

46: 8B-1

LEGISLATIVE HISTORY CHECKLIST

NJSA: 46: 8B-1

(Lakes, private &  
community lake  
associations--exempt  
from safety laws)

LAWS OF: 1989

CHAPTER: 138

Bill No: A2214/A2357

Sponsor(s): Moran

Date Introduced: February 1, 1988

Committee: **Assembly:** Governmental Efficiency and Oversight

**Senate:** Institutions, Health & Welfare

Amended during passage: Yes Assembly Committee Substitute  
(1st reprint)

Date of Passage: **Assembly:** June 23, 1989

**Senate:** June 26, 1989

Date of Approval: August 2, 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

[FIRST REPRINT]  
ASSEMBLY COMMITTEE SUBSTITUTE FOR  
ASSEMBLY, Nos. 2214 and 2357

STATE OF NEW JERSEY

ADOPTED MAY 16, 1988

Sponsored by Assemblymen LITTELL, HAYTAIAN and MORAN

1 AN ACT concerning the exemption of private bathing places  
2 from certain public recreational bathing safety regulations  
3 and supplementing Title 26 of the Revised Statutes.

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

7 1. As used in this act:

"Private lake or private community lake association" means an  
9 organization of property owners within a fixed or defined  
10 geographical area with deeded or other rights to utilize, with  
11 similarly situated owners, various lakefront properties, which  
12 lakefront properties are not open to the general public, other  
13 than bona fide guests of a member of the private lake or private  
14 community lake association;

15 "Common interest community" means <sup>1</sup>:

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

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

c. <sup>1</sup> real estate with respect to which a person, by virtue of his  
27 ownership of a unit, is obligated to pay for real estate taxes,  
28 insurance premiums, maintenance or improvement of other real  
29 estate described in the instrument, however denominated, which  
30 creates the common interest community. Ownership of a unit  
31 does not include holding a lease-hold interest of less than 20

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 SIH committee amendments adopted June 15, 1989.

1 years in a unit, including renewal options<sup>1</sup>[. Common interest  
2 communities shall include, but not be limited to, condominiums  
3 and cooperatives]<sup>1</sup>;

"Private bathing place" means a private lake or private  
4 community lake association, or a private nonprofit common  
5 interest community <sup>1</sup>[or private nonprofit association of  
6 homeowners]<sup>1</sup> which restricts the use of its <sup>1</sup>lake or<sup>1</sup> pool <sup>1</sup>, as  
7 appropriate,<sup>1</sup> to the owners of units thereof and their invited  
8 guests.

2. Notwithstanding the provisions of P.L.1946, c.172  
9 (C.26:4A-1 et seq.) or section 7 of P.L.1947, c.177 (C.26:1A-7),  
10 or any rules or regulations promulgated pursuant thereto <sup>1</sup>to the  
11 contrary<sup>1</sup>, a private bathing place shall be exempt from  
12 mandatory compliance with the public recreational bathing  
13 regulations pertaining to waterfront safety.

3. A private bathing place which does not voluntarily comply  
14 with the public recreational bathing regulations pertaining to  
15 waterfront safety shall post a sign which shall be prominently  
16 displayed stating: "This bathing place is not subject to the State  
17 waterfront safety regulations requiring the presence of lifesaving  
18 personnel or equipment. Swim at your own risk."

4. This act shall take effect immediately and shall expire on  
19 October 1, 1990.

25

HEALTH

27

Sports and Recreation

29 Exempts private bathing places from certain public recreational  
bathing regulations.

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ASSEMBLY, No. 2214  
STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel  
PRE-FILED FOR INTRODUCTION IN THE 1988 SESSION

By Assemblymen LITTELL AND HAYTAIAN

1 AN ACT concerning private lakes and private community lake  
associations and supplementing Title 26 of the Revised  
3 Statutes.

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

7 1. Notwithstanding P.L. 1946, c. 172 (C. 26:4A-1 et seq.) or  
section 7 of P.L. 1947, c. 177 (C. 26:1A-7), or any rules or  
9 regulations promulgated pursuant thereto, the State Department  
of Health shall not establish mandatory recreational bathing  
11 safety standards for a private lake or a private community lake  
association. However, the State Department of Health may  
13 issue voluntary recreational bathing safety guidelines for a  
private lake or a private community lake association.

15 For the purposes of this act, a "private lake or private  
community lake association" means an organization of property  
17 owners within a fixed or defined geographical area with deeded  
or other rights to utilize, with similarly situated owners, various  
19 lakefront properties, which lakefront properties are not open to  
the general public, other than bona fide guests of a member of  
21 the private lake or private community lake association.

