

LEGISLATIVE HISTORY CHECKLIST

NJSA: 46:8D-1 to 46:8D-18 ("Cooperative Recording Act of New Jersey")

LAWS OF: 1987 CHAPTER: 381

Bill No: A344

Sponsor(s): Kern

Date Introduced: Pre-filed

Committee: Assembly: Economic Development and Agriculture

Senate: Judiciary

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

Date of Passage: Assembly: December 19, 1986

Senate: December 10, 1987

Date of Approval: January 8, 1988

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly Yes

Senate Yes 11-6-87 and 5-12-86

Fiscal Note: No

Veto Message: No

Message on Signing: No

Following were printed:

Reports: No

Hearings: No

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ASSEMBLY SUBSTITUTE FOR
ASSEMBLY, No. 344 and SENATE, No. 1754
STATE OF NEW JERSEY

ADOPTED JUNE 19, 1986

By Assemblyman KERN

AN ACT providing for a title registration system for cooperative units in connection with proprietary leases issued by cooperative corporations and other cooperative entities, amending P. L. 1968, c. 49 and supplementing Title 46 of the Revised Statutes.

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

ARTICLE 1. INTRODUCTORY PROVISIONS

1 1. (New section) This act shall be known and may be cited as
2 "The Cooperative Recording Act of New Jersey."

1 2. (New section) The Legislature finds that issuance of proprie-
2 tary real estate leases by cooperative corporations and other
3 cooperative legal entities is becoming a popular practice in New
4 Jersey which is usually accomplished by a ledger book transfer to
5 the lessee of stock or another indicia of ownership of an interest
6 in the cooperative corporation or other cooperative entity which
7 owns the real estate and that there is no public record of the
8 transaction. The Legislature further finds that this is a hybrid
9 transaction which is not capable of classification entirely as realty
10 or personalty but that the public perception of a cooperative unit
11 is that it in some manner involves real estate; that members of
12 the public seek protection in cooperative leasing transactions
13 similar to those protections available in transactions for the
14 purchase of real estate, namely, a public title record, title searches
15 to guarantee security of title, freedom from easements or rights
16 in unknown third parties, unpaid liens, unsatisfied judgments,
17 unpaid taxes, freedom from municipal violations, title insurance
18 and the equivalent of a mortgage where a cooperative unit is the
19 asset to be pledged as security for the purchase loan. The

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 printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Assembly amendments adopted December 11, 1986.

20 Legislature declares that enabling legislation in the form of a
 21 cooperative recording act is desirable because it would provide a
 22 title registration system for cooperative units and would provide
 23 additional revenue to county recording offices and to the State of
 24 New Jersey by applying the Realty Transfer Tax to proprietary
 25 leases issued by cooperatives and assignments thereof which are
 26 not presently covered by that tax.

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

2 a. "Association" means the entity responsible for the admini-
 3 stration of a cooperative which entity may be incorporated or
 4 unincorporated, profit or nonprofit.

5 b. "Bylaws" means the governing regulations adopted under
 6 this act for the administration and management of the property.

7 c. "Common elements" means:

8 (i) The land described in the master "[deed]" declaration
 9 or other documents creating the cooperative;

10 (ii) As to any improvement, the foundations, structural
 11 and bearing parts, supports, main walls, roofs, basements,
 12 halls, corridors, lobbies, stairways, elevators, entrances, exits
 13 and other means of access, excluding any specifically reserved
 14 or limited to a particular unit or group of units;

15 (iii) Yards, gardens, walkways, parking areas and drive-
 16 ways, excluding any specifically reserved or limited to a
 17 particular unit or group of units;

18 (iv) Portions of the land or any improvement or appurte-
 19 nance reserved exclusively for the management, operation or
 20 maintenance of the common elements;

21 (v) Installations of all central services and utilities;

22 (vi) All apparatus and installations existing or intended for
 23 common use;

24 (vii) All other elements of any improvement necessary or
 25 convenient to the existence, management, operation, mainte-
 26 nance and safety of the cooperative property or normally in
 27 common use; and

28 (viii) Such other elements and facilities as are designated
 29 in the master "[deed]" "declarations" as common elements.

30 d. "Common expenses" means expenses for which the unit
 31 lessees are proportionately liable, including but not limited to:

32 (i) All expenses of administration, maintenance, repair and
 33 replacement of the common elements;

34 (ii) Expenses agreed upon as common by all lessees or
 35 coowners; and

36 (iii) Expenses declared common by provisions of this act
 37 or by the master "[deed]" "declaration" or by the bylaws.

38 e. "Common receipts" means:

39 (i) Rent and other charges derived from leasing or licensing

40 the use of common elements, or other areas of the building
 41 not leased or dedicated to exclusive use or possession by a
 42 specific lessee or coowner;

43 (ii) Funds collected from lessees or coowners as common
 44 expenses or otherwise;

45 (iii) Receipts designated as common by the provisions of
 46 this act or by the master deed or the bylaws.

47 f. "Cooperative" means any system of land ownership and
 48 possession in which the fee title to the land and structure is owned
 49 by a corporation or other legal entity in which the shareholders or
 50 other coowners each also have a long term proprietary lease or
 51 other long term arrangement of exclusive possession for a specific
 52 unit of occupancy space located within the same structure.

53 g. "Limited common elements" means those common elements
 54 which are for the use of one or more specified units to the exclusion
 55 of other units.

56 h. "Master declaration" means the master declaration as
 57 amended and recorded under the terms of this act by which the
 58 owner in fee simple or lessee of the property submits it to a
 59 cooperative plan of ownership.

60 i. "Owner" means ***[the] *a*** person listed in the master reg-
 61 ister as ***[the] *a*** holder of ***[a percentage of the]** shares ***[of**
 62 **stock]** in the cooperative entity.

63 j. "Person" means an individual, firm, corporation, partnership,
 64 association, trust or other legal entity, or any combination thereof.

65 k. "Proprietary lease" means a grant of a long term exclusive
 66 right of possession and occupancy of a designated unit to a co-
 67 owner or a grant of a leasehold of the cooperative structure.

68 l. "Unit" means a part of the cooperative structure designed or
 69 intended for occupancy and includes the proportionate undivided
 70 interest in the common elements and in any limited common
 71 elements as assigned in the provisions of the master declaration
 72 or any amendment thereof.

1 4. (New section) A county recording officer shall establish and
 2 maintain all appropriate books for the recording of documents
 3 which are entitled to be recorded under this act.

ARTICLE 2. CREATION OF THE COOPERATIVE

1 5. (New section) A plan of cooperative ownership is created by
 2 recording in the office of the county recording officer of the county
 3 wherein the land is located a master declaration and master
 4 register of all cooperative units allocated for separate occupancy,
 5 each of which documents shall be executed and acknowledged by
 6 all owners of the land and shall set forth the matters required by
 7 section 6 and 7 of this act.

1 6. (New section) The master declaration for a cooperative shall
2 contain the following elements:

3 a. A legal description by metes and bounds and tax lot and
4 block of the lands to be dedicated to the cooperative form of
5 ownership.

6 b. A statement dedicating the land described in the master
7 declaration to the cooperative form of ownership.

8 c. The name by which the cooperative is to be identified, which
9 name shall include the word "Cooperative" or "Coop."

10 d. A copy of the recorded deed "[or ground lease]" which vests
11 ownership in the person who signs the master declaration to create
12 the cooperative.

13 e. A copy of the certificate of incorporation or other organiza-
14 tion form creating the association.

15 f. The bylaws which regulate the cooperative.

16 g. The master register containing the information required in
17 section 7 of article 2 of this act.

18 h. A written description and architectural plans prepared to
19 scale by an architect or engineer licensed in New Jersey which
20 detail the improvements existing or to be erected on the lands to
21 create the cooperative and identify the locations and dimensions
22 of the common elements, limited common elements and each
23 cooperative unit. The written description and architectural plans
24 shall be signed, certified and scaled by an engineer or architect
25 authorized to practice his profession in this State. The certifica-
26 tion shall state that the description and plans are a correct and
27 accurate representation of the improvements described and shown
28 on the plans.

29 i. The number of votes which may be cast by each cooperative
30 unit owner at any meeting of the cooperative unit owners.

31 *~~j.~~ A copy of any existing management, maintenance or other
32 agreement having a term in excess of one year which will bind the
33 cooperative corporation, cooperative association or any unit owner.

34 k. A copy of any lease, license, concession, or agreement for
35 use or other facilities which will bind the cooperative corporation,
36 cooperative association or any unit owner.

37 l. The form of proprietary lease for occupancy of units.

38 m. If the cooperative is a conversion of an existing building to
39 the cooperative form of ownership, the declaration shall contain a
40 signed and scaled certification by an architect or engineer licensed
41 in New Jersey stating the physical condition of the building struc-
42 ture and all common elements and limited common elements in
43 the building.

44 n. The form of agreement for purchase or lease of cooperative
45 units.

46 o. The form of agreement for escrow of payments made by unit
47 purchasers prior to closing.]*

48 *[p.]* *j.* A statement of existing financing which is a lien on the
49 building and the manner in which the financing will be paid and
50 discharged as a lien before or after closing of units.

51 *[q.]* The full name and residence address within New Jersey of
52 the person designated as agent to receive service of process on
53 behalf of the cooperative corporation.]*

54 *[r.]* *k.* A schedule of *[unit]* owners' percent of common
55 elements which are part of their ownership of shares in the co-
56 operative corporation and which represent their share of common
57 expenses and common surplus.

58 *[s.]* *l.* Such other provisions, as may be desired, including but
59 not limited to restrictions or limitations upon the use, occupancy,
60 transfer, leasing or other disposition of any unit (if the restriction
61 or limitation is otherwise permitted by law) and limitations upon
62 the use of common elements.

63 *[t.]* *m.* A method of amending the master declaration which
64 requires recording of any amendment in the same office as the
65 master declaration before it becomes effective.

1 7. (New section) The master register shall contain the following
2 elements:

3 a. Separate identification of each unit by distinctive letter, name
4 or number or combination thereof.

5 b. The percent of common ownership representing *[the unit]*
6 *each* owner's proportionate undivided interest in the common
7 elements; the interests shall be stated as percentages aggregating
7A 100%.

8 c. The name and present address of each present owner and
9 occupant of each identified unit.

1 8. (New section) The county recording officer in each county
2 shall charge the fees prescribed for recording of real property
3 documents for the recording of the documents required in sections
4 6 and 7 of this article.

1 9. (New section) Whenever a proposed cooperative plan in-
2 volves lands located in more than one county or state, the propo-
3 nent of the cooperative shall comply with requirements of this
4 article by recording the documents in each county or state in which
5 any portion of the lands is located.

