

2A 18-61.20

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(Tenant Protection Act of 1992)

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LAWS OF: 1991 CHAPTER: 509

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P.L.1991, CHAPTER 509, *approved January 18, 1992*
1991 Assembly No. 5321

1 AN ACT concerning the conversions of residential rental
2 premises in certain cases, amending P.L.1974, c.49, P.L.1977,
3 c.419, P.L.1981, c.226 and P.L.1986, c.138, and supplementing
4 Title 2A of the New Jersey Statutes.

5

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

8 1. (New section) This act shall be known and may be cited as
9 the "Tenant Protection Act of 1992."

10 2. (New section) The Legislature finds that the provision and
11 maintenance of an adequate supply of housing affordable to
12 persons of low and moderate income in this State has been and is
13 becoming increasingly difficult as a result of economic and
14 market forces which require special public actions or subsidies to
15 counteract. One particularly acute result of this has been the
16 continual increase in the number of displaced or homeless persons
17 who, lacking permanent shelter, require special assistance from
18 public services in this State and in surrounding states in order to
19 remain alive. The Legislature has in the past taken various
20 actions, and is currently considering several measures, to
21 increase the supply of affordable housing in the State. At the
22 same time, it is necessary to protect residential tenants,
23 particularly those of advanced age or disability, or lower
24 economic status, from the effects of eviction from affordable
25 housing in recognition of the high costs, both financial and social,
26 to the public of displacement from affordable housing and of
27 homelessness. The Legislature has in the past through various
28 enactments recognized that the eviction of residential tenants
29 pursuant to the process of conversion of residential premises to
30 condominiums or cooperatives exacerbates homelessness and
31 makes more difficult the maintenance of an adequate supply of
32 low and moderate income housing. The Legislature, therefore,
33 declares that it is in the public interest to establish a tenant
34 protection program specifically designed to provide protection to
35 residential tenants, particularly the aged and disabled and those
36 of low and moderate income, from eviction resulting from
37 condominium or cooperative conversion.

38 3. (New section) As used in this act:

39 "Administrative agency" means the municipal board officer or

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 agency designated, or the county agency contracted with,
2 pursuant to section 6 of this act.

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

10 "Commissioner" means the Commissioner of Community
11 Affairs.

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

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

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

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

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

33 "Department" means the Department of Community Affairs.

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

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

49 "Qualified county" means:

50 a Any county with a population in excess of 500,000 and a

1 population density in excess of 8,500 per square mile, according
2 to the most recent federal decennial census; or

3 b. Any county wherein there exists a county rental housing
4 shortage.

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

7 (1) Applied for protected tenancy status on or before the date
8 of registration of conversion by the department, or within one
9 year of the effective date of this act, whichever is later;

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

13 (3) Has an annual household income that does not at the time
14 of application exceed the maximum qualifying income as
15 determined pursuant to section 4 of this act, except that this
16 income limitation shall not apply to any tenant who is aged 75 or
17 more years or is disabled within the meaning of section 3 of
18 P.L.1981, c.226 (C.2A:18-61.24).

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

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

27 4. (New section) As of the effective date of this act,
28 maximum qualifying income for the purpose of determining
29 qualified tenant status as defined in section 3 of this act shall be
30 in the case of a household comprising one person, \$31,400; two
31 persons, \$38,500; three persons, \$44,800; four persons, \$50,300;
32 five persons, \$55,000; six persons, \$58,900; seven persons,
33 \$62,000; eight or more persons, \$64,300. In the case of any
34 application for protected tenancy filed more than one year from
35 the effective date of this act, and upon any occasion when
36 termination of a previously granted protected tenancy is sought
37 pursuant to section 11 of this act upon the grounds set forth in
38 paragraph (2) of subsection a. of that section, these figures shall
39 be adjusted by the percentage change, if any, in the applicable
40 index that has occurred since the effective date of this act.

41 5. (New section) a. Each qualified tenant shall be granted a
42 protected tenancy status with respect to his dwelling unit upon
43 conversion of the building or structure in which the unit is
44 located. The protected tenancy status shall be granted upon
45 proper application and qualification pursuant to the provisions of
46 this act.

47 b. Each qualified tenant in need of comparable housing shall be
48 entitled to remain in his dwelling unit upon conversion of the
49 building or structure in which the unit is located until the owner
50 of the building or structure has complied with the provisions of

1 P.L.1975, c.311 (C.2A:18-61.7 et al.).

2 6. (New section) Each municipal governing body in a qualified
3 county shall designate a municipal board, agency or officer to act
4 as its administrative agency for the purposes of this act or may
5 enter into a contractual agreement with an appropriate county to
6 act as its administrative agency for purposes of this act. In the
7 absence of such authorization or contractual agreement, this act
8 shall be administered by the board, agency or officer
9 administering the provisions of the "Senior Citizens and Disabled
10 Protected Tenancy Act," P.L.1981, c.226 (C.2A:18-61.22 et al.)
11 in the municipality.

12 7. (New section) The owner of any building or structure in a
13 qualified county who seeks to convert any premises shall notify
14 the administrative agency of that intention prior to filing the
15 application for registration of conversion with the department.
16 The owner shall supply the administrative agency with a list of
17 every tenant residing in the premises, with stamped envelopes
18 addressed to each tenant and with sufficient copies of the notice
19 to tenants and application form for protected tenancy status.
20 Within 10 days thereafter, the administrative agency shall notify
21 each residential tenant in writing of the owner's intention and of
22 the applicability of the provisions of this act and shall provide
23 him with a written application form. The agency's notice shall
24 be substantially in the following form:

25 "NOTICE

26
27 THE OWNER OF YOUR APARTMENT HAS NOTIFIED
28 OF HIS INTENTION TO
29 (insert name of municipality)
30 CONVERT TO A CONDOMINIUM OR COOPERATIVE.

31
32 UNDER STATE LAW YOU MAY BE ENTITLED
33 TO A PROTECTED TENANCY.

