

52:27D-301 et al

LEGISLATIVE HISTORY CHECKLIST

NJSA: 52:27D-301 et al

(Fair housing--  
prohibit COAH  
from requiring  
demolition)

LAWS OF: 1989

CHAPTER: 142

Bill No: S3342

Sponsor(s): Lynch and Di Francesco

Date Introduced: February 23, 1989

Committee: Assembly: Housing

Senate: State Government, Federal & Interstate Relations &  
Veterans Affairs

Amended during passage: Yes Amendments during passage  
denoted by asterisks.

Date of Passage: Assembly: June 15, 1989

Senate: May 1, 1989

Date of Approval: August 3, 1989

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: Yes

Following were printed:

Reports: No

Hearings: No

(over)

See newspaper clipping--attached:

"Law may help some areas avoid housing quotas," 8-4-89 Philadelphia Inquirer

"Low-cost housing is dealt a setback" 8-4-89 Bergen Record

"Amendments clean in Fair Housing Act" 8-4-89 Star Ledger

"Kean limits power," 8-4-89 Asbury Park Press

~~"Power to raze homes..." 8-4-89 Trenton Times~~

[FIRST REPRINT]

SENATE, No. 3342

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 23, 1989

By Senators LYNCH and DiFRANCESCO

1 AN ACT concerning the demolition of certain <sup>1</sup>[habitable]<sup>1</sup>  
residential structures for fair housing purposes, and  
3 supplementing P.L.1985, c.222 (C.52:27D-301 et al.).

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

7 1. Nothing in the act to which this act is supplementary,  
P.L.1985, c.222 (C.52:27D-301 et al.), shall be construed to  
9 require that a municipality fulfill all or any portion of its fair  
share housing obligation through permitting the development or  
11 redevelopment of property within the municipality on which is  
located a <sup>1</sup>[habitable]<sup>1</sup> residential structure <sup>1</sup>which has not been  
13 declared unfit, or which was within the previous three years  
negligently or willfully rendered unfit, for human occupancy or  
15 use pursuant to P.L.1942, c.112 (C.40:48-2.3 et seq.), and which  
is<sup>1</sup> situated on a lot of less than two acres of land <sup>1</sup>or on a lot  
17 formed by merging two or more such lots<sup>1</sup>, if the development or  
redevelopment would require the demolition of that structure.  
19 Any action heretofore taken by the Council on Affordable  
Housing based upon such a construction of P.L.1985, c.222 is  
21 invalidated.

23 2. The Council on Affordable Housing shall not consider for  
substantive certification any application of a housing element  
submitted which involves the demolition of a residential  
25 structure, which <sup>1</sup>[at the time of most recent acquisition was  
habitable] has not been declared unfit, or which was within the  
27 previous three years negligently or willfully rendered unfit, for  
human occupancy or use pursuant to P.L.1942, c.112 (C.40:48-2.3  
29 et seq.)<sup>1</sup>, and which is situated on a lot of less than two acres of  
land <sup>1</sup>or on a lot formed by merging two or more such lots<sup>1</sup>,  
31 unless <sup>1</sup>[the] an<sup>1</sup> application <sup>1</sup>for development<sup>1</sup> has been  
<sup>1</sup>previously<sup>1</sup> approved by <sup>1</sup>[resolution adopted by a majority vote

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.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Senate SSG committee amendments adopted April 17, 1989.

1 of the municipal governing body] the municipal planning board or  
2 municipal zoning board pursuant to procedures prescribed by the  
3 "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.)<sup>1</sup>.

4 3. This act shall take effect immediately.

5

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7 HOUSING  
8 Land Use and Planning

9

10 Invalidates COAH action regarding the demolition of certain  
11 residential structures for fair housing purposes.

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 23, 1989

By Senators LYNCH and DiFRANCESCO

1 AN ACT concerning the demolition of certain habitable  
residential structures for fair housing purposes, and  
3 supplementing P.L.1985, c.222 (C.52:27D-301 et al.).

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

7 1. Nothing in the act to which this act is supplementary,  
P.L.1985, c.222 (C.52:27D-301 et al.), shall be construed to  
9 require that a municipality fulfill all or any portion of its fair  
share housing obligation through permitting the development or  
11 redevelopment of property within the municipality on which is  
located a habitable residential structure situated on a lot of less  
13 than two acres of land, if the development or redevelopment  
would require the demolition of that structure. Any action  
15 heretofore taken by the Council on Affordable Housing based  
upon such a construction of P.L.1985, c.222 is invalidated.

17 2. The Council on Affordable Housing shall not consider for  
substantive certification any application of a housing element  
19 submitted which involves the demolition of a residential  
structure, which at the time of most recent acquisition was  
21 habitable, and which is situated on a lot of less than two acres of  
land, unless the application has been approved by resolution  
23 adopted by a majority vote of the municipal governing body.

25 3. This act shall take effect immediately.