1 10. (New section) The master declaration or master register
2 may be amended in the manner set forth therein provided that no

3 amendment shall affect any cooperative unit unless the possessor
 4 of record thereof and the holders of record of any liens thereon
 5 join in the execution of the amendment or execute a consent
 6 thereto with the formalities of a deed. ***[Notwithstanding any other**
 7 **provision of this act or the master declaration, the designation of**
 8 **the agent for service of process named in the master deed may be**
 9 **changed by an instrument executed by the association and recorded**
 10 **in the same manner as the master declaration.]***

ARTICLE 3. TRANSFER OF COOPERATIVE UNIT

1 11. (New section) The sale or transfer of a cooperative ***[unit]***
 2 ***share*** by a proprietary lease or an assignment thereof or other
 3 like instrument is achieved by the recording of the transfer docu-
 4 ment or a short form memorandum thereof which is executed and
 5 acknowledged in recordable form and which contains the following
 6 information:

7 a. All information set forth in paragraphs a., b. and c. of
 8 section 7. of article 2 of this act and

9 b. The name of the cooperative as set forth in the master
 10 declaration and master register, the name of the political sub-
 11 division and county in which the property is located and a refer-
 12 ence to the recording office, the book and page where the master
 13 declaration and master register and any amendment thereto are
 14 recorded.

15 c. The unit designation as set forth in the master declaration
 16 and register.

17 d. A reference to the last prior transfer of the unit, if previously
 18 transferred.

19 e. A statement of the proportionate undivided interest in the
 20 common elements appurtenant to the unit as set forth in the
 21 master declaration and master register or any amendments there-
 22 of.

23 f. The full name and adress of the transferor and transferee
 24 of the unit.

25 g. An executed and acknowledged consent of the cooperative
 26 board of managers' authorizing and approving the transfer or
 27 assignment.

28 h. ***[If corporate shares are transferred as part of the trans-**
 29 **action, the]*** ***The*** number of shares transferred.

30 i. A statement of the full consideration paid for the cooperative
 31 unit which includes the purchase price paid plus the amount
 32 derived from application of the ***[unit's]*** percent of ownership

33 *held in conjunction with the unit* to the unpaid balance of the fee
 34 or leasehold mortgage encumbering the entire structure as of the
 35 date of the transfer or assignment.

36 j. All other matters, consistent with this act, which the parties
 37 may deem appropriate.

1 12. (New section) The documents referred to in section 11 of
 2 this article shall be recorded in the office of the county recording
 3 office of the county wherein the land is located. The county clerk
 4 or register of deeds, as the case may be, hereinafter referred to
 5 as the "county recording officer" shall record the documents in
 6 the appropriate book for recording of real property instruments
 7 of the type presented plus the documents shall be recorded in
 8 the master register for the cooperative by indexing to the identified
 9 unit. The provisions of P. L. 1979, c. 406 (C. 46:16A-1 et seq.),
 10 commonly referred to as the "Real Property Notice of Settle-
 11 ment Act," are applicable. Each document submitted for record-
 12 ing shall be acknowledged, shall contain the name and signature
 13 of the person who prepared the document and shall otherwise
 14 be in form required for recordation of real estate documents.

1 13. Section 1 of P. L. 1968, c. 49 (C. 46:15-5) is amended to
 2 read as follows:

3 1. As used in this act:

4 (a) "Deed" means a written instrument entitled to be re-
 5 corded in the office of a county recording officer which purports
 6 to convey or transfer title to a freehold interest in any lands,
 7 tenements or other realty in this State by way of grant or bargain
 8 and sale thereof from the named grantor to the named grantee.
 9 A leasehold interest for 99 years or more or a *proprietary lease*
 10 *of a cooperative unit and any assignment of a proprietary lease*
 11 *of a cooperative unit*, shall be treated as a "freehold" for the
 12 purpose of this act. Instruments providing for common drive-
 13 ways, for exchanges of easements or rights-of-way, for revocable
 14 licenses to use, to adjust or to clear defects of or clouds on title,
 15 to provide for utility service lines such as drainage, sewerage,
 16 water, electric, telephone or other such service lines, or to quit-
 17 claim possible outstanding interests, shall not be "deeds" for
 18 the purposes of this act.

19 (b) The terms "county recording officer" and "office of the
 20 county recording officer" mean the register of deeds and mort-
 21 gages in counties having such an officer and office, and the county
 22 clerk and his office in the other counties.

23 (c) "Consideration" means in the case of any deed, the actual
 24 amount of money and the monetary value of any other thing of
 25 value constituting the entire compensation paid or to be paid for

26 the transfer of title to the lands, tenements or other realty, in-
27 cluding the remaining amount of any prior mortgage to which
28 the transfer is subject or which is to be assumed and agreed to
29 be paid by the grantee and any other lien or encumbrance thereon
30 not paid, satisfied or removed in connection with the transfer of
31 title. The amount of liens for real property taxes, water or
32 sewerage charges for the current or any subsequent year, or by
33 way of added assessment or other adjustment, as well as of other
34 like liens or encumbrances of a current and continuing nature
35 ordinarily adjusted between the parties according to the period
36 of ownership shall be excluded as an element in determining the
37 consideration, notwithstanding that such amount is to be paid by
38 the grantee.

39 In the case of a leasehold interest *for 99 years or more* as
40 defined in paragraph (a) of this section, the consideration shall
41 be in the amount of the assessed value of the property at the
42 date of the transaction for the purpose of levying local real
43 property taxes adjusted to reflect the true value in accordance
44 with the county percentage level established for the current year.

45 *In the case of a proprietary lease of a cooperative unit or*
46 *assignment thereof as defined in paragraph (a) of this section,*
47 *the consideration is the total price paid for the *ownership interest*
47A *held in conjunction with a* cooperative unit*, including the pro rata*
47B *amount of any underlying mortgage or other obligation of the co-*
47C *operative*.*

48 (d) "Blind person" means a person whose vision in his better
49 eye with proper correction does not exceed 20/200 as measured by
50 the Snellen chart or a person who has a field defect in his better
51 eye with proper correction in which the peripheral field has con-
52 tracted to such an extent that the widest diameter of visual field
53 subtends an angular distance no greater than 20°.

54 (e) "Disabled person" means any resident of this State who
55 is permanently and totally disabled, unable to engage in gainful
56 employment, and receiving disability benefits or any other com-
57 pensation under any federal or State law.

58 (f) "Senior citizen" means any resident of this State of the
59 age of 62 years or over.

60 (g) "New construction" means any conveyance or transfer of
61 property upon which there is an entirely new improvement not
62 previously occupied or used for any purpose.

63 (h) "Low and moderate income housing" means any residential
64 premises, or part thereof, affordable according to federal Depart-

65 ment of Housing and Urban Development or other recognized stan
 66 dards for home ownership and rental costs and occupied or reserved
 67 for occupancy by households with a gross income equal to 80%
 68 or less of the median gross household income for households
 69 of the same size within the housing region in which the housing is
 70 located, but shall include only those residential premises subject
 71 to resale controls pursuant to contractual guarantees.

1 14. (New section) The transferee shall pay the recording fees
 2 for each instrument. In addition, the county recording officer shall
 3 levy and collect from the transferor, a fee of \$1.00 per page for
 4 indexing of the transfer in the master register for the cooperative.

ARTICLE 4. ASSESSMENTS, TAXES AND LIENS

1 15. (New section) a. The lender of funds secured by a promiss-
 2 sory note and pledge of the stock and proprietary lease of a
 3 cooperative unit shall record its lien by the method of recordation
 4 provided in the applicable statutes. If the secured transactions
 5 laws of N. J. S. 12A:9-301 et seq. apply, the lender shall record
 6 its financing statement "[on]" or security agreement in the office
 7 of the Secretary of State and the county recording office of the
 8 county in which any portion of the lands in which the cooperative
 9 unit is located.

10 b. In addition to the recording required pursuant to subsection
 11 a. of this section, the cooperative unit lender shall not have a
 12 perfected lien unless it records its lien in the master register
 13 for the cooperative in the county recording office of the county
 14 in which the cooperative unit is located. The lender shall pay to
 15 the county recording officer a fee of \$1.00 per page for recording
 16 of its lien in the master register which shall be in addition to
 17 the recording fees applicable to regular recording of the docu-
 18 ments.

1 16. (New section) Any lien on a cooperative ownership interest
 2 is governed by the law designated in the instrument and selected
 3 by the lender for recordation of the lien. Any assignment, modi-
 4 fication, release or discharge of the lien shall adhere to the re-
 5 cordation procedures set forth in the law selected by the lender;
 6 but each document or a summary memorandum thereof, shall also
 7 be recorded in the master register for the cooperative at a re-
 8 cording fee of \$1.00 per page.

ARTICLE 5. TERMINATION OF COOPERATIVE PLAN OF OWNERSHIP

1 17. (New section) Any cooperative property may be removed
 2 from the provisions of this act by a deed of revocation duly
 3 executed by all unit lessees or the sole owner of the property
 4 and the holders of all mortgages or other liens affecting all units
 5 and recorded in the master register.

1 •[18. (New section) Upon the recording of a deed of revocation,
 2 the unit lessees recorded in the master register as of the date
 3 of recording of the deed shall become tenants-in-common of the
 4 property unless otherwise provided in the master deed or deed
 5 of revocation; each unit owner shall thereafter be the owner of
 6 an undivided interest in the entire property equal to the per-
 7 centage of his undivided interest in the common elements before
 8 the recording of the deed of revocation, and each lien on an in-
 9 dividual unit shall become a lien on the individual undivided
 10 interest of the unit owner in the entire property.]•

1 •[19.] •18. (New section) The removal of any property from the
 2 provisions of this act shall not bar the resubmission of the property
 3 to the provisions of this act in the manner herein provided.

1 •[20.] •19 (New section) a. The Department of Community
 2 Affairs shall not accept for registration as a cooperative under
 3 "The Planned Real Estate Development Full Disclosure Act."
 4 P. L. 1977, c. 419 (C. 45:22A-21 et seq.), any offering plan which
 5 would not result in the creation of a "cooperative" as defined in
 6 subsection f. of section 3 of this act.

7 b. No tenant may be removed from a rental premises pursuant
 8 to the provisions of section 1 of P. L. 1974, c. 49 (C. 2A:18-61.1) on
 9 the grounds that the landlord or owner is converting the property
 10 into a cooperative unless the proposed conversion would result in
 11 the creation of a "cooperative" as defined in subsection f. of sub-
 12 section 3 of this act.

