

40:SSD-68.1 to 40:SSD-68.3

LEGISLATIVE HISTORY CHECKLIST

NJSA: 40:55D-68.1 to 40:55D-68.3 (Hotels, guest houses-- certain regulate)

LAWS OF: 1989 CHAPTER: 67

BILL NO: S3336

SPONSOR(S): Di Francesco

Date Introduced: February 23, 1989

Committee: Assembly: \_\_\_\_\_

Senate: Labor, Industry and Professions

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

Date of Passage: Assembly: February 27, 1989

Senate: February 27, 1989

Date of Approval: April 14, 1989

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly ~~Yes~~ NO

Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: No

Following were printed:

Reports: No

Hearings: No

RDV

*Handwritten notes and signatures at the bottom of the page.*

[FIRST REPRINT]

SENATE, No. 3336

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 23, 1989

By Senator DiFRANCESCO

1 AN ACT regulating certain hotels, guest houses <sup>1</sup>, rooming  
2 houses<sup>1</sup> and boarding houses and supplementing Title 52 of the  
3 Revised Statutes.

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

7 1. Any hotel, guest house <sup>1</sup>, rooming house<sup>1</sup> or boarding house  
8 which is situated in any municipality which borders on the  
9 Atlantic ocean in a county of the fifth or sixth class shall be  
10 permitted to operate on a full-year basis notwithstanding section  
11 55 of P.L.1975, c.291 (C.40:55D-68) or any municipal ordinance,  
12 resolution, seasonal license, or other municipal rule or regulation  
13 to the contrary if it is demonstrated by affidavit or certification  
14 that:

15 a. a certificate of inspection has been issued for the hotel <sup>1</sup>or  
16 guest house<sup>1</sup> under the provisions of P.L.1967, c.76 (C.55:13A-1  
17 et seq.) or, in the case of a <sup>1</sup>[guest] rooming<sup>1</sup> house or boarding  
18 house, that a license has been issued under P.L.1979, c.496  
19 (C.55:13B-1 et al.); and

20 b. <sup>1</sup>[other hotels] a hotel or guest house<sup>1</sup> in the municipality  
21 which <sup>1</sup>[have] has<sup>1</sup> obtained a certificate of inspection pursuant  
22 to P.L.1967, c.76 (C.55:13A-1 et seq.) or <sup>1</sup>[guest houses] rooming  
23 house<sup>1</sup> or boarding <sup>1</sup>[houses] house in the municipality<sup>1</sup> which  
24 <sup>1</sup>[are] is<sup>1</sup> licensed under P.L.1979, c.496 (C.55:13B-1 et al.) <sup>1</sup>[are]  
25 is<sup>1</sup> not prohibited from operating on a full-year basis <sup>1</sup>[as of] on<sup>1</sup>  
26 February 9, 1989 <sup>1</sup>or on any other day following February 9,  
27 1989<sup>1</sup>.

28 2. The owner of any hotel, guest house <sup>1</sup>, rooming house<sup>1</sup> or  
29 boarding house who proposes to increase its operation to a  
30 full-year basis and who can demonstrate that <sup>1</sup>[other hotels,  
31 guest houses or boarding houses] a hotel, guest house, rooming  
house or boarding house<sup>1</sup> in the municipality <sup>1</sup>[are] is<sup>1</sup> not

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 SLI committee amendments adopted February 23, 1989.

1 prohibited from operating on a full-year basis as provided under  
2 section 1 of this act shall file copies of that information with the  
3 Commissioner of Community Affairs in accordance with the  
4 requirements set forth in section 1 of this act and provide copies  
5 of that information to the clerks of the municipality and county  
6 in which the hotel, guest house <sup>1</sup>, rooming house<sup>1</sup> or boarding  
7 house is situated. The commissioner shall review that  
8 information submitted by the hotel, guest house <sup>1</sup>, rooming  
9 house<sup>1</sup> or boarding house owner and, within 30 days of receiving  
10 the information submitted, provide a determination of whether or  
11 not the hotel, guest house <sup>1</sup>, rooming house<sup>1</sup> or boarding house  
12 meets the requirements of section 1 <sup>1</sup>of this act<sup>1</sup>. If the  
13 commissioner does not provide a determination within the 30-day  
14 period, the hotel, guest house <sup>1</sup>, rooming house<sup>1</sup> or boarding  
15 house owner may commence the operation of the hotel, guest  
16 house <sup>1</sup>, rooming house<sup>1</sup> or boarding house on a full-year basis.

17 3. Any person who knowingly files false information under this  
18 act shall be liable to a civil penalty not to exceed \$1,000 for each  
19 filing. Any penalty imposed under this section may be recovered  
20 with costs in a summary proceeding pursuant to "the penalty  
21 enforcement law," N.J.S.2A:58-1 et seq.

22 4. This act shall take effect immediately.

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MUNICIPALITIES  
Economic Development

27

28 Regulates certain hotels, guest houses, rooming houses and  
29 boarding houses.

1 the commissioner does not provide a determination within the  
30-day period, the hotel, guest house or boarding house owner  
3 may commence the operation of the hotel, guest house or  
boarding house on a full-year basis.