34
35 PROTECTED TENANCY MEANS THAT YOU
36 CANNOT BE EVICTED BECAUSE OF THE CONVERSION.

37
38 YOU MAY BE QUALIFIED:

39 (1) IF YOU HAVE LIVED IN YOUR APARTMENT FOR
40 A YEAR AND

41 (2) IF YOUR HOUSEHOLD INCOME IS LESS THAN
42, OR

43 (insert current maximum qualifying income
44 established under section 3 of this act)

45 YOU ARE DISABLED OR ARE AT LEAST 75 YEARS OLD.

46
47 IF YOU THINK YOU MAY QUALIFY, SEND IN THE
48 APPLICATION FORM BY

49 (insert date 60 days after
50 municipality's mailing)

1 TO THE
2 (insert name and address of administrative agency)

3
4 EVEN IF YOU DO NOT QUALIFY, YOU HAVE THE
5 RIGHT TO REMAIN IN YOUR APARTMENT UNTIL
6 YOUR LANDLORD HAS COMPLIED WITH LAWS
7 REGARDING THE OFFER OF COMPARABLE HOUSING.

8
9 FOR FURTHER INFORMATION CALL.....
10 (insert phone number
11 of administrative
12 agency)

13 OR"
14 (insert phone number of
15 Department of Community Affairs)

16
17 The department shall not accept any application for
18 registration of conversion for any building or structure unless
19 included in the application is proof that the administrative
20 agency notified the tenants prior to the application for
21 registration. The proof shall be by affidavit or in such other form
22 as the department shall require.

23 In any municipality where the administrative agency is the
24 same as the agency administering the "Senior Citizens and
25 Disabled Protected Tenancy Act," P.L.1981, c.226
26 (C.2A:18-61.22 et al.), the notices required under that act and
27 this act may be combined in a single mailing.

28 8. (New section) Within 30 days after receipt of an application
29 for the protected tenancy status authorized under the provisions
30 of this act, the administrative agency shall make a determination
31 of qualification. It shall send written notice of qualification to
32 each tenant who is a resident of the qualified county and:

33 a. applied on or before the date of registration of conversion
34 by the department, or within one year from the effective date of
35 this act, whichever is later; and,

36 b. has an annual household income that does not exceed the
37 maximum amount permitted for qualification, or is exempt from
38 that income limitation by reason of age or disability; and,

39 c. has occupied the premises as his principal residence for at
40 least 12 consecutive months next preceding the date of
41 application.

42 The administrative agency shall likewise send a notice of
43 denial, with reasons therefor, to any tenant whom it determines
44 not to be qualified. That notice shall inform the tenant of his
45 right to remain in his dwelling unit until the owner shall have
46 complied with the requirements of P.L.1975, c.311 (C.2A:18-61.7
47 et al.) and shall include an explanation of the meaning of
48 "comparable housing" as used in that act. The owner shall be
49 notified of those tenants who are determined to be qualified and
50 unqualified.

1 The administrative agency may require that the application
2 include such documents and information as may be necessary to
3 establish that the tenant is qualified for a protected tenancy
4 status under the provisions of this act and shall require that such
5 documentation and information be submitted under oath. The
6 commissioner may by regulation adopt uniform forms to used in
7 applying for protected tenancy status, for notifying an applicant
8 of qualification or denial thereof, and conveying to a denied
9 application the information concerning his rights to continued
10 tenancy and offer of comparable housing; it may also adopt such
11 other regulations for the procedure of determining qualification
12 as it deems necessary or expedient to the proper effectuation of
13 the provisions and purposes of this act.

14 9. (New section) No registration of conversion for a building
15 or structure located in a qualified county shall be approved until
16 the department receives proof that the provisions of section 8 of
17 this act have been complied with, and that notification, as
18 required in that section has been made to all tenants who filed
19 application for protected tenancy status on or before the
20 application deadline prescribed in the notice given pursuant to
21 section 7 of this act. The proof shall be by affidavit or in such
22 form as the department may require.

23 10. (New section) The protected tenancy status authorized
24 under the provisions of this act shall not be applicable to any
25 qualified tenant until such time as the owner has filed his
26 conversion recording. The protected tenancy status shall
27 automatically apply as soon as a tenant receives notice of
28 qualification and the landlord files his conversion recording. The
29 conversion recording shall not be filed until after the registration
30 of conversion.

31 11. (New section) a. The administrative agency shall
32 terminate the protected tenancy status authorized under the
33 provisions of this act immediately upon finding that:

34 (1) the dwelling unit is no longer the principal residence of the
35 tenant, or

36 (2) the tenant's annual household income exceeds the
37 maximum amount permitted for qualification.

38 b. Upon presentation to the administrative agency of credible
39 evidence that a tenant is no longer qualified for protected
40 tenancy status under this act, the administrative agency shall
41 proceed, in accordance with such regulations and procedures as
42 the department shall adopt and prescribe for use in such cases, to
43 investigate and make a determination as to the continuance of
44 that status.

45 c. Upon the termination of the protected tenancy status by the
46 administrative agency, the tenant may be removed from the
47 dwelling unit pursuant to P.L.1974, c.49 (C.2A:18-61.1 et seq.),
48 except that all notice and other times set forth therein shall be
49 calculated and extend from the date of the expiration or
50 termination of the protected tenancy period, or the date of the

1 expiration of the last lease entered into with the tenant during
2 the protected tenancy period, whichever shall be later.

3 d. Any protection afforded to a person under the "Senior
4 Citizens and Disabled Protected Tenancy Act," P.L.1981, c.226
5 (C.2A:18-61.22 et al.) shall remain in full force and effect. If the
6 administrative agency determines that a tenant is no longer
7 qualified for protected tenancy under that act, the administrative
8 agency shall proceed to determine the eligibility of that tenant
9 under the "Tenant Protection Act of 1992," P.L. , c. (C.)
10 (now pending in the Legislature as this bill), or, in any case in
11 which the administrative agency is not the same as the agency
12 administering the "Tenant Protection Act of 1992" in the
13 municipality, shall refer the case to the appropriate
14 administrative agency for such determination. If the tenant is
15 found by such determination to be eligible, his protected tenancy
16 status shall be continued. The protected tenancy status of the
17 tenant shall remain in full force pending such determination.