1 •[21. (New section) This act shall not be construed to amend or
 2 repeal the act entitled "An Act concerning interests in real prop-
 3 erty and providing for the creation and regulation of hori-
 4 zontal property regimes," approved December 16, 1963 (P. L.
 5 1963, c. 168). That act shall continue to govern all property
 6 constituted into a horizontal property regime thereunder, but
 7 upon waiver of any regime as provided in P. L. 1963, c. 168
 8 (C. 46:8A-1 et seq.) the real property may be subjected to the
 9 provisions of this act as provided herein.]•

1 •[22.] •20. (New section) This act applies to all cooperatives
 2 created within this State after the effective date of this act.

1 •[23.] •21. This act shall take effect on the 120th day next
 2 following enactment.

PROPERTY

Establishes a title registration system for cooperative units con-
 cerning proprietary leases and financing instruments.

ASSEMBLY SUBSTITUTE FOR
ASSEMBLY, No. 344 and SENATE, No. 1754
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ADOPTED JUNE 19, 1986

By Assemblyman KERN

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6 in the cooperative corporation or other cooperative entity which
7 owns the real estate and that there is no public record of the
8 transaction. The Legislature further finds that this is a hybrid
9 transaction which is not capable of classification entirely as realty
10 or personalty but that the public perception of a cooperative unit
11 is that it in some manner involves real estate; that members of
12 the public seek protection in cooperative leasing transactions
13 similar to those protections available in transactions for the
14 purchase of real estate, namely, a public title record, title searches
15 to guarantee security of title, freedom from easements or rights
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17 unpaid taxes, freedom from municipal violations, title insurance
18 and the equivalent of a mortgage where a cooperative unit is the
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13 and other means of access, excluding any specifically reserved
14 or limited to a particular unit or group of units;

15 (iii) Yards, gardens, walkways, parking areas and drive-
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49 by a corporation or other legal entity in which the shareholders or
50 other coowners each also have a long term proprietary lease or
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52 unit of occupancy space located within the same structure.

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54 which are for the use of one or more specified units to the exclusion
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60 i. "Owner" means the person listed in the master register as
61 the holder of a percentage of the shares of stock in the cooperative
62 entity.

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3 wherein the land is located a master declaration and master
4 register of all cooperative units allocated for separate occupancy,

5 each of which documents shall be executed and acknowledged by
6 all owners of the land and shall set forth the matters required by
7 section 6 and 7 of this act.

1 6. (New section) The master declaration for a cooperative shall
2 contain the following elements:

3 a. A legal description by metes and bounds and tax lot and
4 block of the lands to be dedicated to the cooperative form of
5 ownership.

6 b. A statement dedicating the land described in the master
7 declaration to the cooperative form of ownership.

8 c. The name by which the cooperative is to be identified, which
9 name shall include the word "Cooperative" or "Coop."

10 d. A copy of the recorded deed or ground lease which vests
11 ownership in the person who signs the master declaration to create
12 the cooperative.

13 e. A copy of the certificate of incorporation or other organiza-
14 tion form creating the association.

15 f. The bylaws which regulate the cooperative.

16 g. The master register containing the information required in
17 section 7 of article 2 of this act.

18 h. A written description and achitectural plans prepared to
19 scale by an architect or engineer licensed in New Jersey which
20 detail the improvements existing or to be erected on the lands to
21 create the cooperative and identify the locations and dimensions
22 of the common elements, limited common elements and each
23 cooperative unit. The written description and architectural plans
24 shall be signed, certified and sealed by an engineer or architect
25 authorized to practice his profession in this State. The certifica-
26 tion shall state that the description and plans are a correct and
27 accurate representation of the improvements described and shown
28 on the plans.

29 i. The number of votes which may be cast by each cooperative
30 unit owner at any meeting of the cooperative unit owners.

31 j. A copy of any existing management, maintenance or other
32 agreement having a term in excess of one year which will bind the
33 cooperative corporation, cooperative association or any unit owner.

34 k. A copy of any lease, license, concession, or agreement for
35 use or other facilities which will bind the cooperative corporation,
36 cooperative association or any unit owner.

37 l. The form of proprietary lease for occupancy of units.

38 m. If the cooperative is a conversion of an existing building to
39 the cooperative form of ownership, the declaration shall contain a
40 signed and sealed certification by an architect or engineer licensed

41 in New Jersey stating the physical condition of the building struc-
42 ture and all common elements and limited common elements in
43 the building.

44 n. The form of agreement for purchase or lease of cooperative
45 units.

46 o. The form of agreement for escrow of payments made by unit
47 purchasers prior to closing.

48 p. A statement of existing financing which is a lien on the
49 building and the manner in which the financing will be paid and
50 discharged as a lien before or after closing of units.

51 q. The full name and residence address within New Jersey of
52 the person designated as agent to receive service of process on
53 behalf of the cooperative corporation.

54 r. A schedule of unit owners' percent of common elements which
55 are part of their ownership of shares in the cooperative corpora-
56 tion and which represent their share of common expenses and
57 common surplus.

58 s. Such other provisions, as may be desired, including but not
59 limited to restrictions or limitations upon the use, occupancy,
60 transfer, leasing or other disposition of any unit (if the restriction
61 or limitation is otherwise permitted by law) and limitatio upon
62 the use of common elements.

63 t. A method of amending the master declaration which requires
64 recording of any amendment in the same office as the master
65 declaration before it becomes effective.

1 7. (New section) The master register shall contain the following
2 elements:

3 a. Separate identification of each unit by distinctive letter, name
4 or number or combination thereof.

5 b. The percent of common ownership representing the unit
6 owner's proportionate undivided interest in the common elements;
7 the interests shall be stated as percentages aggregating 100%.

8 c. The name and present address of each present owner and
9 occupant of each identified unit.

1 8. (New section) The county recording officer in each county
2 shall charge the fees prescribed for recording of real property
3 documents for the recording of the documents required in sections
4 6 and 7 of this article.

1 9. (New section) Whenever a proposed cooperative plan in-
2 volves lands located in more than one county or state, the propo-
3 nent of the cooperative shall comply with requirements of this
4 article by recording the documents in each county or state in which
5 any portion of the lands is located.

1 10. (New section) The master declaration or master register
2 may be amended in the manner set forth therein provided that no
3 amendment shall affect any cooperative unit unless the possessor
4 of record thereof and the holders of record of any liens thereon
5 join in the execution of the amendment or execute a consent
6 thereto with the formalities of a deed. Notwithstanding any other
7 provision of this act or the master declaration, the designation of
8 the agent for service of process named in the master deed may be
9 changed by an instrument executed by the association and recorded
10 in the same manner as the master declaration.

ARTICLE 3. TRANSFER OF COOPERATIVE UNIT

1 11. (New section) The sale or transfer of a cooperative unit by
2 a proprietary lease or an assignment thereof or other like instru-
3 ment is achieved by the recording of the transfer document or a
4 short form memorandum thereof which is executed and acknow-
5 ledged in recordable form and which contains the following
6 information:

7 a. All information set forth in paragraphs a., b. and c. of
8 section 7. of article 2 of this act and

9 b. The name of the cooperative as set forth in the master
10 declaration and master register, the name of the political sub-
11 division and county in which the property is located and a refer-
12 ence to the recording office, the book and page where the master
13 declaration and master register and any amendment thereto are
14 recorded.

15 c. The unit designation as set forth in the master declaration
16 and register.

17 d. A reference to the last prior transfer of the unit, if previously
18 transferred.

19 e. A statement of the proportionate undivided interest in the
20 common elements appurtenant to the unit as set forth in the
21 master declaration and master register or any amendments there-
22 of.

23 f. The full name and adress of the transferor and transferee
24 of the unit.

25 g. An executed and acknowledged consent of the cooperative
26 board of managers authorizing and approving the transfer or
27 assignment.

28 h. If corporate shares are transferred as part of the transaction,
29 the number of shares transferred.

30 i. A statement of the full consideration paid for the cooperative
31 unit which includes the purchase price paid plus the amount
32 derived from application of the unit's percent of ownership to the

33 unpaid balance of the fee or leasehold mortgage encumbering the
34 entire structure as of the date of the transfer or assignment.

35 j. All other matters, consistent with this act, which the parties
36 may deem appropriate.

1 12. (New section) The documents referred to in section 11 of
2 this article shall be recorded in the office of the county recording
3 office of the county wherein the land is located. The county clerk
4 or register of deeds, as the case may be, hereinafter referred to
5 as the "county recording officer" shall record the documents in
6 the appropriate book for recording of real property instruments
7 of the type presented plus the documents shall be recorded in
8 the master register for the cooperative by indexing to the identified
9 unit. The provisions of P. L. 1979, c. 406 (C. 46:16A-1 et seq.),
10 commonly referred to as the "Real Property Notice of Settle-
11 ment Act," are applicable. Each document submitted for record-
12 ing shall be acknowledged, shall contain the name and signature
13 of the person who prepared the document and shall otherwise
14 be in form required for recordation of real estate documents.

1 13. Section 1 of P. L. 1968, c. 49 (C. 46:15-5) is amended to
2 read as follows:

3 1. As used in this act:

4 (a) "Deed" means a written instrument entitled to be re-
5 corded in the office of a county recording officer which purports
6 to convey or transfer title to a freehold interest in any lands,
7 tenements or other realty in this State by way of grant or bargain
8 and sale thereof from the named grantor to the named grantee.
9 A leasehold interest for 99 years or more *or a proprietary lease*
10 *of a cooperative unit and any assignment of a proprietary lease*
11 *of a cooperative unit*, shall be treated as a "freehold" for the
12 purpose of this act. Instruments providing for common drive-
13 ways, for exchanges of easements or rights-of-way, for revocable
14 licenses to use, to adjust or to clear defects of or clouds on title,
15 to provide for utility service lines such as drainage, sewerage,
16 water, electric, telephone or other such service lines, or to quit-
17 claim possible outstanding interests, shall not be "deeds" for
18 the purposes of this act.

19 (b) The terms "county recording officer" and "office of the
20 county recording officer" mean the register of deeds and mort-
21 gages in counties having such an officer and office, and the county
22 clerk and his office in the other counties.