2. This act shall take effect immediately.

23

25 STATEMENT

27 This bill will exempt a private lake or a private community  
lake association from certain Department of Health recreational  
29 bathing safety laws and regulations. These private lake and  
community lake associations have been functioning very  
31 effectively on a self-regulatory basis for many years. This bill  
would authorize the Department of Health to issue safety  
33 guidelines for these private entities for use on a voluntary basis.

ASSEMBLY, No. 2357

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 1, 1988

By Assemblyman MORAN

1 AN ACT concerning swimming pools of certain common interest  
2 communities and associations of homeowners and  
3 supplementing Title 26 of the Revised Statues.

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

7 1. As used in this act:

"Common interest community" means real estate with respect  
9 to which a person, by virtue of his ownership of a unit, is  
obligated to pay for real estate taxes, insurance premiums,  
11 maintenance or improvement of other real estate described in the  
instrument, however denominated, which creates the common  
13 interest community. Ownership of a unit does not include holding  
a lease-hold interest of less than 20 years in a unit, including  
15 renewal options. Common interest communities shall include, but  
not be limited to, condominiums and cooperatives.

17 2. Notwithstanding the provisions of P.L. 1946, c. 172 (C.  
26:4A-1 et seq.), or section 7 of P.L. 1947, c. 177 (C. 26:1A-7), or  
19 any rules or regulations adopted pursuant thereto to the contrary,  
the Commissioner of Health shall not establish mandatory  
21 recreational bathing safety standards for a private nonprofit  
common interest community or a private nonprofit association of  
23 homeowners which restricts the use of its pool to the owners of  
units thereof and their invited guests. The Commissioner of  
25 Health may issue voluntary safety guidelines for use by the  
common interest community or association of homeowners.

27 3. This act shall take effect immediately.

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STATEMENT

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This bill exempts private nonprofit common interest  
33 communities and private nonprofit associations of homeowners  
which restrict the use of their pools to the owners thereof

1 and their invited guests from the recreational safety regulations  
adopted by the State Commissioner of Health governing public  
3 recreational bathing.

Section 1 of P.L. 1946, c. 172 requires that: "Every person  
5 operating a swimming pool or public swimming place, directly or  
indirectly, for profit shall provide adequate trained personnel and  
7 proper appliances for life-saving and resuscitation at all times  
when the pool or place is open to the public." In State v.  
9 Woodlands Condominium Association, 204 N.J. Super. 85, (Law  
Div. 1985), the court found an exemption from the provisions of  
11 the law for a condominium association that administered a  
swimming pool for the sole use of the condominium owners and  
13 their invited guests. The court reasoned that because none of the  
condominium units were leased to tenants, the pool was not  
15 operated for profit and thus the pool was exempt from section 1  
of P.L. 1946, c. 172 (C. 26:4A-1). The court ruled that the mere  
17 accrual of equity by individual condominium owners is  
insufficient to qualify the swimming pool operated by their  
19 condominium association as a "for profit" operation.

The intent of this bill is to legislatively affirm and expand the  
21 decision rendered by the Superior Court. Condominium  
associations have functioned very effectively on a self-regulatory  
23 basis to date. This bill expands the exemption to all common  
interest communities, such as condominiums and cooperatives,  
25 and to all private nonprofit associations of homeowners which are  
not operating swimming pools for direct or indirect profit.

27 Finally the bill authorizes the Commissioner of Health to issue  
voluntary safety guidelines for use by these communities and  
29 associations.

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## HEALTH

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### Landlord - Tenant and Condominiums

35 Exempts certain common interest communities and associations  
of homeowners from certain bathing safety regulations.

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ASSEMBLY GOVERNMENTAL EFFICIENCY AND OVERSIGHT  
COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, Nos. 2214 and 2357**

**STATE OF NEW JERSEY**

DATED: MAY 16, 1988

The Assembly Governmental Efficiency and Oversight Committee reports favorably an Assembly Committee Substitute for Assembly, Nos. 2214 and 2357.

This bill exempts a private bathing place from mandatory compliance with the public recreational bathing regulations recently adopted by the Public Health Council which pertain to waterfront safety. A private bathing place is defined as a private lake or private community lake association, or a private nonprofit common interest community or private nonprofit association of homeowners which restricts the use of its pool to the owners of units thereof and their invited guests. Private lakes and private community lake associations include organizations of property owners with deeded or other rights to utilize lakefront properties which are not open to the general public. Common interest communities include, but are not limited to, condominiums and cooperatives. The waterfront safety regulations are contained in subchapter 5 of the public recreational bathing regulations and specify such items as supervision and emergency equipment requirements for swimming pools and bathing beaches, and the demarcation of swimming areas at bathing beaches.