18 12. (New section) In the event that a qualified tenant
19 purchases the dwelling unit he occupies, the protected tenancy
20 status afforded under the provisions of this act shall terminate
21 immediately upon purchase.

22 13. (New section) a. In the case of a municipality subject to
23 the provisions of this act that does not have a rent control
24 ordinance in effect, no evidence of increased costs that are solely
25 the result of the conversion, including but not limited to any
26 increase in financing or carrying costs, and do not add services or
27 amenities not previously provided shall be used as a basis to
28 establish the reasonableness of a rent increase under subsection f.
29 of section 2 of P.L.1974, c.49 (C.2A:18-61.1).

30 b. In the case of a municipality subject to the provisions of
31 this act that has a rent control ordinance in effect, a rent
32 increase for a qualified tenant with a protected tenancy status,
33 or for any tenant to whom notice of termination pursuant to
34 subsection g. of section 3 of P.L.1974, c.49 (C.2A:18-61.2) has
35 been given, shall not exceed the increase authorized by the
36 ordinance for rent-controlled units. Increased costs that are
37 solely the result of a conversion, including but not limited to any
38 increase in financing or carrying costs, and do not add services or
39 amenities not previously provided shall not be used as a basis for
40 an increase in a fair-return or hardship hearing before a
41 municipal rent board or on any appeal from such determination.

42 14. (New section) In the case of a building or structure
43 located in a qualified county, the public offering statement for a
44 conversion as required by "The Planned Real Estate Development
45 Full Disclosure Act," P.L.1977, c.419 (C.45:22A-21 et seq.), shall
46 clearly inform the prospective purchaser of the provisions of this
47 act regarding the protection of qualified tenants and tenants in
48 need of comparable housing. Any contract or agreement for sale
49 of a converted unit shall contain a clause in 10-point bold type or
50 larger that the contract is subject to the terms of this act

1 concerning such tenant protection and an acknowledgement that
2 the purchaser has been informed of these terms.

3 15. (New section) A municipality located in a qualified county
4 is authorized to charge an owner a fee which may vary according
5 to the size of the building to cover the cost of providing the
6 services required by this act.

7 16. (New section) Any agreement whereby the tenant waives
8 any rights under this act shall be deemed to be against public
9 policy and unenforceable.

10 17. (New section) For one year from the effective date of this
11 act, no action for removal of a qualified tenant shall be
12 instituted, no judgment shall be entered against a qualified tenant
13 based upon a previously instituted action, and no qualified tenant
14 shall be removed from his dwelling unit by a landlord, on the basis
15 of the conversion of the premises. The owner of any residential
16 premises located in a qualified county who, prior to that date, has
17 registered those residential premises for conversion or applied for
18 such registration shall comply with the provisions of this act, and
19 the tenants residing in those premises shall be entitled to the
20 protections extended under this act as if the registration or
21 application for registration had not so occurred prior to that
22 date. However, the provisions of this section shall not apply to
23 any residential unit for which a conversion was registered prior to
24 March 4, 1991 if the unit was sold to a bona fide individual
25 purchaser prior to that date and that purchaser intends to
26 personally occupy the unit as his principal residence.

27 18. (New section) Nothing in this act shall be deemed to
28 prevent a court from removing a tenant, qualified tenant or
29 tenant in need of comparable housing from a dwelling unit
30 located in a qualified county for good cause shown not to be
31 related to conversion of the building or structure to a
32 condominium or cooperative.

33 19. Section 2 of P.L.1974, c.49 (C.2A:18-61.1) is amended to
34 read as follows:

35 2. No lessee or tenant or the assigns, under-tenants or legal
36 representatives of such lessee or tenant may be removed by the
37 Superior Court from any house, building, mobile home or land in a
38 mobile home park or tenement leased for residential purposes,
39 other than (1) owner-occupied premises with not more than two
40 rental units or a hotel, motel or other guest house or part thereof
41 rented to a transient guest or seasonal tenant; (2) a dwelling unit
42 which is held in trust on behalf of a member of the immediate
43 family of the person or persons establishing the trust, provided
44 that the member of the immediate family on whose behalf the
45 trust is established permanently occupies the unit and; (3) a
46 dwelling unit which is permanently occupied by a member of the
47 immediate family of the owner of that unit, provided, however,
48 that exception (2) or (3) shall apply only in cases in which the
49 member of the immediate family has a developmental disability,
50 except upon establishment of one of the following grounds as

1 good cause:

2 a. The person fails to pay rent due and owing under the lease
3 whether the same be oral or written[;].

4 b. The person has continued to be, after written notice to
5 cease, so disorderly as to destroy the peace and quiet of the
6 occupants or other tenants living in said house or neighborhood[;].

7 c. The person has willfully or by reason of gross negligence
8 caused or allowed destruction, damage or injury to the premises[;].

9 d. The person has continued, after written notice to cease, to
10 substantially violate or breach any of the landlord's rules and
11 regulations governing said premises, provided such rules and
12 regulations are reasonable and have been accepted in writing by
13 the tenant or made a part of the lease at the beginning of the
14 lease term[;].

15 e. The person has continued, after written notice to cease, to
16 substantially violate or breach any of the covenants or
17 agreements contained in the lease for the premises where a right
18 of reentry is reserved to the landlord in the lease for a violation
19 of such covenant or agreement, provided that such covenant or
20 agreement is reasonable and was contained in the lease at the
21 beginning of the lease term[;].

22 f. The person has failed to pay rent after a valid notice to quit
23 and notice of increase of said rent, provided the increase in rent
24 is not unconscionable and complies with any and all other laws or
25 municipal ordinances governing rent increases[;].