23 (c) "Consideration" means in the case of any deed, the actual
24 amount of money and the monetary value of any other thing of
25 value constituting the entire compensation paid or to be paid for

26 the transfer of title to the lands, tenements or other realty, in-
27 cluding the remaining amount of any prior mortgage to which
28 the transfer is subject or which is to be assumed and agreed to
29 be paid by the grantee and any other lien or encumbrance thereon
30 not paid, satisfied or removed in connection with the transfer of
31 title. The amount of liens for real property taxes, water or
32 sewerage charges for the current or any subsequent year, or by
33 way of added assessment or other adjustment, as well as of other
34 like liens or encumbrances of a current and continuing nature
35 ordinarily adjusted between the parties according to the period
36 of ownership shall be excluded as an element in determining the
37 consideration, notwithstanding that such amount is to be paid by
38 the grantee.

39 In the case of a leasehold interest *for 99 years or more* as
40 defined in paragraph (a) of this section, the consideration shall
41 be in the amount of the assessed value of the property at the
42 date of the transaction for the purpose of levying local real
43 property taxes adjusted to reflect the true value in accordance
44 with the county percentage level established for the current year.

45 *In the case of a proprietary lease of a cooperative unit or*
46 *assignment thereof as defined in paragraph (a) of this section,*
47 *the consideration is the total price paid for the cooperative unit.*

48 (d) "Blind person" means a person whose vision in his better
49 eye with proper correction does not exceed 20/200 as measured by
50 the Snellen chart or a person who has a field defect in his better
51 eye with proper correction in which the peripheral field has con-
52 tracted to such an extent that the widest diameter of visual field
53 subtends an angular distance no greater than 20°.

54 (e) "Disabled person" means any resident of this State who
55 is permanently and totally disabled, unable to engage in gainful
56 employment, and receiving disability benefits or any other com-
57 pensation under any federal or State law.

58 (f) "Senior citizen" means any resident of this State of the
59 age of 62 years or over.

60 (g) "New construction" means any conveyance or transfer of
61 property upon which there is an entirely new improvement not
62 previously occupied or used for any purpose.

63 (h) "Low and moderate income housing" means any residential
64 premises, or part thereof, affordable according to federal Depart-
65 ment of Housing and Urban Development or other recognized stan-
66 dards for home ownership and rental costs and occupied or reserved
67 for occupancy by households with a gross income equal to 80%
68 or less of the median gross household income for households

69 of the same size within the housing region in which the housing is
 70 located, but shall include only those residential premises subject
 71 to resale controls pursuant to contractual guarantees.

1 14. (New section) The transferee shall pay the recording fees
 2 for each instrument. In addition, the county recording officer shall
 3 levy and collect from the transferor, a fee of \$1.00 per page for
 4 indexing of the transfer in the master register for the cooperative.

ARTICLE 4. ASSESSMENTS, TAXES AND LIENS

1 15. (New section) a. The lender of funds secured by a promis-
 2 sory note and pledge of the stock and proprietary lease of a
 3 cooperative unit shall record its lien by the method of recordation
 4 provided in the applicable statutes. If the secured transactions
 5 laws of N. J. S. 12A:9-301 et seq. apply, the lender shall record
 6 its financing statement on security agreement in the office of the
 7 Secretary of State and the county recording office of the county
 8 in which any portion of the lands in which the cooperative unit
 9 is located.

10 b. In addition to the recording required pursuant to subsection
 11 a. of this section, the cooperative unit lender shall not have a
 12 perfected lien unless it records its lien in the master register
 13 for the cooperative in the county recording office of the county
 14 in which the cooperative unit is located. The lender shall pay to
 15 the county recording officer a fee of \$1.00 per page for recording
 16 of its lien in the master register which shall be in addition to
 17 the recording fees applicable to regular recording of the docu-
 18 ments.

1 16. (New section) Any lien on a cooperative ownership interest
 2 is governed by the law designated in the instrument and selected
 3 by the lender for recordation of the lien. Any assignment, modi-
 4 fication, release or discharge of the lien shall adhere to the re-
 5 cordation procedures set forth in the law selected by the lender;
 6 but each document or a summary memorandum thereof, shall also
 7 be recorded in the master register for the cooperative at a re-
 8 cording fee of \$1.00 per page.

ARTICLE 5. TERMINATION OF COOPERATIVE PLAN OF OWNERSHIP

1 17. (New section) Any cooperative property may be removed
 2 from the provisions of this act by a deed of revocation duly
 3 executed by all unit lessees or the sole owner of the property
 4 and the holders of all mortgages or other liens affecting all units
 5 and recorded in the master register.

1 18. (New section) Upon the recording of a deed of revocation,
 2 the unit lessees recorded in the master register as of the date
 3 of recording of the deed shall become tenants-in-common of the

4 property unless otherwise provided in the master deed or deed
 5 of revocation; each unit owner shall thereafter be the owner of
 6 an undivided interest in the entire property equal to the per-
 7 centage of his undivided interest in the common elements before
 8 the recording of the deed of revocation, and each lien on an in-
 9 dividual unit shall become a lien on the individual undivided
 10 interest of the unit owner in the entire property.

1 19. (New section) The removal of any property from the pro-
 2 visions of this act shall not bar the resubmission of the property
 3 to the provisions of this act in the manner herein provided.

1 20. (New section) a. The Department of Community Affairs
 2 shall not accept for registration as a cooperative under "The Plan-
 3 ned Real Estate Development Full Disclosure Act," P. L. 1977,
 4 c. 419 (C. 45:22A-21 et seq.), any offering plan which would not
 5 result in the creation of a "cooperative" as defined in subsection f.
 6 of section 3 of this act.

7 b. No tenant may be removed from a rental premises pursuant
 8 to the provisions of section 1 of P. L. 1974, c. 49 (C. 2A:18-61.1) on
 9 the grounds that the landlord or owner is converting the property
 10 into a cooperative unless the proposed conversion would result in
 11 the creation of a "cooperative" as defined in subsection f. of sub-
 12 section 3 of this act.

1 21. (New section) This act shall not be construed to amend or
 2 repeal the act entitled "An Act concerning interests in real prop-
 3 erty and providing for the creation and regulation of hori-
 4 zontal property regimes," approved December 16, 1963 (P. L.
 5 1963, c. 168). That act shall continue to govern all property
 6 constituted into a horizontal property regime thereunder, but
 7 upon waiver of any regime as provided in P. L. 1963, c. 168
 8 (C. 46:8A-1 et seq.) the real property may be subjected to the
 9 provisions of this act as provided herein.

1 22. (New section) This act applies to all cooperatives created
 2 within this State after the effective date of this act.

1 23. This act shall take effect on the 120th day next following en-
 2 actment.

PROPERTY

Establishes a title registration system for cooperative units con-
 cerning proprietary leases and financing instruments.

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SENATE JUDICIARY COMMITTEE

STATEMENT TO
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 344 and SENATE, No. 1754

[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

DATED: NOVEMBER 6, 1987

The Senate Judiciary Committee reports favorably the Assembly Committee Substitute for Assembly Bill No. 344 and Senate Bill No. 1754 (OCR).

Generally, a "cooperative" is a multiunit property in which each owner has an interest or shares in the entire complex and a lease on his own unit, though he does not own his unit as in the case of a condominium. Assembly Committee Substitute for Assembly Bill No. 344 and Senate Bill No. 1754, "The Cooperative Recording Act of New Jersey" would establish a title registration system, similar to the existing system for recording deeds, for the recording of proprietary leases issued by cooperatives and for mortgages or other financing instruments related to cooperatives.

Under the committee substitute, cooperative ownership is formed by filing with the office of the county recording officer of the county in which the land is located documents referred to as the "master declaration" and "master register." Information set forth in the "master declaration" includes the bylaws of the cooperative, the number of votes to which each unit owner is entitled, the form of the agreement for the purchase or lease of a cooperative unit and other general information relating to the cooperative. The master register would include a separate identification of each unit; the percentage of common ownership attributable to each owner and the name and present address of each present owner and occupant of each unit.

The committee substitute also provides procedures for the recording of ownership transfers of cooperative units and for the recording of liens against cooperative units.

Other sections of the substitute provide:

1. That the realty transfer tax is applicable to the recordation of cooperative leases.
2. That the "Real Property Notice of Settlement Act" is applicable to the transfer of ownership of a cooperative unit.

3. Procedures for the termination of a cooperative plan of ownership.

4. That the Department of Community Affairs cannot accept for registration under "The Planned Real Estate Full Disclosure Development Act" as a cooperative any offering which would not create a "cooperative" as defined by the bill.

5. That a tenant could not be removed from a rental premises on the grounds that the building was being converted into a cooperative unless the proposed conversion would result in a "cooperative" as defined by the bill.

6. That the provisions of the bill would apply to all cooperatives created after the bill's effective date which is 120 days following enactment.

ASSEMBLY, No. 344

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1986 SESSION

By Assemblyman KERN

AN ACT providing for a title registration system for cooperative units in connection with proprietary leases issued by cooperative corporations and other cooperative entities, amending P. L. 1968, c. 49 and supplementing Title 46 of the Revised Statutes.

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

ARTICLE 1. INTRODUCTORY PROVISIONS

1 1. (New section) This act shall be known and may be cited as
2 "The Cooperative Recording Act of New Jersey."

1 2. (New section) The Legislature finds that issuance of proprie-
2 tary real estate leases by cooperative corporations and other
3 cooperative legal entities is becoming a popular practice in New
4 Jersey which is usually accomplished by a ledger book transfer to
5 the lessee of stock or another indicia of ownership of an interest
6 in the cooperative corporation or other cooperative entity which
7 owns the real estate and that there is no public record of the
8 transaction. The Legislature further finds that this is a hybrid
9 transaction which is not capable of classification entirely as realty
10 or personalty but that the public perception of a cooperative unit
11 is that it in some manner involves real estate; that members of
12 the public seek protection in cooperative leasing transactions
13 similar to those protections available in transactions for the
14 purchase of real estate, namely, a public title record, title searches
15 to guarantee security of title, freedom from easements or rights
16 in unknown third parties, unpaid liens, unsatisfied judgments,
17 unpaid taxes, freedom from municipal violations, title insurance

18 and the equivalent of a mortgage where a cooperative unit is the
19 asset to be pledged as security for the purchase loan. The
20 Legislature declares that enabling legislation in the form of a
21 cooperative recording act is desirable because it would provide a
22 title registration system for cooperative units and would provide
23 additional revenue to county recording offices and to the State of
24 New Jersey by applying the Realty Transfer Tax to proprietary
25 leases issued by cooperatives and assignments thereof which are
26 not presently covered by that tax.

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

2 a. "Association" means the entity responsible for the admini-
3 stration of a cooperative which entity may be incorporated or
4 unincorporated, profit or nonprofit.

5 b. "Bylaws" means the governing regulations adopted under
6 this act for the administration and management of the property.