A private bathing place which does not voluntarily comply with the public recreational bathing regulations pertaining to waterfront safety shall post a sign which shall be prominently displayed stating: "This bathing place is not subject to the State waterfront safety regulations requiring the presence of lifesaving personnel or equipment. Swim at your own risk."

The bill provides that the act shall take effect immediately, but shall expire on October 1, 1990.

Testimony presented to the committee ranged from the view that private bathing places should be exempt from all of the

public recreational bathing regulations to the view that they should be subject to all of the regulations. The committee, however, chose to grant an exemption only from mandatory compliance with the waterfront safety regulations. These regulations pose a particular hardship for small, private bathing places which cannot afford to employ a lifeguard for the limited number of swimmers present at any given time. In providing an expiration date of October 1, 1990, for the exemption, the committee intends that during this period the Public Health Council and representatives of private bathing places will work together to produce a set of more flexible and realistic waterfront safety regulations, taking into account the size and usage of bathing facilities.

The committee is also concerned with some of the provisions contained in the public recreational bathing regulations governing general sanitation and maintenance, sampling and water quality criteria, and enforcement procedures. In administering these regulations, the committee believes that State and local health authorities should be reasonable and flexible in their interpretation of them. The committee will continue to monitor the effect of these regulations on private bathing places and will recommend corrective legislation if necessary.



SENATE INSTITUTIONS, HEALTH AND WELFARE COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

**ASSEMBLY, Nos. 2214 and 2357**

with committee amendments

**STATE OF NEW JERSEY**

DATED: JUNE 15, 1989

The Senate Institutions, Health and Welfare Committee favorably reports the Assembly Committee Substitute for Assembly Bill Nos. 2214 and 2357 with committee amendments.

As amended by committee, this committee substitute exempts a private bathing place from mandatory compliance with the Public Recreational Bathing regulations which pertain to waterfront safety. A private bathing place is defined as a private lake or private community lake association, or a private nonprofit common interest community which restricts the use of its lake or pool (as appropriate) to the owners of units thereof and their invited guests. Private lakes and private community lake associations include organizations of property owners with deeded or other rights to utilize lakefront properties which are not open to the general public. Common interest communities include, but are not limited to, condominiums and cooperatives.

The waterfront safety regulations are contained in subchapter 5 of the Public Recreational Bathing regulations (N.J.A.C.8:26-5.1 et seq.) and specify such items as supervision and emergency equipment requirements for swimming pools and bathing beaches, and the demarcation of swimming areas at bathing beaches.

A private bathing place which does not voluntarily comply with the public recreational bathing regulations pertaining to waterfront safety shall post a sign which shall be prominently displayed stating: "This bathing place is not subject to the State waterfront safety regulations requiring the presence of lifesaving personnel or equipment. Swim at your own risk."

The substitute provides that the act shall take effect immediately, and shall expire on October 1, 1990.

The committee amended the substitute to clarify the definition of common interest community.

A-182, sponsored by Assemblyman John Rocco, R-Camden, to provide a method to fund emergency broadcasts by the New Jersey Public Broadcasting Authority.

Assembly Committee Substitute for A-57, sponsored by Assemblymen Arthur Albohn, R-Morris, and John Rooney, R-Bergen, to prohibit the operation of a motor vehicle if the license plate frame or holder obscures any part of the plate.

A-1095, sponsored by Assemblyman Jeffrey Moran, R-Ocean, to appropriate \$17,000 to the Department of Military and Veterans' Affairs to oversee the transfer of veterans' remains from paupers' or potters' cemeteries to the Arneytown Veterans' Memorial Cemetery.

A-1978, sponsored by Assemblyman John Girgenti, D-Passaic, to create a \$2 disbursement to municipal courts for certain parking violations.

A-1701, sponsored by Assemblymen Robert Martin, R-Morris, and Louis Gill, D-Passaic, to permit the use of school buses for the transportation of children and adults in recreation programs operated by a municipality.

Assembly Committee Substitute for A-2214 and A-2357, sponsored by Assemblymen Robert Littell, R-Sussex, and Garabed Haytaian, R-Warren, to exempt private lake associations and private nonprofit common interest communities from the public recreational bathing regulations until October 1, 1990.

A-4357, sponsored by Assemblymen John Doyle, D-Ocean, and Robert Singer, R-Ocean, to exempt hotels, motels, campgrounds, mobile home parks and retirement communities in Monmouth, Ocean and Atlantic counties from the lifeguard requirements of the public recreational bathing regulations.

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