26 g. The landlord or owner (1) seeks to permanently board up or
27 demolish the premises because he has been cited by local or State
28 housing inspectors for substantial violations affecting the health
29 and safety of tenants and it is economically unfeasible for the
30 owner to eliminate the violations; (2) seeks to comply with local
31 or State housing inspectors who have cited him for substantial
32 violations affecting the health and safety of tenants and it is
33 unfeasible to so comply without removing the tenant;
34 simultaneously with service of notice of eviction pursuant to this
35 clause, the landlord shall notify the Department of Community
36 Affairs of the intention to institute proceedings and shall provide
37 the department with such other information as it may require
38 pursuant to rules and regulations. The department shall inform
39 all parties and the court of its view with respect to the feasibility
40 of compliance without removal of the tenant and may in its
41 discretion appear and present evidence; (3) seeks to correct an
42 illegal occupancy because he has been cited by local or State
43 housing inspectors and it is unfeasible to correct such illegal
44 occupancy without removing the tenant; or (4) is a governmental
45 agency which seeks to permanently retire the premises from the
46 rental market pursuant to a redevelopment or land clearance plan
47 in a blighted area. In those cases where the tenant is being
48 removed for any reason specified in this subsection, no warrant
49 for possession shall be issued until P.L. 1967, c. 79 (C. 52:31B-1
50 et seq.) and P.L. 1971, c. 362 (C. 20:4-1 et seq.) have been complied

- 1 with[;].
- 2 h. The owner seeks to retire permanently the residential
3 building or the mobile home park from residential use or use as a
4 mobile home park, provided this subsection shall not apply to
5 circumstances covered under subsection g. of this section[;].
- 6 i. The landlord or owner proposes, at the termination of a
7 lease, reasonable changes of substance in the terms and
8 conditions of the lease, including specifically any change in the
9 term thereof, which the tenant, after written notice, refuses to
10 accept; provided that in cases where a tenant has received a
11 notice of termination pursuant to subsection g. of section 3 of
12 P.L.1974, c.49 (C.2A:18-61.2), or has a protected tenancy status
13 pursuant to section 9 of the "Senior Citizens and Disabled
14 Protected Tenancy Act," P.L.1981, c.226 (C.2A:18-61.22 et al.),
15 or pursuant to the "Tenant Protection Act of 1992," P.L. ,c.
16 (C.)(now pending before the Legislature as this bill), the
17 landlord or owner shall have the burden of proving that any
18 change in the terms and conditions of the lease, rental or
19 regulations both is reasonable and does not substantially reduce
20 the rights and privileges to which the tenant was entitled prior to
21 the conversion[;].
- 22 j. The person, after written notice to cease, has habitually and
23 without legal justification failed to pay rent which is due and
24 owing[;].
- 25 k. The landlord or owner of the building or mobile home park is
26 converting from the rental market to a condominium, cooperative
27 or fee simple ownership of two or more dwelling units or park
28 sites, except as hereinafter provided in subsection l. of this
29 section. Where the tenant is being removed pursuant to this
30 subsection, no warrant for possession shall be issued until this act
31 has been complied with. No action for possession shall be brought
32 pursuant to this subsection against a senior citizen tenant or
33 disabled tenant with protected tenancy status pursuant to the
34 "Senior Citizens and Disabled Protected Tenancy Act," P.L.1981,
35 c.226 (C.2A:18-61.22 et al.), or against a qualified tenant under
36 the "Tenant Protection Act of 1992," P.L. , c. (C.)(now
37 pending before the Legislature as this bill), as long as the agency
38 has not terminated the protected tenancy status or the protected
39 tenancy period has not expired[;].
- 40 l. (1) The owner of a building or mobile home park, which is
41 constructed as or being converted to a condominium, cooperative
42 or fee simple ownership, seeks to evict a tenant or sublessee
43 whose initial tenancy began after the master deed, agreement
44 establishing the cooperative or subdivision plat was recorded,
45 because the owner has contracted to sell the unit to a buyer who
46 seeks to personally occupy it and the contract for sale calls for
47 the unit to be vacant at the time of closing. However, no action
48 shall be brought against a tenant under paragraph (1) of this
49 subsection unless the tenant was given a statement in accordance
50 with section 6 of P.L.1975, c.311 (C.2A:18-61.9);

1 (2) The owner of three or less condominium or cooperative
2 units seeks to evict a tenant whose initial tenancy began by
3 rental from an owner of three or less units after the master deed
4 or agreement establishing the cooperative was recorded, because
5 the owner seeks to personally occupy the unit, or has contracted
6 to sell the unit to a buyer who seeks to personally occupy it and
7 the contract for sale calls for the unit to be vacant at the time of
8 closing;

9 (3) The owner of a building of three residential units or less
10 seeks to personally occupy a unit, or has contracted to sell the
11 residential unit to a buyer who wishes to personally occupy it and
12 the contract for sale calls for the unit to be vacant at the time of
13 closing[;].

14 m. The landlord or owner conditioned the tenancy upon and in
15 consideration for the tenant's employment by the landlord or
16 owner as superintendent, janitor or in some other capacity and
17 such employment is being terminated[;].

18 n. The person has been convicted of or pleaded guilty to, or if
19 a juvenile, has been adjudicated delinquent on the basis of an act
20 which if committed by an adult would constitute an offense under
21 the "Comprehensive Drug Reform Act of 1987," N.J.S.2C:35-1
22 et al. involving the use, possession, manufacture, dispensing or
23 distribution of a controlled dangerous substance, controlled
24 dangerous substance analog or drug paraphernalia within the
25 meaning of that act within or upon the leased premises or the
26 building or complex of buildings and land appurtenant thereto, or
27 the mobile home park, in which those premises are located, and
28 has not in connection with his sentence for that offense either (1)
29 successfully completed or (2) been admitted to and continued
30 upon probation while completing, a drug rehabilitation program
31 pursuant to N.J.S.2C:35-14; or, being the tenant or lessee of such
32 leased premises, knowingly harbors therein a person who has been
33 so convicted or has so pleaded, or otherwise permits such a
34 person to occupy those premises for residential purposes, whether
35 continuously or intermittently, except that this subsection shall
36 not apply to a person who harbors or permits a juvenile to occupy
37 the premises if the juvenile has been adjudicated delinquent upon
38 the basis of an act which if committed by an adult would
39 constitute the offense of use or possession under the said act.