7 c. "Common elements" means:

8 (i) The land described in the master deed, declaration or
9 other documents creating the cooperative;

10 (ii) As to any improvement, the foundations, structural
11 and bearing parts, supports, main walls, roofs, basements,
12 halls, corridors, lobbies, stairways, elevators, entrances, exits
13 and other means of access, excluding any specifically reserved
14 or limited to a particular unit or group of units;

15 (iii) Yards, gardens, walkways, parking areas and drive-
16 ways, excluding any specifically reserved or limited to a
17 particular unit or group of units;

18 (iv) Portions of the land or any improvement or appurte-
19 nance reserved exclusively for the management, operation or
20 maintenance of the common elements;

21 (v) Installations of all central services and utilities;

22 (vi) All apparatus and installations existing or intended for
23 common use;

24 (vii) All other elements of any improvement necessary or
25 convenient to the existence, management, operation, mainte-
26 nance and safety of the cooperative property or normally in
27 common use; and

28 (viii) Such other elements and facilities as are designated
29 in the master deed as common elements.

30 d. "Common expenses" means expenses for which the unit
31 lessees are proportionately liable, including but not limited to:

32 (i) All expenses of administration, maintenance, repair and
33 replacement of the common elements;

34 (ii) Expenses agreed upon as common by all lessees or
35 coowners; and

36 (iii) Expenses declared common by provisions of this act
37 or by the master deed or by the bylaws.

38 e. "Common receipts" means:

39 (i) Rent and other charges derived from leasing or licensing
40 the use of common elements, or other areas of the building
41 not leased or dedicated to exclusive use or possession by a
42 specific lessee or coowner;

43 (ii) Funds collected from lessees or coowners as common
44 expenses or otherwise;

45 (iii) Receipts designated as common by the provisions of
46 this act or by the master deed or the bylaws.

47 f. "Cooperative" means any system of land ownership and
48 possession in which the fee title to the land and structure is owned
49 by a corporation or other legal entity in which the shareholders or
50 other coowners each also have a long term proprietary lease or
51 other long term arrangement of exclusive possession for a specific
52 unit of occupancy space located within the same structure.

53 g. "Limited common elements" means those common elements
54 which are for the use of one or more specified units to the exclusion
55 of other units.

56 h. "Master declaration" means the master declaration as
57 amended and recorded under the terms of this act by which the
58 owner in fee simple or lessee of the property submits it to a
59 cooperative plan of ownership.

60 i. "Owner" means the person listed in the master register as
61 the holder of a percentage of the shares of stock in the cooperative
62 entity.

63 j. "Person" means an individual, firm, corporation, partnership,
64 association, trust or other legal entity, or any combination thereof.

65 k. "Proprietary lease" means a grant of a long term exclusive
66 right of possession and occupancy of a designated unit to a
67 coowner or a grant of a leasehold of the cooperative structure.

68 l. "Unit" means a part of the cooperative structure designed or
69 intended for occupancy and includes the proportionate undivided
70 interest in the common elements and in any limited common
71 elements as assigned in the provisions of the master declaration
72 or any amendment thereof.

1 4. (New section) A county recording officer shall establish and
2 maintain all appropriate books for the recording of documents
3 which are entitled to be recorded under this act.

ARTICLE 2. CREATION OF THE COOPERATIVE

1 5. (New section) A plan of cooperative ownership is created by
2 recording in the office of the county recording officer of the county
3 wherein the land is located a master declaration and master
4 register of all cooperative units allocated for separate occupancy,
5 each of which documents shall be executed and acknowledged by
6 all owners of the land and shall set forth the matters required by
7 sections 6 and 7 of this act.

1 6. (New section) The master declaration for a cooperative shall
2 shall contain the following elements:

3 a. A legal description by metes and bounds and tax lot and
4 block of the lands to be dedicated to the cooperative form of
5 ownership.

6 b. A statement dedicating the land described in the master
7 declaration to the cooperative form of ownership.

8 c. The name by which the cooperative is to be identified, which
9 name shall include the word "Cooperative" or "Coop."

10 d. A copy of the recorded deed or ground lease which vests
11 ownership in the person who signs the master declaration to create
12 the cooperative.

13 e. A copy of the certificate of incorporation or other organiza-
14 tion form creating the association.

15 f. The bylaws which regulate the cooperative.

16 g. The master register containing the information required in
17 section 7 of article 2 of this act.

18 h. A written description and architectural plans prepared to
19 scale by an architect or engineer licensed in New Jersey which
20 detail the improvements existing or to be erected on the lands to
21 create the cooperative and identify the locations and dimensions
22 of the common elements, limited common elements and each
23 cooperative unit. The written description and architectural plans
24 shall be signed, certified and sealed by an engineer or architect
25 authorized to practice his profession in this State. The certifica-
26 tion shall state that the description and plans are a correct and
27 accurate representation of the improvements described and shown
28 on the plans.

29 i. The number of votes which may be cast by each cooperative
30 unit owner at any meeting of the cooperative unit owners.

31 j. A copy of any existing management, maintenance or other
32 agreement having a term in excess of one year which will bind the
33 cooperative corporation, cooperative association or any unit owner.

34 k. A copy of any lease, license, concession, or agreement for

35 use or other facilities which will bind the cooperative corporation,
36 cooperative association or any unit owner.

37 l. The form of proprietary lease for occupancy of units.

38 m. If the cooperative is a conversion of an existing building to
39 the cooperative form of ownership, the declaration shall contain a
40 signed and sealed certification by an architect or engineer licensed
41 in New Jersey stating the physical condition of the building
42 structure and all common elements and limited common elements
43 in the building.

44 n. The form of agreement for purchase or lease of cooperative
45 units.

46 o. The form of agreement for escrow of payments made by unit
47 purchasers prior to closing.

48 p. A statement of existing financing which is a lien on the
49 building and the manner in which the financing will be paid and
50 discharged as a lien before or after closing of units.

51 q. The full name and residence address within New Jersey of
52 the person designated as agent to receive service of process on
53 behalf of the cooperative corporation.

54 r. A schedule of unit owners' percent of common elements which
55 are part of their ownership of shares in the cooperative corpora-
56 tion and which represent their share of common expenses and
57 common surplus.

58 s. Such other provisions, as may be desired, including but not
59 limited to restrictions or limitations upon the use, occupancy,
60 transfer, leasing or other disposition of any unit (if the restriction
61 or limitation is otherwise permitted by law) and limitations upon
62 the use of common elements.

63 t. A method of amending the master declaration which requires
64 recording of any amendment in the same office as the master
65 declaration before it becomes effective.

1 7. (New section) The master register shall contain the following
2 elements:

3 a. Separate identification of each unit by distinctive letter, name
4 or number or combination thereof.

5 b. The percent of common ownership representing the unit
6 owner's proportionate undivided interest in the common elements;
7 the interests shall be stated as percentages aggregating 100%.

8 c. The name and present address of each present owner and
9 occupant of each identified unit.

1 8. (New section) The county recording officer in each county
2 shall charge the fees prescribed for recording of real property

3 documents for the recording of the documents required in sections
4 6 and 7 of this article.

1 9. (New section) Whenever a proposed cooperative plan in-
2 volves lands located in more than one county or state, the propo-
3 nent of the cooperative shall comply with requirements of this
4 article by recording the documents in each county or state in which
5 any portion of the lands is located.

1 10. (New section) The master declaration or master register
2 may be amended in the manner set forth therein provided that no
3 amendment shall affect any cooperative unit unless the possessor
4 of record thereof and the holders of record of any liens thereon
5 join in the execution of the amendment or execute a consent
6 thereto with the formalities of a deed. Notwithstanding any other
7 provision of this act or the master declaration, the designation of
8 the agent for service of process named in the master deed may be
9 changed by an instrument executed by the association and recorded
10 in the same manner as the master declaration.

ARTICLE 3. TRANSFER OF COOPERATIVE UNIT

1 11. (New section) The sale or transfer of a cooperative unit by
2 a proprietary lease or an assignment thereof or other like instru-
3 ment is achieved by the recording of the transfer document or a
4 short form memorandum thereof which is executed and acknow-
5 ledged in recordable form and which contains the following
6 information:

7 a. All information set forth in paragraphs a., b. and c. of
8 section 7. of article 2 of this act and

9 b. The name of the cooperative as set forth in the master
10 declaration and master register, the name of the political sub-
11 division and county in which the property is located and a
12 reference to the recording office, the book and page where the
13 master declaration and master register and any amendment there-
14 to are recorded.

15 c. The unit designation as set forth in the master declaration
16 and register.

17 d. A reference to the last prior transfer of the unit, if previously
18 transferred.

19 e. A statement of the proportionate undivided interest in the
20 common elements appurtenant to the unit as set forth in the
21 master declaration and master register or any amendments there-
22 of.

23 f. The full name and address of the transferor and transferee
24 of the unit.

25 g. An executed and acknowledged consent of the cooperative
26 board of managers authorizing and approving the transfer or
27 assignment.

28 h. If corporate shares are transferred as part of the transaction,
29 the number of shares transferred.

30 i. A statement of the full consideration paid for the cooperative
31 unit which includes the purchase price paid plus the amount
32 derived from application of the unit's percent of ownership to the
33 unpaid balance of the fee or leasehold mortgage encumbering the
34 entire structure as of the date of the transfer or assignment.

35 j. All other matters, consistent with this act, which the parties
36 may deem appropriate.

1 12. (New section) The documents referred to in section 11 of
2 this article shall be recorded in the office of the county recording
3 office of the county wherein the land is located. The county clerk
4 or register of deeds, as the case may be, hereinafter referred to
5 as the "county recording officer" shall record the documents in
6 the appropriate book for recording of real property instruments
7 of the type presented plus the documents shall be recorded in
8 the master register for the cooperative by indexing to the identified
9 unit. The provisions of P. L. 1979, c. 406 (C. 46:16A-1 et seq.),
10 commonly referred to as the "Real Property Notice of Settle-
11 ment Act," are applicable. Each document submitted for record-
12 ing shall be acknowledged, shall contain the name and signature
13 of the person who prepared the document and shall otherwise
14 be in form required for recordation of real estate documents.

