by camping units of the general public as temporary living quarters for children or adults, or both, for a total of 15 days or more in any calendar year, for recreation, education, or vacation purposes.

"Common interest community" means:

- a. property subject to the "Condominium Act," P.L.1969, c.257 (C.46:8B-1 et seq.) or the "Horizontal Property Act," P.L.1963, c.168 (C.46:8A-1 et seq.);

- b. a housing corporation or association, commonly known as a cooperative, which entitles the holder of a share or membership interest thereof to possess and occupy for dwelling purposes a house, apartment, manufactured or mobile home or other unit of housing owned or leased by the corporation or association, or to lease or purchase a unit of housing constructed or to be constructed by the corporation or association; or

- c. real estate with respect to which a person, by virtue of his ownership of a unit, is obligated to pay for real estate taxes, insurance premiums, maintenance or improvement of other real estate described in the instrument, however denominated, which creates the common interest community. Ownership of a unit does not include holding a leasehold interest of less than 20 years in a unit, including renewal options.

"Health club" means a health club that is registered with the Director of the Division of Consumer Affairs in the Department of Law and Public Safety pursuant to P.L.1987, c.238 (C.56:8-39 et seq.).

"Hotel" or "motel" means a commercial establishment with a building of four or more dwelling units or rooms used for rental and lodging by guests.

"Mobile home park" means a parcel of land, or two or more contiguous parcels of land, containing at least 10 sites equipped for the installation of mobile or manufactured homes, where these sites are under common ownership and control, other than as a cooperative, for the purpose of leasing each site to the owner of a mobile or manufactured home for the installation thereof, and where the owner provides services, which are provided by the municipality in which the park is located for property owners outside the park, which services may include, but shall not be limited to:

- a. Construction and maintenance of streets;
- b. Lighting of streets and other common areas;
- c. Garbage removal;
- d. Snow removal; and
- e. Provision for the drainage of surface water from home sites and common areas.

"Private lake, river or bay or private community lake, river or bay association" means an organization of property owners within a fixed or defined geographical area with deeded or other rights to utilize, with similarly situated owners, various lakefront, riverfront or bayfront properties, which properties are not open to the general public, other than bona fide guests of

a member of the private lake, river or bay or private community lake, river or bay association.

"Private marina" means a privately-owned water dependent facility for the docking, servicing or storage of private boats, at which services are provided on an annual, seasonal or per diem basis, and which facility is not open to the general public, other than bona fide guests of boat owners eligible to use the marina and which has a private swimming pool that is not open to the general public, other than bona fide guests of boat owners eligible to use the marina.

"Retirement community" means a retirement community which is registered with the Division of Housing and Development in the Department of Community Affairs pursuant to "The Planned Real Estate Development Full Disclosure Act," P.L.1977, c.419 (C.45:22A-21 et seq.).

"Specially exempt facility" means a private lake, river or bay or private community lake, river or bay association, or private nonprofit common interest community which restricts the use of its lake, river, bay or pool, as appropriate, to the owners of units thereof and their invited guests. Specially exempt facility also includes a campground, hotel, motel, mobile home park, or retirement community which restricts the use of its pool to renters of the lodging units or owners of the dwelling units, as appropriate, and their invited guests, or day-use visitors, or a private marina which restricts the use of its swimming pool to owners of boats eligible to use the facilities and their invited guests. Specially exempt facility also includes a privately-owned campground which restricts the use of a swimming area other than its swimming pool to renters of the lodging units or owners of the dwelling units, as appropriate, and their invited guests, or day-use visitors. Specially exempt facility also includes a health club which restricts the use of its pool to members and their invited guests and does not permit the use of its pool by persons under 16 years of age, and in which the maximum depth of the water in the pool does not exceed five feet, but does not include a health club which shares use of its pool with another entity.

2. Section 2 of P.L.1991, c.135 (C.26:4A-5) is amended to read as follows:

C.26:4A-5 Exemptions from mandatory compliance.

2. Notwithstanding the provisions of section 7 of P.L.1947, c.177 (C.26:1A-7) or any rules or regulations promulgated pursuant thereto to the contrary, a specially exempt facility shall be exempt from mandatory compliance with the first aid personnel and lifeguard requirements of N.J.A.C.8:26-5 et seq., except that:

a. A campground, private marina with a swimming pool, hotel, motel, mobile home park or retirement community which does not voluntarily comply with these requirements shall have a manager or owner on the premises when its swimming area or, in the case of a private marina, when its swimming pool is open for use; and

b. A health club which does not voluntarily comply with these requirements shall have an owner or manager on the premises when its swimming pool is open for use. The provisions of this section shall not be construed to exempt a health club from the provisions of P.L.2005, c.346 (C.2A:62A-30 et seq.).

3. Section 3 of P.L.1991, c.135 (C.26:4A-6) is amended to read as follows:

C.26:4A-6 Signs posted at specially exempt facility.

3. a. Except as provided in subsection b. of this section, a specially exempt facility which does not voluntarily comply with the first aid and lifeguard requirements of N.J.A.C.8:26-5 et seq., shall post a sign not less than three feet by four feet, which shall be prominently displayed at the entrance to each swimming area, stating: "No lifeguard on duty. Persons under the age of 16 must be accompanied by an adult. No swimming alone." In the case of a campground, hotel, motel, mobile home park or retirement community, the sign shall also state: "This pool (or swimming area) shall be closed when the owner or manager is not on the premises." The notice shall also be posted on a sign not less than eight inches by 10 inches at the registration desk of the campground, hotel or motel, and in each room or suite of the campground, hotel or motel used for occupancy by guests.

b. A health club which is a specially exempt facility and does not voluntarily comply with the first aid and lifeguard requirements of N.J.A.C.8:26-5 et seq., shall post a sign not less than three feet by four feet, which shall be prominently displayed at the entrance to its swimming pool, stating: "No lifeguard on duty. Persons under the age of 16 are not permitted to use this pool." The sign shall also state: "This pool shall be closed when the owner or manager is not on the premises." This information shall also be posted on a sign not less than eight inches by 10 inches at the member service desk of the health club.

4. The Commissioner of Health and Senior Services, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate the purposes of this act.

5. This act shall take effect on the 180th day after enactment, but the Commissioner of Health and Senior Services may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of the act.

Approved March 21, 2009.