40 o. The person has been convicted of or pleaded guilty to, or if
41 a juvenile, has been adjudicated delinquent on the basis of an act
42 which if committed by an adult would constitute an offense under
43 N.J.S.2C:12-1 or N.J.S.2C:12-3 involving assault, or terroristic
44 threats against the landlord, a member of the landlord's family
45 or an employee of the landlord; or, being the tenant or lessee of
46 such leased premises, knowingly harbors therein a person who has
47 been so convicted or has so pleaded, or otherwise permits such a
48 person to occupy those premises for residential purposes, whether
49 continuously or intermittently.

50 p. The person has been found, by a preponderance of the

1 evidence, liable in a civil action for removal commenced under
2 this act for an offense under N.J.S.2C:12-1 or N.J.S.2C:12-3
3 involving assault or terroristic threats against the landlord, a
4 member of the landlord's family or an employee of the landlord,
5 or under the "Comprehensive Drug Reform Act of 1987,"
6 N.J.S.2C:35-1 et al., involving the use, possession, manufacture,
7 dispensing or distribution of a controlled dangerous substance,
8 controlled dangerous substance analog or drug paraphernalia
9 within the meaning of that act within or upon the leased premises
10 or the building or complex of buildings and land appurtenant
11 thereto, or the mobile home park, in which those premises are
12 located, and has not in connection with his sentence for that
13 offense either (1) successfully completed or (2) been admitted to
14 and continued upon probation while completing a drug
15 rehabilitation program pursuant to N.J.S.2C:35-14; or, being the
16 tenant or lessee of such leased premises, knowingly harbors
17 therein a person who committed such an offense, or otherwise
18 permits such a person to occupy those premises for residential
19 purposes, whether continuously or intermittently, except that this
20 subsection shall not apply to a person who harbors or permits a
21 juvenile to occupy the premises if the juvenile has been
22 adjudicated delinquent upon the basis of an act which if
23 committed by an adult would constitute the offense of use or
24 possession under the said "Comprehensive Drug Reform Act of
25 1987."

26 For purposes of this section, (1) "developmental disability"
27 means any disability which is defined as such pursuant to section
28 3 of P.L.1977, c.82 (C.30:6D-3); (2) "member of the immediate
29 family" means a person's spouse, parent, child or sibling, or a
30 spouse, parent, child or sibling of any of them; and (3)
31 "permanently" occupies or occupied means that the occupant
32 maintains no other domicile at which the occupant votes, pays
33 rent or property taxes or at which rent or property taxes are paid
34 on the occupant's behalf.

35 (cf: P.L.1991, c.307, s.1)

36 20. Section 6 of P.L.1986, c.138 (C.2A:18-61.1e) is amended to
37 read as follows:

38 6. If a dwelling unit becomes vacated after notice has been
39 given that the owner seeks to permanently board up or demolish
40 the premises or seeks to retire permanently the premises from
41 residential use pursuant to paragraph (1) of subsection g.[(1)] or
42 subsection h. of section 2 of P.L.1974, c.49 (C.2A:18-61.1) and if
43 at any time thereafter an owner instead seeks to return the
44 premises to residential use, the owner shall provide the former
45 tenant:

46 a. Written notice 90 days in advance of any return to
47 residential use or any agreement for possession of the unit by any
48 other party, which notice discloses the owner's intention to
49 return the unit to residential use and all appropriate specifics;

50 b. The right to return to possession of the vacated unit or, if

1 return is not available, the right to possession of affordable
2 housing relocation in accord with the standards and criteria set
3 forth for comparable housing as defined by section 4 of P.L.1975,
4 c.311 (C.2A:18-61.7); and

5 c. In the case of a conversion, the right to a protected tenancy
6 pursuant to the "Senior Citizens and Disabled Protected Tenancy
7 Act," P.L.1981, c.226 (C.2A:18-61.22 et seq.), or pursuant to the
8 "Tenant Protection Act of 1992," P.L. , c. (C.) (now
9 pending before the Legislature as this bill), if the former tenant
10 would have at the time of the conversion been [a senior citizen or
11 disabled person] eligible for a protected tenancy under either of
12 those acts, had the former tenant not vacated the premises.

13 The 90-day notice shall disclose the tenant's rights pursuant to
14 this section and the method for the tenant's response to exercise
15 these rights. A duplicate of the notice shall be transmitted within
16 the first five days of the 90-day period to the rent board in the
17 municipality or the municipal clerk, if there is no board.
18 Notwithstanding the provisions of subsection c. of section 3 of
19 P.L.1975, c.311 (C.2A:18-61.6), damages awarded shall not be
20 trebled where possession has been returned in accord with this
21 section; nor shall any damages be awarded as provided for in
22 subsection e. of section 3 of P.L.1975, c.311 (C.2A:18-61.6). An
23 owner who fails to provide a former tenant a notice of intention
24 to return to residential use pursuant to this section is liable to a
25 civil penalty of not less than \$2,500.00 or more than \$10,000.00
26 for each offense, and shall also be liable in treble damages, plus
27 attorney fees and costs of suit, for any loss or expenses incurred
28 by a former tenant as a result of that failure. The penalty
29 prescribed in this section shall be collected and enforced by
30 summary proceedings pursuant to "the penalty enforcement law"
31 (N.J.S.2A:58-1 et seq.). The Superior Court, Law Division,
32 Special Civil Part, in the county in which the rental premises are
33 located shall have jurisdiction over such proceedings. Process
34 shall be in the nature of a summons or warrant, shall issue upon
35 the complaint of the Commissioner of the Department of
36 Community Affairs, the Attorney General, or any other person.
37 No owner shall be liable for a penalty pursuant to this section if
38 the unit is returned to residential use more than five years after
39 the date the premises are vacated or if the owner made every
40 reasonable effort to locate the former tenant and provide the
41 notice, including, but not limited to, the employment of a
42 qualified professional locator service, where no return receipt is
43 obtained from the former tenant.