1 13. Section 1 of P. L. 1968, c. 49 (C. 46:15-5) is amended to
2 read as follows:

3 1. (a) "Deed" means a written instrument entitled to be re-
4 corded in the office of a county recording officer which purports
5 to convey or transfer title to a freehold interest in any lands,
6 tenements or other realty in this State by way of grant or bargain
7 and sale thereof from the named grantor to the named grantee.
8 A leasehold interest for 99 years or more *or a proprietary lease*
9 *of a cooperative unit and any assignment of a proprietary lease*
10 *of a cooperative unit, shall be treated as a "freehold" for the*
11 *purpose of this act. Instruments providing for common drive-*
12 *ways, for exchanges of easements or rights-of-way, for revocable*
13 *licenses to use, to adjust or to clear defects of or clouds on title,*
14 *to provide for utility service lines such as drainage, sewerage,*
15 *water, electric, telephone or other such service lines, or to quit-*
16 *claim possible outstanding interests, shall not be "deeds" for*

17 the purposes of this act.

18 (b) The terms "county recording officer" and "office of the
19 county recording officer" mean the register of deeds and mort-
20 gages in counties having such an officer and office, and the county
21 clerk and his office in the other counties.

22 (c) "Consideration" means in the case of any deed, the actual
23 amount of money and the monetary value of any other thing of
24 value constituting the entire compensation paid or to be paid for
25 the transfer of title to the lands, tenements or other realty, in-
26 cluding the remaining amount of any prior mortgage to which
27 the transfer is subject or which is to be assumed and agreed to
28 be paid by the grantee and any other lien or encumbrance thereon
29 not paid, satisfied or removed in connection with the transfer of
30 title. The amount of liens for real property taxes, water or
31 sewerage charges for the current or any subsequent year, or by
32 way of added assessment or other adjustment, as well as of other
33 like liens or encumbrances of a current and continuing nature
34 ordinarily adjusted between the parties according to the period
35 of ownership shall be excluded as an element in determining the
36 consideration, notwithstanding that such amount is to be paid by
37 the grantee.

38 In the case of a leasehold interest *for 99 years or more* as
39 defined in paragraph (a) of this section, the consideration shall
40 be in the amount of the assessed value of the property at the
41 date of the transaction for the purpose of levying local real
42 property taxes adjusted to reflect the true value in accordance
43 with the county percentage level established for the current year.

44 *In the case of a proprietary lease of a cooperative unit or*
45 *assignment thereof as defined in paragraph (a) of this section,*
46 *the consideration is the total price paid for the cooperative unit.*

47 (d) "Blind person" means a person whose vision in his better
48 eye with proper correction does not exceed 20/200 as measured by
49 the Snellen chart or a person who has a field defect in his better
50 eye with proper correction in which the peripheral field has con-
51 tracted to such an extent that the widest diameter of visual field
52 subtends an angular distance no greater than 20°.

53 (e) "Disabled person" means any resident of this State who
54 is permanently and totally disabled, unable to engage in gainful
55 employment, and receiving disability benefits or any other com-
56 pensation under any federal or State law.

57 (f) "Senior citizen" means any resident of this State of the
58 age of 62 years or over.

59 (g) "New construction" means any conveyance or transfer of
 60 property upon which there is an entirely new improvement not
 61 previously occupied or used for any purpose.

62 (h) "Low and moderate income housing" means any residential
 63 premises, or part thereof, affordable according to federal Depart-
 64 ment of Housing and Urban Development or other recognized stan-
 65 dards for home ownership and rental costs and occupied or reserved
 66 for occupancy by households with a gross income equal to 80%
 67 or less of the median gross household income for households
 68 of the same size within the housing region in which the housing is
 69 located, but shall include only those residential premises subject
 70 to resale controls pursuant to contractual guarantees.

1 14. (New section) The transferee shall pay the recording fees
 2 for each instrument. In addition, the county recording officer shall
 3 levy and collect from the transferor, a fee of \$1.00 per page for
 4 indexing of the transfer in the master register for the cooperative.

ARTICLE 4. ASSESSMENTS, TAXES AND LIENS

1 15. (New section) a. The lender of funds secured by a promis-
 2 sory note and pledge of the stock and proprietary lease of a
 3 cooperative unit shall record its lien by the method of recordation
 4 provided in the applicable statutes. If the secured transactions
 5 laws of N. J. S. 12A:9-301 et seq. apply, the lender shall record
 6 its financing statement on security agreement in the office of the
 7 Secretary of State and the county recording office of the county
 8 in which any portion of the lands in which the cooperative unit
 9 is located.

10 b. In addition to the recording required pursuant to subsection
 11 a. of this section, the cooperative unit lender shall not have a
 12 perfected lien unless it records its lien in the master register
 13 for the cooperative in the county recording office of the county
 14 in which the cooperative unit is located. The lender shall pay to
 15 the county recording officer a fee of \$1.00 per page for recording
 16 of its lien in the master register which shall be in addition to
 17 the recording fees applicable to regular recording of the docu-
 18 ments.

1 16. (New section) Any lien on a cooperative ownership interest
 2 is governed by the law designated in the instrument and selected
 3 by the lender for recordation of the lien. Any assignment, modi-
 4 fication, release or discharge of the lien shall adhere to the re-
 5 cordation procedures set forth in the law selected by the lender;
 6 but each document or a summary memorandum thereof, shall also
 7 be recorded in the master register for the cooperative at a re-
 8 cording fee of \$1.00 per page.

ARTICLE 5. TERMINATION OF COOPERATIVE PLAN OF OWNERSHIP

1 17. (New section) Any cooperative property may be removed
 2 from the provisions of this act by a deed of revocation duly
 3 executed by all unit lessees or the sole owner of the property
 4 and the holders of all mortgages or other liens affecting all units
 5 and recorded in the master register.

1 18. (New section) Upon the recording of a deed of revocation,
 2 the unit lessees recorded in the master register as of the date
 3 of recording of the deed shall become tenants-in-common of the
 4 property unless otherwise provided in the master deed or deed
 5 of revocation; each unit owner shall thereafter be the owner of
 6 an undivided interest in the entire property equal to the per-
 7 centage of his undivided interest in the common elements before
 8 the recording of the deed of revocation, and each lien on an in-
 9 dividual unit shall become a lien on the individual undivided
 10 interest of the unit owner in the entire property.

1 19. (New section) The removal of any property from the pro-
 2 visions of this act shall not bar the resubmission of the property
 3 to the provisions of this act in the manner herein provided.

1 20. (New section) This act shall not be construed to amend
 2 or repeal the act entitled "An Act concerning interests in real
 3 property and providing for the creation and regulation of hori-
 4 zontal property regimes," approved December 16, 1963 (P. L.
 5 1963, c. 168). That act shall continue to govern all property
 6 constituted into a horizontal property regime thereunder, but
 7 upon waiver of any regime as provided in P. L. 1963, c. 168
 8 (C. 46:8A-1 et seq.) the real property may be subjected to the
 9 provisions of this act as provided herein.

1 21. (New section) This act applies to all cooperatives created
 2 within this State after the effective date of this act.

1 22. This act shall take effect on the 120th day next following
 2 enactment.

 STATEMENT

The purpose of this bill is to establish a system for the re-
 cording of a. proprietary leases issued by various cooperative
 business entities and b. mortgages or other financing instruments
 in connection therewith.

The recording of these documents will give persons occupying
 premises under proprietary leases some publicly recorded form
 of interest in the premises which they presently lack because of
 the hybrid nature of their situation. They are not mere tenants

under leases because they were required to purchase shares of stock in the cooperative corporation or another type of share of ownership in the case of another cooperative entity as a condition precedent to the issuance of the proprietary lease. These persons do not own the premises, but own a share of the entity which owns the premises. At the present time an entry on a ledger book of the cooperative corporation or cooperative entity transferring stock or another certificate to these persons is the only record of their interests.

This bill also amends P. L 1968, c. 49 (C. 46:15-5 et seq.) so that the realty transfer tax may be imposed and levied on recordation of proprietary leases and assignments thereof under the same rates and conditions as are presently applicable to deeds and leases for 99 years.

ASSEMBLY ECONOMIC DEVELOPMENT
AND AGRICULTURE COMMITTEE

SR -
TR -

STATEMENT TO

ASSEMBLY BILL, NO. 344

DATED: May 8, 1986

This bill establishes a system for the recording of proprietary leases issued by various cooperative business entities and mortgages or other financing instruments connected with the proprietary lease.

The recording of these documents will give persons occupying premises under proprietary leases a publicly recorded form of interest in the premises which they presently lack because of the hybrid nature of their situation. Currently, they are not mere tenants under leases because they are required to purchase shares of stock or other types of interest in the cooperative entity as a condition for the issuance of the proprietary lease. These persons do not own the premises, but own a share of the entity which owns the premises. At the present time an entry on a ledger book of the cooperative corporation or cooperative entity transferring stock or another certificate to these persons is the only record of their interests.

The bill specifies the disclosures to be made in the master declaration and the master register which the bill requires the cooperative to record in the county recording office where the cooperative is located. Also specified

are the disclosures to be included in the document which the bill requires to be recorded for a transfer of a cooperative unit. The bill provides for the recordation of liens based on loans which are secured by shares of cooperative stocks, promissory notes or proprietary leases. The procedures for revoking the cooperative plan of ownership are outlined.

This bill also amends P.L. 1968, c. 49 (C. 46:15-5 et seq.) so that the realty transfer tax may be imposed and levied on recordation of proprietary leases and assignments thereof under the same rates and conditions as are presently applicable to deeds and leases for 99 years.

The bill would apply only to the cooperatives created following its enactment.

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SENATE, No. 1754

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 24, 1986

By Senator FELDMAN

Referred to Committee on Judiciary

AN ACT providing for a title registration system for cooperative units in connection with proprietary leases issued by cooperative corporations and other cooperative entities, amending P. L. 1968, c. 49 and supplementing Title 46 of the Revised Statutes.

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

ARTICLE 1. INTRODUCTORY PROVISIONS

1 1. (New section) This act shall be known and may be cited as
2 "The Cooperative Recording Act of New Jersey."

1 2. (New section) The Legislature finds that issuance of proprie-
2 tary real estate leases by cooperative corporations and other
3 cooperative legal entities is becoming a popular practice in New
4 Jersey which is usually accomplished by a ledger book transfer to
5 the lessee of stock or another indicia of ownership of an interest
6 in the cooperative corporation or other cooperative entity which
7 owns the real estate and that there is no public record of the
8 transaction. The Legislature further finds that this is a hybrid
9 transaction which is not capable of classification entirely as realty
10 or personalty but that the public perception of a cooperative unit
11 is that it in some manner involves real estate; that members of
12 the public seek protection in cooperative leasing transactions
13 similar to those protections available in transactions for the
14 purchase of real estate, namely, a public title record, title searches
15 to guarantee security of title, freedom from easements or rights
16 in unknown third parties, unpaid liens, unsatisfied judgments,
17 unpaid taxes, freedom from municipal violations, title insurance

Matter printed in italics thus is new matter.