5 3. Any person who knowingly files false information under this  
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7 filing. Any penalty imposed under this section may be recovered  
with costs in a summary proceeding pursuant to "the penalty  
9 enforcement law," N.J.S.2A:58-1 et seq.

4. This act shall take effect immediately.

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#### STATEMENT

15 This bill would authorize the full-year operation of certain  
hotels, guest houses and boarding houses which are now operating  
17 on a seasonal basis under the provisions of section 55 of P.L.1975,  
c.291 (C.40:55D-68) or municipal ordinance, resolution, license or  
19 other local limitation. The bill would only affect those  
municipalities which border on the Atlantic ocean and are  
21 situated in a county of the fifth or sixth class. Those counties  
defined as counties of the fifth class include Monmouth, Ocean  
23 and Atlantic counties. Cape May is the only county of the sixth  
class. The affected municipalities in these counties represent  
25 what is commonly known as the "shore communities."

Under the provisions of the bill, the owner of any hotel, guest  
27 house or boarding house in those municipalities described above  
would be eligible to file papers in order to operate the hotel,  
29 guest house or boarding house on a full-year basis if he or she can  
demonstrate that:

31 (1) a certificate of inspection has been obtained for the hotel  
under P.L.1967, c.76 (C.55:13A-1 et seq.) or, in the case of a  
33 guest house or boarding house, that a license has been issued  
pursuant to P.L.1979, c.496 (C.55:13B-1 et al.); and

35 (2) other hotels for which a certificate of inspection has been  
issued or licensed guest houses or boarding houses in the  
37 municipality are not prohibited from operating on a full-year  
basis as of February 9, 1989.

39 In other words, so long as any hotel, guest house or boarding

1 house is not prohibited from operating on a full-year basis  
anywhere within a municipality covered by the bill, an owner of a  
3 hotel which has a current certificate of inspection, or of a  
licensed guest house or boarding house who is seeking to operate  
5 on a full-year basis could not be denied the permission to operate  
on a full-year basis by the commissioner. The intention of the  
7 bill is not to require a hotel owner to demonstrate that other  
hotels operate on a full-year basis; rather, the bill removes the  
9 distinction between hotels, guest houses and boarding houses for  
the purpose of demonstrating a right to operate on a full-year  
11 basis.

Given the important Constitutional purpose served by this bill,  
13 it is necessary to establish the introduction date of the bill as the  
date which determines the operating status of existing hotels,  
15 guest houses and boarding houses for the purpose of  
demonstrating a right to full-year operation. The Legislature's  
17 intention in including this date is to ensure that municipalities do  
not thwart the aim of the bill by limiting the operation of  
19 existing hotels, guest houses and boarding houses once the bill is  
introduced, thereby preventing the extension of full-year  
21 operation to similar enterprises.

The bill requires any owner who wishes to operate his hotel,  
23 guest house or boarding house on a full-year basis to file copies  
of that information required with the Commissioner of  
25 Community Affairs in accordance with the provisions of section 1  
which demonstrates fulfillment of the conditions set forth in that  
27 section. Copies are to be filed with the clerks of the county and  
municipality in which the hotel, guest house or boarding house is  
29 situated.

The commissioner is required to provide a determination of  
31 whether or not the hotel, guest house or boarding house shall be  
permitted to operate on a full-year basis within 30 days of  
33 receiving the information submitted by the owner. If the  
commissioner does not respond within this time period, the  
35 request shall be deemed to be granted and the owner may  
commence operation of the hotel, guest house or boarding house  
37 on a full-year basis.

It is the intent of this bill to increase beach access by allowing  
39 certain shore hotels, guest houses and boarding houses to extend

1 their season of operation.

3 Beach access involves a number of components: regulations  
5 which determine hours of operation and fees; the presence of an  
7 adequate number of access points; the availability of support  
9 facilities, such as changing areas; the proximity of adequate  
11 parking for a reasonable period of time; the location of major  
13 public transit lines relative to the beach and the sufficiency of  
15 service; and the availability of public accommodations in close  
17 proximity to the beach. It is this last component of beach access  
19 which this bill seeks to address by allowing certain shore hotels,  
21 guest houses and boarding houses to extend their season of  
23 operation.

25 In the landmark New Jersey Supreme Court case concerning  
27 beach access, Van Ness v. Borough of Deal, 78 N.J. 174 (1978),  
29 the principle of the public right to the use and enjoyment of the  
31 State's beaches was firmly established.

33 Moreover, in Borough of Neptune v. Borough of  
35 Avon-by-the-Sea, 61 N.J. 296 (1972), the New Jersey Supreme  
37 Court held that an oceanside municipality, in the maintenance  
39 and operation of its public beaches, could not discriminate in any  
respect between residents and non-residents.

It is axiomatic that the State's beaches are most easily  
accessible to those persons who live in the shore communities.  
Those persons who travel to claim their right to the use of the  
beach, a right whose origins predates the Constitution, must rely  
upon the availability of accommodation which is affordable and in  
operation at convenient times.