44 In any action under this section the court shall, in addition to
45 damages, award any other appropriate legal or equitable relief.
46 (cf: P.L.1986, c.138, s.6)

47 21. Section 7 of P.L.1977, c.419 (C.45:22A-27) is amended to
48 read as follows:

49 7. a. The application for registration of the development shall
50 be filed as prescribed by the agency's rules and shall contain the

1 following documents and information:

2 (1) An irrevocable appointment of the agency to receive
3 service of any lawful process in any noncriminal proceeding
4 arising under this act against the developer or his agents;

5 (2) The states or other jurisdictions, including the federal
6 government, in which an application for registration or similar
7 documents have been filed, and any adverse order, judgment or
8 decree entered in connection with the development by the
9 regulatory authorities in each jurisdiction or by any court;

10 (3) The name, address, and principal occupation for the past
11 five years of every officer of the applicant or person occupying a
12 similar status, or performing similar management functions; the
13 extent and nature of his interest in the applicant or the
14 development as of a specified date within 30 days of the filing of
15 the application;

16 (4) Copies of its articles of incorporation, with all amendments
17 thereto, if the developer is a corporation; copies of all
18 instruments by which the trust is created or declared, if the
19 developer is a trust; copies of its articles of partnership or
20 association and all other papers pertaining to its organization, if
21 the developer is a partnership, unincorporated association, joint
22 stock company, or any other form of organization; and if the
23 purported holder of legal title is a person other than the
24 developer, copies of the above documents from such person;

25 (5) A legal description of the lands offered for registration,
26 together with a map showing the subdivision proposed or made,
27 and the dimensions of the lots, parcels, units, or interests, as
28 available, and the relation of such lands to existing streets, roads,
29 and other improvements;

30 (6) Copies of the deed or other instrument establishing title to
31 the subdivision in the developer, and a statement in a form
32 acceptable to the agency of the condition of the title to the land
33 comprising the development, including encumbrances as of a
34 specified date within 30 days of the date of application by a title
35 opinion of a licensed attorney, or by other evidence of title
36 acceptable to the agency;

37 (7) Copies of the instrument which will be delivered to a
38 purchaser to evidence his interest in the development, and of the
39 contracts and other agreements which a purchaser will be
40 required to agree to or sign;

41 (8) Copies of any management agreements, service contracts,
42 or other contracts or agreements affecting the use, maintenance
43 or access of all or a part of the development;

44 (9) A statement of the zoning and other government
45 regulations affecting the use of the development including the
46 site plans and building permits and their status, and also of any
47 existing tax and existing or proposed special taxes or assessments
48 which affect the development; and a statement of the existing
49 use of adjoining lands;

1 (10) A statement that the lots, parcels, units or interests in
2 the development will be offered to the public, and that responses
3 to applications will be made without regard to marital status,
4 sex, race, creed, or national origin;

5 (11) A statement of the present condition of access to the
6 development, the existence of any unusual conditions relating to
7 noise or safety, which affect the development and are known to
8 the developer, the availability of sewage disposal facilities and
9 other public utilities including water, electricity, gas, and
10 telephone facilities in the development to nearby municipalities,
11 and the nature of any improvements to be installed by the
12 developer and his estimated schedule for completion;

13 (12) In the case of any conversion an engineering survey shall
14 be required, which shall include mechanical, structural, electrical
15 and engineering reports to disclose the condition of the building;

16 (13) In the case of any development or portion thereof against
17 which there exists a blanket encumbrance, a statement of the
18 consequences for an individual purchaser of a failure, by the
19 person or persons bound, to fulfill obligations under the
20 instrument or instruments creating such encumbrances and the
21 steps, if any, taken to protect the purchaser in such eventuality;

22 (14) A narrative description of the promotional plan for the
23 disposition of the lots, parcels, units or interests in the
24 development, together with copies of all advertising material
25 which has been prepared for public distribution, and an indication
26 of their means of communication;

27 (15) The proposed public offering statement;

28 (16) A current financial statement, which shall include such
29 information concerning the developer as the agency deems to be
30 pertinent, including but not limited to, a profit and loss
31 statement certified by an independent public accountant and
32 information concerning any adjudication of bankruptcy during the
33 last five years against the developer, or any principal owning
34 more than 10% of the interest in the development at the time of
35 filing, provided, however, that this shall not extend to limited
36 partners, or others whose interests are solely those of investors;

37 (17) Copies of instruments creating easements or other
38 restrictions;

39 (18) A statement of the status of compliance with the
40 requirements of all laws, ordinances, regulations, and other
41 requirements of governmental agencies having jurisdiction over
42 the premises;

43 (19) Such other information, documentation, or certification as
44 the agency deems necessary in furtherance of the protective
45 purposes of this act.

46 b. The information contained in any application for
47 registration and copies thereof, shall be made available to
48 interested parties at a reasonable charge and under such
49 regulations as the agency may prescribe.

50 c. A developer may register additional property pursuant to

1 the same common promotional plan as those previously registered
2 by submitting another application, providing such additional
3 information as may be necessary to register the additional lots,
4 parcels, units or interests, which shall be known as a consolidated
5 filing.

6 d. The developer shall immediately report any material
7 changes in the information contained in an application for
8 registration. The term "material changes" shall be further
9 defined by the agency in its regulations.