18 and the equivalent of a mortgage where a cooperative unit is the
19 asset to be pledged as security for the purchase loan. The
20 Legislature declares that enabling legislation in the form of a
21 cooperative recording act is desirable because it would provide a
22 title registration system for cooperative units and would provide
23 additional revenue to county recording offices and to the State of
24 New Jersey by applying the Realty Transfer Tax to proprietary
25 leases issued by cooperatives and assignments thereof which are
26 not presently covered by that tax.

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

2 a. "Association" means the entity responsible for the admini-
3 stration of a cooperative which entity may be incorporated or
4 unincorporated, profit or nonprofit.

5 b. "Bylaws" means the governing regulations adopted under
6 this act for the administration and management of the property.

7 c. "Common elements" means:

8 (i) The land described in the master deed, declaration or
9 other documents creating the cooperative;

10 (ii) As to any improvement, the foundations, structural
11 and bearing parts, supports, main walls, roofs, basements,
12 halls, corridors, lobbies, stairways, elevators, entrances, exit
13 and other means of access, excluding any specifically reserved
14 or limited to a particular unit or group of units;

15 (iii) Yards, gardens, walkways, parking areas and drive-
16 ways, excluding any specifically reserved or limited to a
17 particular unit or group of units;

18 (iv) Portions of the land or any improvement or appurte-
19 nance reserved exclusively for the management, operation or
20 maintenance of the common elements;

21 (v) Installations of all central services and utilities;

22 (vi) All apparatus and installations existing or intended for
23 common use;

24 (vii) All other elements of any improvement necessary or
25 convenient to the existence, management, operation, mainte-
26 nance and safety of the cooperative property or normally in
27 common use; and

28 (viii) Such other elements and facilities as are designated
29 in the master deed as common elements.

30 d. "Common expenses" means expenses for which the unit
31 lessees are proportionately liable, including but not limited to:

32 (i) All expenses of administration, maintenance, repair and
33 replacement of the common elements;

- 34 (ii) Expenses agreed upon as common by all lessees or
35 coowners; and
- 36 (iii) Expenses declared common by provisions of this act
37 or by the master deed or by the bylaws.
- 38 e. "Common receipts" means:
- 39 (i) Rent and other charges derived from leasing or licensing
40 the use of common elements, or other areas of the building
41 not leased or dedicated to exclusive use or possession by a
42 specific lessee or coowner;
- 43 (ii) Funds collected from lessees or coowners as common
44 expenses or otherwise;
- 45 (iii) Receipts designated as common by the provisions of
46 this act or by the master deed or the bylaws.
- 47 f. "Cooperative" means any system of land ownership and
48 possession in which the fee title to the land and structure is owned
49 by a corporation or other legal entity in which the shareholders or
50 other coowners each also have a long term proprietary lease or
51 other long term arrangement of exclusive possession for a specific
52 unit of occupancy space located within the same structure.
- 53 g. "Limited common elements" means those common elements
54 which are for the use of one or more specified units to the exclusion
55 of other units.
- 56 h. "Master declaration" means the master declaration as
57 amended and recorded under the terms of this act by which the
58 owner in fee simple or lessee of the property submits it to a
59 cooperative plan of ownership.
- 60 i. "Owner" means the person listed in the master register as
61 the holder of a percentage of the shares of stock in the cooperative
62 entity.
- 63 j. "Person" means an individual, firm, corporation, partnership,
64 association, trust or other legal entity, or any combination thereof.
- 65 k. "Proprietary lease" means a grant of a long term exclusive
66 right of possession and occupancy of a designated unit to a
67 coowner or a grant of a leasehold of the cooperative structure.
- 68 l. "Unit" means a part of the cooperative structure designed or
69 intended for occupancy and includes the proportionate undivided
70 interest in the common elements and in any limited common
71 elements as assigned in the provisions of the master declaration
72 or any amendment thereof.

1 4. (New section) A county recording officer shall establish and
2 maintain all appropriate books for the recording of documents
3 which are entitled to be recorded under this act.

ARTICLE 2. CREATION OF THE COOPERATIVE

1 5. (New section) A plan of cooperative ownership is created by
2 recording in the office of the county recording officer of the county
3 wherein the land is located a master declaration and master
4 register of all cooperative units allocated for separate occupancy,
5 each of which documents shall be executed and acknowledged by
6 all owners of the land and shall set forth the matters required by
7 sections 6 and 7 of this act.

1 6. (New section) The master declaration for a cooperative shall
2 shall contain the following elements:

3 a. A legal description by metes and bounds and tax lot and
4 block of the lands to be dedicated to the cooperative form of
5 ownership.

6 b. A statement dedicating the land described in the master
7 declaration to the cooperative form of ownership.

8 c. The name by which the cooperative is to be identified, which
9 name shall include the word "Cooperative" or "Coop."

10 d. A copy of the recorded deed or ground lease which vests
11 ownership in the person who signs the master declaration to create
12 the cooperative.

13 e. A copy of the certificate of incorporation or other organiza-
14 tion form creating the association.

15 f. The bylaws which regulate the cooperative.

16 g. The master register containing the information required in
17 section 7 of article 2 of this act.

18 h. A written description and architectural plans prepared to
19 scale by an architect or engineer licensed in New Jersey which
20 detail the improvements existing or to be erected on the lands to
21 create the cooperative and identify the locations and dimensions
22 of the common elements, limited common elements and each
23 cooperative unit. The written description and architectural plans
24 shall be signed, certified and sealed by an engineer or architect
25 authorized to practice his profession in this State. The certifica-
26 tion shall state that the description and plans are a correct and
27 accurate representation of the improvements described and shown
28 on the plans.

29 i. The number of votes which may be cast by each cooperative
30 unit owner at any meeting of the cooperative unit owners.

31 j. A copy of any existing management, maintenance or other
32 agreement having a term in excess of one year which will bind the
33 cooperative corporation, cooperative association or any unit owner.

34 k. A copy of any lease, license, concession, or agreement for

35 use or other facilities which will bind the cooperative corporation,
36 cooperative association or any unit owner.

37 l. The form of proprietary lease for occupancy of units.

38 m. If the cooperative is a conversion of an existing building to
39 the cooperative form of ownership, the declaration shall contain a
40 signed and sealed certification by an architect or engineer licensed
41 in New Jersey stating the physical condition of the building
42 structure and all common elements and limited common elements
43 in the building.

44 n. The form of agreement for purchase or lease of cooperative
45 units.

46 o. The form of agreement for escrow of payments made by unit
47 purchasers prior to closing.

48 p. A statement of existing financing which is a lien on the
49 building and the manner in which the financing will be paid and
50 discharged as a lien before or after closing of units.

51 q. The full name and residence address within New Jersey of
52 the person designated as agent to receive service of process on
53 behalf of the cooperative corporation.

54 r. A schedule of unit owners' percent of common elements which
55 are part of their ownership of shares in the cooperative corpora-
56 tion and which represent their share of common expenses and
57 common surplus.

58 s. Such other provisions, as may be desired, including but not
59 limited to restrictions or limitations upon the use, occupancy,
60 transfer, leasing or other disposition of any unit (if the restriction
61 or limitation is otherwise permitted by law) and limitations upon
62 the use of common elements.

63 t. A method of amending the master declaration which requires
64 recording of any amendment in the same office as the master
65 declaration before it becomes effective.

1 7. (New section) The master register shall contain the following
2 elements:

3 a. Separate identification of each unit by distinctive letter, name
4 or number or combination thereof.

5 b. The percent of common ownership representing the unit
6 owner's proportionate undivided interest in the common elements;
7 the interests shall be stated as percentages aggregating 100%.

8 c. The name and present address of each present owner and
9 occupant of each identified unit.

1 8. (New section) The county recording officer in each county
2 shall charge the fees prescribed for recording of real property

3 documents for the recording of the documents required in sections
4 6 and 7 of this article.

1 9. (New section) Whenever a proposed cooperative plan in-
2 volves lands located in more than one county or state, the propo-
3 nent of the cooperative shall comply with requirements of this
4 article by recording the documents in each county or state in which
5 any portion of the lands is located.

1 10. (New section) The master declaration or master register
2 may be amended in the manner set forth therein provided that no
3 amendment shall affect any cooperative unit unless the possessor
4 of record thereof and the holders of record of any liens thereon
5 join in the execution of the amendment or execute a consent
6 thereto with the formalities of a deed. Notwithstanding any other
7 provision of this act or the master declaration, the designation of
8 the agent for service of process named in the master deed may be
9 changed by an instrument executed by the association and recorded
10 in the same manner as the master declaration.

ARTICLE 3. TRANSFER OF COOPERATIVE UNIT

1 11. (New section) The sale or transfer of a cooperative unit by
2 a proprietary lease or an assignment thereof or other like instru-
3 ment is achieved by the recording of the transfer document or a
4 short form memorandum thereof which is executed and acknow-
5 ledged in recordable form and which contains the following
6 information:

7 a. All information set forth in paragraphs a., b. and c. of
8 section 7. of article 2 of this act and

9 b. The name of the cooperative as set forth in the master
10 declaration and master register, the name of the political sub-
11 division and county in which the property is located and a
12 reference to the recording office, the book and page where the
13 master declaration and master register and any amendment there-
14 to are recorded.

15 c. The unit designation as set forth in the master declaration
16 and register.

17 d. A reference to the last prior transfer of the unit, if previously
18 transferred.

19 e. A statement of the proportionate undivided interest in the
20 common elements appurtenant to the unit as set forth in the
21 master declaration and master register or any amendments there-
22 of.

23 f. The full name and address of the transferor and transferee
24 of the unit.

25 g. An executed and acknowledged consent of the cooperative
26 board of managers authorizing and approving the transfer or
27 assignment.

28 h. If corporate shares are transferred as part of the transaction,
29 the number of shares transferred.

30 i. A statement of the full consideration paid for the cooperative
31 unit which includes the purchase price paid plus the amount
32 derived from application of the unit's percent of ownership to the
33 unpaid balance of the fee or leasehold mortgage encumbering the
34 entire structure as of the date of the transfer or assignment.

35 j. All other matters, consistent with this act, which the parties
36 may deem appropriate.

