

CHAPTER 40
(CORRECTED COPY)

AN ACT concerning the conversion of certain residential rental premises and amending and supplementing P.L.1991, c.509.

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

1. Section 2 of P.L.1991, c.509 (C.2A:18-61.41) is amended to read as follows:
C.2A:18-61.41 Findings, declarations.

2. a. The Legislature finds that the provision and maintenance of an adequate supply of housing affordable to persons of low and moderate income in this State has been and is becoming increasingly difficult as a result of economic and market forces which require special public actions or subsidies to counteract.

b. One particularly acute result of these forces has been the continual increase in the number of displaced or homeless persons who, lacking permanent shelter, require special assistance from public services in this State and in surrounding states in order to remain alive.

c. The Legislature has taken various actions to increase the supply of affordable housing in the State. However, it also is necessary to protect residential tenants, particularly those of advanced age or disability, or lower economic status, from the effects of eviction from affordable housing in recognition of the high costs, both financial and social, to the public of displacement from affordable housing and of homelessness.

d. The Legislature recognizes that the eviction of residential tenants pursuant to the process of conversion of residential premises to condominiums or cooperatives exacerbates homelessness and makes more difficult the maintenance of an adequate supply of low and moderate income housing.

e. The Legislature, therefore, declares that it is in the public interest to establish a tenant protection program specifically designed to provide protection to residential tenants, particularly the aged and disabled and those of low and moderate income, from eviction resulting from condominium or cooperative conversion.

f. Despite its laudable objectives, the Legislature finds that the "Tenant Protection Act of 1992," P.L.1991, c.509 (C.2A:18-61.40 et al.) has yet to adequately preserve the supply of affordable housing in certain municipalities in which condominium and cooperative conversions have been especially common. Accordingly, the Legislature also finds that condominium and cooperative conversions remove affordable rental housing from the market.

g. In the public interest of preserving affordable housing, the Legislature therefore declares that qualified municipalities may prohibit the conversion of affordable rental housing units.

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

C.2A:18-61.42 Definitions.

3. As used in this act:

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

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

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

"Commissioner" means the Commissioner of Community Affairs.

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

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

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

- a. The aggregate number of rental units subject to registrations of conversion during any three consecutive years in the county exceeds 10,000; and
- b. The aggregate number of rental units subject to registrations of conversion in at least one of those three years exceeds 5,000.

"Department" means the Department of Community Affairs.

"Index" means the annual average over a 12-month period beginning September 1 and ending August 31 of the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W), All Items Series A, of the United States Department of Labor (1957-1959 = 100), for either the New York, NY-Northeastern New Jersey or the Philadelphia, PA-New Jersey region, according as either shall have been determined by the commissioner to be applicable in the locality of a property undergoing conversion.

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

"Qualified county" means:

- a. Any county with a population in excess of 500,000 and a population density in excess of 8,500 per square mile, according to the most recent federal decennial census; or
- b. Any county wherein there exists a county rental housing shortage.

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

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

- (1) Applied for protected tenancy status on or before the date of registration of conversion by the department, or within one year of the effective date of P.L.1991, c.509 (C.2A:18-61.40 et al.), whichever is later;
- (2) Has occupied the premises as his principal residence for at least 12 consecutive months next preceding the date of application; and
- (3) Has an annual household income that does not at the time of application exceed the maximum qualifying income as determined pursuant to section 4 of P.L.1991, c.509 (C.2A:18-61.43), except that this income limitation shall not apply to any tenant who is age 75 or more years or is disabled within the meaning of section 3 of P.L.1981, c.226 (C.2A:18-61.24).

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

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

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

C.2A:18-61.48 Requirements for registration of conversion for building, structure.

9. In addition to the limitations set forth in section 4 of P.L.2020, c.40 (C.2A:18-61.48a), a registration of conversion for a building or structure located in a qualified county shall not be approved until the department receives proof that the provisions of section 8 of P.L.1991, c.509 (C.2A:18-61.47) have been complied with, and that notification as required in section 8 of P.L.1991, c.509 (C.2A:18A-61.47) has been made to all tenants who filed application for protected tenancy status on or before the application deadline prescribed in the notice given pursuant to section 7 of P.L.1991, c.509 (C.2A:18-61.46). The proof shall be by affidavit or in such form as the department may require.

C.2A:18-61.48a Prohibition of conversion of affordable rental housing unit to condominium, cooperative form of ownership.

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

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

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

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

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

c. Notwithstanding any other provision of law, rule, or regulation to the contrary, the department shall not approve an application for registration for the conversion of any affordable rental housing unit located in a qualified municipality during such time as the ordinance adopted pursuant to subsection a. of this section remains in effect.

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

5. This act shall take effect immediately.

Approved June 26, 2020.