10 e. The application shall be accompanied by a fee in an amount
11 equal to \$500.00 plus \$35.00 per lot, parcel, unit, or interest
12 contained in the application, which fees may be used by the
13 agency to partially defray the cost of rendering services under
14 the act. If the fees are insufficient to defray the cost of
15 rendering services under P.L.1977, c.419 (C.45:22A-21 et seq.),
16 the agency shall, by regulation, establish a revised fee schedule.
17 The revised fee schedule shall assure that the fees collected
18 reasonably cover but do not exceed the expenses and
19 administration of implementing P.L.1977, c.419 (C.45:22A-21 et
20 seq.).

21 f. (1) An engineering study required pursuant to paragraph (12)
22 of subsection a. of this section shall be conducted, and the results
23 thereof certified, by a person licensed in this State as a
24 professional engineer pursuant to P.L.1938, c.342 (C.45:8-27 et
25 seq.).

26 (2) The engineer who prepares the survey shall certify to the
27 agency whether, in his judgment, the building is in compliance
28 with the code standards adopted under the "Hotel and Multiple
29 Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.) and the
30 "Uniform Fire Safety Act," P.L.1983, c.383 (C.52:27D-192 et
31 seq.) and shall list all outstanding violations then existing in
32 accordance with his observation and judgment. The engineer
33 shall be immune from tort liability with regard to such
34 certification and list in the same manner and to the same extent
35 as if he were a public employee protected by the "New Jersey
36 Tort Claims Act," N.J.S.59:1-1 et seq.

37 (3) If the agency finds there is a significant discrepancy
38 between the engineering survey submitted by the applicant and an
39 engineering survey submitted by any tenant or tenants currently
40 residing in the building, the agency shall investigate the matter in
41 order to determine the true state of facts prior to approving the
42 application. The agency may use its own staff or contract with
43 independent professionals, and may conduct hearings in
44 accordance with the "Administrative Procedure Act," P.L.1968,
45 c.410 (C.52:14B-1 et seq.). Any cost to the agency of hiring
46 independent professionals shall be borne by the applicant
47 developer at the discretion of the agency.

48 (cf: P.L.1983, c.265, s.1)

49 22. Section 8 of P.L.1977, c.419 (C.45:22A-28) is amended to
50 read as follows:

1 8. a. A public offering statement shall disclose fully and
2 accurately the characteristics of the development and the lots,
3 parcels, units, or interests therein offered, and shall make known
4 to prospective purchasers all unusual or material circumstances
5 or features affecting the development. The proposed public
6 offering statement submitted to the agency shall be in a form
7 prescribed by its rules and regulations and shall include the
8 following:

9 (1) The name and principal address of the developer;

10 (2) A general narrative description of the development stating
11 the total number of lots, units, parcels, or interests in the
12 offering, and the total number of such interests planned to be
13 sold, leased or otherwise transferred;

14 (3) Copies of any management contract, lease of recreational
15 areas, or similar contract or agreement affecting the use,
16 maintenance, or access of all or any part of the development,
17 with a brief and simple narrative statement of the effect of each
18 such agreement upon a purchaser, and a statement of the
19 relationship, if any, between the developer and the managing
20 agent or firm;

21 (4) (a) The significant terms of any encumbrances, easements,
22 liens, and restrictions, including zoning and other regulations,
23 affecting such lands and each unit, lot, parcel, or interest, and a
24 statement of all existing taxes and existing or proposed special
25 taxes or assessments which affect such lands; and

26 (b) In the case of a conversion subject to the provisions of the
27 "Tenant Protection Act of 1992," P.L. , c. (C.)(now
28 pending before the Legislature as this bill), the information
29 required pursuant to section 14 of P.L. , c. (C.) (now
30 pending before the Legislature as this bill);

31 (5) (a) Relevant community information, including hospitals,
32 health and recreational facilities of any kind, streets, water
33 supply, levees, drainage control systems, irrigation systems,
34 sewage disposal facilities and customary utilities; and

35 (b) The estimated cost, size, date of completion, and
36 responsibility for construction and maintenance of existing and
37 proposed amenities which are referred to in connection with the
38 offering or disposition of any interest in the subdivision or
39 subdivided lands;

40 (6) A copy of the proposed budget for the operation and
41 maintenance of the common or shared elements or interests;

42 (7) Additional information required by the agency to assure
43 full and fair disclosure to prospective purchasers.

44 b. The public offering statement shall not be used for any
45 promotional purposes before registration of the development and
46 afterwards only if it is used in its entirety. No person may
47 advertise or represent that the agency approves or recommends
48 the development or dispositions therein. No portion of the public
49 offering statement may be underscored, italicized, or printed in
50 larger or heavier or different color type than the remainder of

1 the statement, unless the agency requires or permits it.

2 c. The agency may require the developer to alter or amend the
3 proposed public offering statement in order to assure full and fair
4 disclosure to prospective purchasers, and no change in the
5 substance of the promotional plan or plan of disposition or
6 development of a planned real estate development may be made
7 after registration without the approval of the agency. A public
8 offering statement shall not be current unless all amendments
9 have been incorporated.

10 d. The public offering statement shall, to the extent possible,
11 combine simplicity and accuracy of information, in order to
12 facilitate purchaser understanding of the totality of rights,
13 privileges, obligations and restrictions, comprehended under the
14 proposed plan of development. In reviewing such public offering
15 statement, the agency shall pay close attention to the
16 requirements of this subsection, and shall use its discretion to
17 require revision of a public offering statement which is
18 unnecessarily complex, confusing, or is illegible by reason of type
19 size or otherwise.

20 (cf: P.L.1977, c.419, s.8)

21 23. Section 11 of P.L.1981, c.226 (C.2A:18-61.32) amended to
22 read as follows:

23 11. The administrative agency or officer shall terminate the
24 protected tenancy status immediately upon finding that:

25 a. The dwelling unit is no longer the principal residence of the
26 senior citizen tenant or disabled tenant; or

27 b. The tenant's annual household income, or the average of
28 the tenant's annual household income for the current year,
29 computed on an annual basis, and the tenant's annual household
30 income for the two preceding years, whichever is less, exceeds an
31 amount equal to three times the county per capita personal
32 income, as last reported by the Department of Labor and Industry
33 on the basis of the U.S. Department of Commerce's Bureau of
34 Economic Analysis data, or \$50,000.00, whichever is greater.