1 12. (New section) The documents referred to in section 11 of
2 this article shall be recorded in the office of the county recording
3 office of the county wherein the land is located. The county clerk
4 or register of deeds, as the case may be, hereinafter referred to
5 as the "county recording officer" shall record the documents in
6 the appropriate book for recording of real property instruments
7 of the type presented plus the documents shall be recorded in
8 the master register for the cooperative by indexing to the identified
9 unit. The provisions of P. L. 1979, c. 406 (C. 46:16A-1 et seq.),
10 commonly referred to as the "Real Property Notice of Settle-
11 ment Act," are applicable. Each document submitted for record-
12 ing shall be acknowledged, shall contain the name and signature
13 of the person who prepared the document and shall otherwise
14 be in form required for recordation of real estate documents.

1 13. Section 1 of P. L. 1968, c. 49 (C. 46:15-5) is amended to
2 read as follows:

3 1. (a) "Deed" means a written instrument entitled to be re-
4 corded in the office of a county recording officer which purports
5 to convey or transfer title to a freehold interest in any lands,
6 tenements or other realty in this State by way of grant or bargain
7 and sale thereof from the named grantor to the named grantee.
8 A leasehold interest for 99 years or more or a *proprietary lease*
9 *of a cooperative unit and any assignment of a proprietary lease*
10 *of a cooperative unit*, shall be treated as a "freehold" for the
11 purpose of this act. Instruments providing for common drive-
12 ways, for exchanges of easements or rights-of-way, for revocable
13 licenses to use, to adjust or to clear defects of or clouds on title,
14 to provide for utility service lines such as drainage, sewerage,
15 water, electric, telephone or other such service lines, or to quit-
16 claim possible outstanding interests, shall not be "deeds" for

17 the purposes of this act.

18 (b) The terms "county recording officer" and "office of the
19 county recording officer" mean the register of deeds and mort-
20 gages in counties having such an officer and office, and the county
21 clerk and his office in the other counties.

22 (c) "Consideration" means in the case of any deed, the actual
23 amount of money and the monetary value of any other thing of
24 value constituting the entire compensation paid or to be paid for
25 the transfer of title to the lands, tenements or other realty, in-
26 cluding the remaining amount of any prior mortgage to which
27 the transfer is subject or which is to be assumed and agreed to
28 be paid by the grantee and any other lien or encumbrance thereon
29 not paid, satisfied or removed in connection with the transfer of
30 title. The amount of liens for real property taxes, water or
31 sewerage charges for the current or any subsequent year, or by
32 way of added assessment or other adjustment, as well as of other
33 like liens or encumbrances of a current and continuing nature
34 ordinarily adjusted between the parties according to the period
35 of ownership shall be excluded as an element in determining the
36 consideration, notwithstanding that such amount is to be paid by
37 the grantee.

38 In the case of a leasehold interest *for 99 years or more* as
39 defined in paragraph (a) of this section, the consideration shall
40 be in the amount of the assessed value of the property at the
41 date of the transaction for the purpose of levying local real
42 property taxes adjusted to reflect the true value in accordance
43 with the county percentage level established for the current year.

44 *In the case of a proprietary lease of a cooperative unit or*
45 *assignment thereof as defined in paragraph (a) of this section,*
46 *the consideration is the total price paid for the cooperative unit.*

47 (d) "Blind person" means a person whose vision in his better
48 eye with proper correction does not exceed 20/200 as measured by
49 the Snellen chart or a person who has a field defect in his better
50 eye with proper correction in which the peripheral field has con-
51 tracted to such an extent that the widest diameter of visual field
52 subtends an angular distance no greater than 20°.

53 (e) "Disabled person" means any resident of this State who
54 is permanently and totally disabled, unable to engage in gainful
55 employment, and receiving disability benefits or any other com-
56 pensation under any federal or State law.

57 (f) "Senior citizen" means any resident of this State of the
58 age of 62 years or over.

59 (g) "New construction" means any conveyance or transfer of
 60 property upon which there is an entirely new improvement not
 61 previously occupied or used for any purpose.

62 (h) "Low and moderate income housing" means any residential
 63 premises, or part thereof, affordable according to federal Depart-
 64 ment of Housing and Urban Development or other recognized stan-
 65 dards for home ownership and rental costs and occupied or reserved
 66 for occupancy by households with a gross income equal to 80%
 67 or less of the median gross household income for households
 68 of the same size within the housing region in which the housing is
 69 located, but shall include only those residential premises subject
 70 to resale controls pursuant to contractual guarantees.

1 14. (New section) The transferee shall pay the recording fees
 2 for each instrument. In addition, the county recording officer shall
 3 levy and collect from the transferor, a fee of \$1.00 per page for
 4 indexing of the transfer in the master register for the cooperative.

ARTICLE 4. ASSESSMENTS, TAXES AND LIENS

1 15. (New section) a. The lender of funds secured by a promis-
 2 sory note and pledge of the stock and proprietary lease of a
 3 cooperative unit shall record its lien by the method of recordation
 4 provided in the applicable statutes. If the secured transactions
 5 laws of N. J. S. 12A:9-301 et seq. apply, the lender shall record
 6 its financing statement on security agreement in the office of the
 7 Secretary of State and the county recording office of the county
 8 in which any portion of the lands in which the cooperative unit
 9 is located.

10 b. In addition to the recording required pursuant to subsection
 11 a. of this section, the cooperative unit lender shall not have a
 12 perfected lien unless it records its lien in the master register
 13 for the cooperative in the county recording office of the county
 14 in which the cooperative unit is located. The lender shall pay to
 15 the county recording officer a fee of \$1.00 per page for recording
 16 of its lien in the master register which shall be in addition to
 17 the recording fees applicable to regular recording of the docu-
 18 ments.

1 16. (New section) Any lien on a cooperative ownership interest
 2 is governed by the law designated in the instrument and selected
 3 by the lender for recordation of the lien. Any assignment, modi-
 4 fication, release or discharge of the lien shall adhere to the re-
 5 cordation procedures set forth in the law selected by the lender;
 6 but each document or a summary memorandum thereof, shall also
 7 be recorded in the master register for the cooperative at a re-
 8 cording fee of \$1.00 per page.

ARTICLE 5. TERMINATION OF COOPERATIVE PLAN OF OWNERSHIP

1 17. (New section) Any cooperative property may be removed
 2 from the provisions of this act by a deed of revocation duly
 3 executed by all unit lessees or the sole owner of the property
 4 and the holders of all mortgages or other liens affecting all units
 5 and recorded in the master register.

1 18. (New section) Upon the recording of a deed of revocation,
 2 the unit lessees recorded in the master register as of the date
 3 of recording of the deed shall become tenants-in-common of the
 4 property unless otherwise provided in the master deed or deed
 5 of revocation; each unit owner shall thereafter be the owner of
 6 an undivided interest in the entire property equal to the per-
 7 centage of his undivided interest in the common elements before
 8 the recording of the deed of revocation, and each lien on an in-
 9 dividual unit shall become a lien on the individual undivided
 10 interest of the unit owner in the entire property.

1 19. (New section) The removal of any property from the pro-
 2 visions of this act shall not bar the resubmission of the property
 3 to the provisions of this act in the manner herein provided.

1 20. (New section) This act shall not be construed to amend
 2 or repeal the act entitled "An Act concerning interests in real
 3 property and providing for the creation and regulation of hori-
 4 zontal property regimes," approved December 16, 1963 (P. L.
 5 1963, c. 168). That act shall continue to govern all property
 6 constituted into a horizontal property regime thereunder, but
 7 upon waiver of any regime as provided in P. L. 1963, c. 168
 8 (C. 46:8A-1 et seq.) the real property may be subjected to the
 9 provisions of this act as provided herein.

1 21. (New section) This act applies to all cooperatives created
 2 within this State after the effective date of this act.

1 22. This act shall take effect on the 120th day next following
 2 enactment.

 STATEMENT

The purpose of this bill is to establish a system for the re-
 cording of a. proprietary leases issued by various cooperative
 business entities and b. mortgages or other financing instruments
 in connection therewith.

The recording of these documents will give persons occupying
 premises under proprietary leases some publicly recorded form
 of interest in the premises which they presently lack because of
 the hybrid nature of their situation. They are not mere tenants

under leases because they were required to purchase shares of stock in the cooperative corporation or another type of share of ownership in the case of another cooperative entity as a condition precedent to the issuance of the proprietary lease. These persons do not own the premises, but own a share of the entity which owns the premises. At the present time an entry on a ledger book of the cooperative corporation or cooperative entity transferring stock or another certificate to these persons is the only record of their interests.

This bill also amends P. L. 1968, c. 49 (C. 46:15-5 et seq.) so that the realty transfer tax may be imposed and levied on recordation of proprietary leases and assignments thereof under the same rates and conditions as are presently applicable to deeds and leases for 99 years.

PROPERTY

Establishes a title registration system for cooperative units concerning proprietary leases and financing instruments.

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SENATE JUDICIARY COMMITTEE
STATEMENT TO
SENATE, No. 1754

STATE OF NEW JERSEY

DATED: MAY 12, 1986

The Senate Judiciary Committee reports favorably and with committee amendments Senate Bill No. 1754.

Generally, a "cooperative" is a multi-unit property in which each owner has an interest or shares in the entire complex and a lease on his own unit, though he does not own his unit as in the case of a condominium. This bill, "The Cooperative Recording Act of New Jersey" would establish a title registration system, similar to the existing system for recording deeds, for the recording of proprietary leases issued by cooperatives and for mortgages or other financing instruments related to cooperatives.

Under the bill, cooperative ownership is formed by filing with the office of the county recording officer of the county in which the land is located documents referred to as the "master declaration" and "master register." Information found in the "master declaration" includes the bylaws of the cooperative, the number of votes to which each unit owner is entitled, the form of the agreement for the purchase or lease of a cooperative unit and other general information relating to the cooperative. The master register would include a separate identification of each unit; the percentage of common ownership attributable to each unit and the name and present address of each present owner and occupant of each unit.

Senate Bill No. 1754 also provides procedures for the recording of ownership transfers of cooperative units and for the recording of liens against cooperative units.

Other sections of Senate Bill No. 1754 provide:

1. That the realty transfer tax is applicable to the recordation of cooperative leases.
2. That the "Real Property Notice of Settlement Act" is applicable to the transfer of ownership of a cooperative unit.
3. Procedures for the termination of a cooperative plan of ownership.
4. That the provisions of the bill would apply to all cooperatives created after the bill's effective date which is 120 days following enactment.

The amendments approved by the committee would prohibit the Department of Community Affairs from accepting for registration under "The Planned Real Estate Full Disclosure Development Act" as a cooperative any offering which would not create a "cooperative" as defined by the bill. The amendments also provide that a tenant could not be removed from a rental premises on the grounds that the building was being converted into a cooperative unless the proposed conversion would result in a "cooperative" as defined by the bill.