27 STATEMENT

29 The Council on Affordable Housing has ruled that where a  
developed municipality does not have usable vacant sites for use  
31 in meeting its fair share housing obligation, but where a  
developer expresses a willingness to create suitable sites by  
33 demolishing residential structures, the Council must consider  
sites as available for fair housing purposes. This ruling has  
35 serious consequences for many developed New Jersey  
municipalities.



SENATE STATE GOVERNMENT, FEDERAL  
AND INTERSTATE RELATIONS AND  
VETERANS' AFFAIRS COMMITTEE

STATEMENT TO

**SENATE, No. 3342**

with committee amendments

**STATE OF NEW JERSEY**

DATED: APRIL 17, 1989

The Senate State Government, Federal and Interstate Relations and Veterans' Affairs Committee reports favorably and with committee amendments Senate, No. 3342.

This bill supplements the "Fair Housing Act" (P.L.1985, c.222). It provides that nothing in the act shall be construed to require that a municipality fulfill all or any portion of its fair share housing obligation through permitting the development or redevelopment of property within the municipality on which is located a residential structure which has not been declared unfit, or which was within the previous three years negligently or willfully rendered unfit, for human occupancy or use, and which is situated on a lot of less than two acres of land or on a lot formed by merging two or more such lots, if the development or redevelopment would require the demolition of that structure. Any previous action taken by the Council on Affordable Housing which is contrary to these provisions is invalidated.

The bill also provides that the Council on Affordable Housing shall not consider for substantive certification any application of a housing element submitted which involves the demolition of a residential structure which has not been declared unfit, or which was within the previous three years negligently or willfully rendered unfit, for human occupancy or use, and which is situated on a lot of less than two acres of land or on a lot formed by merging two or more such lots, unless an application for development has been previously approved by the municipal planning board or municipal zoning board pursuant to procedures prescribed by the "Municipal Land Use Law."

COMMITTEE AMENDMENTS

The committee amended the bill to remove the term "habitable" with respect to the residential structures to be protected from demolition; to specify instead that the residential structures to be

protected are those which have not been declared unfit, or which were within the previous three years negligently or willfully rendered unfit, for human occupancy or use and which are situated on certain sized lots; and to include in the protection from demolition those specified residential structures situated on a lot formed by the merging of two or more lots of less than two acres.

The committee also amended the bill to prohibit the council from considering for substantive certification any application of a housing element submitted which involves the demolition of a residential structure as described in the bill unless an application for development has been previously approved by the municipal planning board or municipal zoning board pursuant to procedures prescribed by the "Municipal Land Use Law."



ASSEMBLY HOUSING COMMITTEE

STATEMENT TO

[FIRST REPRINT]

SENATE, No. 3342

STATE OF NEW JERSEY

DATED: MAY 8, 1989

The Assembly Housing Committee reports Senate Bill No. 3342 [1R] favorably, without amendments.

This bill supplements the "Fair Housing Act" (P.L.1985, c.222). It provides that nothing in the act shall be construed to require that a municipality fulfill all or any portion of its fair share housing obligation through permitting the development or redevelopment of property within the municipality on which is located a residential structure which has not been declared unfit, or which was within the previous three years negligently or willfully rendered unfit, for human occupancy or use, and which is situated on a lot of less than two acres of land or on a lot formed by merging two or more such lots, if the development or redevelopment would require the demolition of that structure. Any previous action taken by the Council on Affordable Housing which is contrary to these provisions is invalidated.

The bill also provides that the Council on Affordable Housing shall not consider for substantive certification any application of a housing element submitted which involves the demolition of a residential structure which has not been declared unfit, or which was within the previous three years negligently or willfully rendered unfit, for human occupancy or use, and which is situated on a lot of less than two acres of land or on a lot formed by merging two or more such lots, unless an application for development has been previously approved by the municipal planning board or municipal zoning board pursuant to procedures prescribed by the "Municipal Land Use Law."



OFFICE OF THE GOVERNOR

**NEWS RELEASE**

Governor Thomas H. Kean  
TRENTON, N.J. 08625  
Release: THUR., 8/3/89

CN-001

Contact: BOB McHUGH  
609-292-8956 OR 609-292-6000 EXT. 207

Governor Thomas H. Kean today signed S-3342/A-3822, known as the "Fanwood Bill."

The measure limits the Council on Affordable Housing's (COAH) discretion in interpreting the Fair Housing Act. Specifically, under the new law, the council cannot construe the act to require that municipalities demolish existing housing to fulfill their affordable housing obligations.

The bill was sponsored by Senators John Lynch, D-Middlesex, and Donald DiFrancesco, R-Union, and Assemblyman Robert Franks, R-Union, and Assemblywoman Maureen Ogden, R-Essex.

The bill stems from a COAH ruling involving the Borough of Fanwood in Union County. In that case, the council held that it could consider the removal of existing homes to make way for affordable housing.

The bill is effective immediately.

Kean also signed the following legislation:

A-4335/S-3480, sponsored by Assembly Speaker Chuck Hardwick, R-Union, Senate President John Russo, D-Ocean, and Assemblyman Gary Stuhltrager, R-Gloucester. The bill extends the statutory authorization for the State Commission on Investigation until December 31, 1994.

The bill is effective immediately.

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