35 The department shall adjust the county per capita personal
36 income to be used in subsection b. of this section if there is a
37 difference of one or more years between (1) the year in which the
38 last reported county per capita personal income was based and (2)
39 the last year in which the tenant's annual household income is
40 based. The county per capita personal income shall be adjusted
41 by the department by an amount equal to the number of years of
42 the difference above times the average increase or decrease in
43 the county per capita personal income for three years, including
44 in the calculation the current year reported and the three
45 immediately preceding years.

46 Upon the termination of the protected tenancy status by the
47 administrative agency or officer, the senior citizen tenant or
48 disabled tenant may be removed from the dwelling unit pursuant
49 to P.L.1974, c.49 (C.2A:18-61.1 et seq.), except that all notice
50 and other times set forth therein shall be calculated and extend

1 from the date of the expiration or termination of the protected
2 tenancy period, or the date of the expiration of the last lease
3 entered into with the senior citizen tenant or disabled tenant
4 during the protected tenancy period, whichever shall be later.

5 If the administrative agency determines pursuant to this
6 section that a tenant is no longer qualified for protected tenancy
7 under this act, the administrative agency shall proceed to
8 determine the eligibility of that tenant under the "Tenant
9 Protection Act of 1992," P.L. , c. (C) (now pending
10 before the Legislature as this bill), or, in any case in which the
11 administrative agency is not the same as the agency
12 administering that other act in the municipality, refer the case to
13 the appropriate administrative agency for such determination. If
14 the tenant is found to be eligible under the "Tenant Protection
15 Act of 1992," P.L. , c. (C.) (now pending before the
16 Legislature as this bill), his protected tenancy status shall be
17 continued. The protected tenancy status of the tenant shall
18 remain in full force pending such determination.

19 (cf: P.L.1987, c.287, s.4)

20 24. (New section) If any section, subsection, paragraph,
21 sentence or other part of this act is adjudged unconstitutional or
22 invalid, such judgment shall not affect, impair or invalidate the
23 remainder of this act, but shall be confined in its effect to the
24 section, subsection, paragraph, sentence or other part of this act
25 directly involved in the controversy in which the judgment shall
26 have been rendered.

27 25. (New section) The commissioner is authorized to adopt, in
28 accordance with the provisions of the "Administrative Procedure
29 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and
30 regulations as may be necessary to implement the provisions of
31 this act, including but not limited to, the prescribing of
32 administrative and notification procedures which integrate the
33 procedural requirements of this act with those of P.L.1981, c.226
34 (C.2A:18-61.22 et al.) in order to facilitate the efficient
35 administration of both acts.

36 26. This act shall take effect June 1, 1992!

37 38 39 STATEMENT

40
41 This bill, the "Tenant Protection Act of 1992," is designed to
42 provide a "protected tenancy" for qualified tenants when their
43 residential rental unit is converted to either a condominium or
44 cooperative property.

45 The protected tenancy authorized under this bill is available to
46 tenants who reside in qualified counties and who meet certain
47 other eligibility requirements.

48 Under the bill, a "qualified county" is either a county which (1)
49 has a high population and population density, (therefore has
50 limited land available for the development of new low and

1 moderate income rental units,) or (2) has experienced significant
2 reductions in the availability of rental dwellings due to the
3 conversions of those units into condominium and cooperative
4 properties.

5 To meet the population/population density qualification, a
6 county must have a population in excess of 500,000 and a
7 population density in excess of 8,500 per square mile. To qualify
8 under the reduction in available rental unit criterion, the
9 Commissioner of Community Affairs must certify that during the
10 preceeding 10 years the county has lost: (1) an aggregate of at
11 least 10,000 rental units due to conversions in any three
12 consecutive years and (2) at least 5,000 rental units due to
13 conversions in at least one of those three years.

14 Counties which are highly and densely populated have limited
15 land available for the development of new low and moderate
16 income rental units. Widespread displacement from affordable
17 housing and homelessness are more likely to occur in such
18 counties when the number of rental units is significantly reduced
19 by conversions.

20 Tenants who reside in qualified counties would be eligible for
21 the protected tenancy authorized under this bill if: (1) they have
22 lived in their unit for at least one year before the conversion and
23 (2) either are 75 years of age or older; disabled (as defined in the
24 "Senior Citizens and Disabled Protected Tenancy Act," P.L.1981,
25 c.226; (C.2A:18-61.22 et al.); or have an income below a level.
26 (The income standards set forth in the bill range from \$31,400 for
27 a single individual to \$64,300 for a household of 8 or more, but
28 are subject to adjustment annually based upon the Consumer
29 Price Index.)

30 Under the provisions of the bill, an owner wishing to convert a
31 rental property located in a qualified county into either a
32 condominium or cooperative property must notify, through the
33 local administering agency, the tenants and provide them with
34 the appropriate application forms for protected tenancy. The
35 Department of Community Affairs may not accept any
36 application for the registration of a conversion for any building or
37 structure located in a qualified county unless proof is provided
38 that the tenants of the building or structure have been so notified.

39 The provisions of this bill are to take effect on June 1,
40 1992--the date when the moratorium on conversion related
41 evictions authorized under P.L.1991, c.45 is scheduled to expire.

42 This bill would continue that moratorium for another year in
43 qualified counties. During that period, no proceeding for eviction
44 could be instituted or a previous judgment acted upon. This
45 temporary extension of the moratorium will enable qualified
46 tenants to apply for and, if entitled, receive the protected
47 tenancy authorized under this bill.

48
49 HOUSING AND CONSTRUCTION

50
51 "Tenant Protection Act of 1992"