In recent years, New Jersey residents have evidenced an  
increasing desire to visit the State's beaches outside of the  
summer months. Not only is this interest marked by rising traffic  
congestion within the shore communities all year, but by a  
growing willingness on the part of taxpayers to pay for shore  
preservation and protection.

Accordingly, this bill's purpose is two-fold. On the one hand,  
it furthers the access to the State's beaches which emanates  
from public trust doctrine and which was enunciated in Van Ness  
v. Deal by increasing the availability of accommodation in shore  
communities throughout the year. Additionally, by providing such  
opportunities for non-shore residents, this bill addresses the

1 fundamental issue of equality of access to beaches by residents  
and nonresidents raised in Neptune v. Avon.

3 Secondly, this bill is intended to address the inequity inherent  
in requiring all of the State's citizens to pay the considerable  
5 costs of shore protection and preservation, while effectively  
excluding non-residents from easy accessibility to the State's  
7 beaches during the winter months.

This bill would achieve its purposes following a carefully  
9 constructed legislative scheme which preserves municipal  
self-sufficiency while allowing for the achievement of valid State  
11 public policy goals.

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MUNICIPALITIES

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Economic Development

17 Regulates certain hotels, guest houses and boarding houses.

SENATE LABOR, INDUSTRY AND PROFESSIONS COMMITTEE

STATEMENT TO

**SENATE, No. 3336**

with committee amendments

**STATE OF NEW JERSEY**

DATED: FEBRUARY 23, 1989

The Senate Labor, Industry and Professions Committee reports favorably and with committee amendments Senate, No. 3336.

This bill would authorize the full-year operation of certain hotels, guest houses, rooming houses and boarding houses which are now operating on a seasonal basis under the provisions of section 55 of P.L.1975, c.291 (C.40:55D-68) or municipal ordinance, resolution, license or other local limitation. The bill would only affect those municipalities which border on the Atlantic Ocean and are situated in Monmouth, Ocean, Atlantic or Cape May county. The affected municipalities in these counties represent what is commonly known as the "shore communities."

Under the provisions of the bill, the owner of a hotel, guest house, rooming house or boarding house in such a municipality would be eligible to file papers in order to operate a hotel, guest house, rooming house or boarding house on a full-year basis if he can demonstrate that:

(1) a certificate of inspection has been obtained for the hotel or guest house under the "Hotel and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.), or, in the case of a rooming house or boarding house, that a license has been issued pursuant to the "Rooming and Boarding House Act of 1979," P.L.1979, c.496 (C.55:13B-1 et al.); and

(2) a hotel or guest house for which a certificate of inspection has been issued or licensed rooming house or boarding house in the municipality is not prohibited from operating on a full-year basis on February 9, 1989 or on any day thereafter.

The bill provides that so long as any hotel, guest house, rooming house or boarding house is not prohibited from operating on a full-year basis anywhere within a municipality covered by the bill, an owner of a hotel, guest house, rooming house or boarding house who



is seeking to operate on a full-year basis may not be denied permission to operate on a full-year basis. For example, the owner of a guest house may not be denied permission to operate on a full-year basis in such a municipality if a hotel, guest house, rooming house or boarding house is operating on a full-year basis in that municipality.

The bill requires any owner who wishes to operate his hotel, guest house, rooming house or boarding house on a full-year basis to file with the Commissioner of Community Affairs copies of the information required in accordance with the provisions of section 1 which demonstrate fulfillment of the conditions set forth in that section. Copies are to be filed with the clerks of the county and municipality in which the hotel, guest house, rooming house or boarding house is located.

The commissioner is required to provide a determination of whether or not the hotel, guest house, rooming house or boarding house shall be permitted to operate on a full-year basis within 30 days of receiving the information submitted by the owner. If the commissioner does not respond within this time period, the request shall be deemed to be granted and the owner may commence operation of the hotel, guest house, rooming house or boarding house on a full-year basis.

Any person who knowingly files false information under the provisions of the bill would be liable to a penalty of not more than \$1,000 for each filing.

The committee made technical amendments to the bill. It also amended the bill to provide that not only the date of introduction of the bill, February 9, 1989, but any day after that date may be used to determine the operational status of any existing hotel, guest house, rooming house or boarding house for the purpose of demonstrating a right to full-year operation. The Legislature's intention in including February 9, 1989, the date of introduction of this bill, is to ensure that municipalities do not thwart the aim of the bill by limiting the operation of existing hotels, guest houses, rooming houses and boarding houses once the bill was introduced, thereby preventing the extension of full-year operation to similar enterprises. The committee's intention in including any day after February 9, 1989 as a date for determining a right to full-year operation is to ensure that

hotels, guest houses, rooming houses and boarding houses in municipalities which currently do not allow any of these facilities to operate on a full-year basis but decide to do so in the future, would have the option to operate on a full-year basis.

It is the intent of this bill to increase beach access by allowing certain shore hotels, guest houses, rooming houses and boarding houses to extend their season of operation.