

LEGISLATIVE HISTORY CHECKLIST

NJSA: 55:18-1 to 55:18-10

(Municipally - owned structures -
lease to nonprofit housing corporation
for conversion to housing)

LAWS OF: 1983

CHAPTER: 335

Bill No: A1312

Sponsor(s): Charles, Meyer, Brown and Watson

Date Introduced: May 13, 1982

Committee: Assembly: Housing and Urban Policy

Senate: County and Municipal Government

Amended during passage: YES Amendments denoted by asterisks
according to Governor's recommendations

Date of Passage: Assembly: Feb. 14, 1983 Re-enacted 6/20/83

Senate: March 30, 1983 Re-enacted 8/29/83

Date of Approval: September 2, 1983

Following statements are attached if available:

Sponsor statement: YES

Committee statement: Assembly YES

Senate NO

Fiscal Note: NO

Veto Message: YES

Message on Signing: NO

Following were printed:

Reports: NO

Hearings: NO

General recommendations for legislation in :

- 974.90 New Jersey. Legislature. Assembly. Housing and Urban Policy Committee.
- H842
- 1983e Public hearing on emergency provision for the homeless, held 3/31/83. Trenton
1983.



9-2-83

[SECOND OFFICIAL COPY REPRINT]

ASSEMBLY, No. 1312

STATE OF NEW JERSEY

INTRODUCED MAY 13, 1982

By Assemblymen CHARLES, MEYER, Assemblywoman BROWN
and Assemblyman WATSON

AN ACT authorizing municipalities to lease certain municipally owned **structures** *structures* to **nonprofit** housing corporations *and resident first-time homebuyers* for the purpose of rehabilitating or converting those structures to **housing** *housing* for persons of **low** *low* and moderate income, and to authorize eventual sale of the *rehabilitated or* converted structures to such lessees under certain circumstances, or for other disposition thereof; *and* supplementing Title 55 of the Revised Statutes ***, and amending P. L. 1971, c. 199***.

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

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

2 a. "Dwelling unit" means a room or connected rooms within a
3 residential structure forming a self-contained area within that
4 structure and adapted to provide permanent living accommodations
5 for a person or family, including the availability of heat, electricity,
6 water and necessary equipment for the culinary and sanitary re-
7 quirements of a household of a size for which it is intended.

8 b. **["Equity appreciation"** means the amount by which the fair
9 market value of a property leased under authority of this act
10 increases during the term of the lease. Fair market value at the
11 time of execution of the lease shall be agreed upon between lessor
12 and lessee, shall be stated in the lease, and shall be the price at
13 which the lessee may exercise its option, if any, to purchase 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 committee amendments adopted January 31, 1983.

**—Assembly amendments adopted in accordance with Governor's recommendations June 13, 1983.

14 property. Fair market value at the exercise of such option shall
 15 be agreed upon by lessor and lessee, or, if they can not agree, shall
 16 be determined by an arbitration procedure, which shall be provided
 17 for in the lease.]* **“Resident first-time **[buyer]** **home-*
 17A *buyer**”* means a natural person, or the unit of husband and wife
 17B considered as joint tenants, tenants by the entirety, who is not and
 17C has never been the owner of, or holder of an ownership interest in,
 17D residential property in this State, exclusive of any interest as a
 17E stockholder or partner in a corporation or limited partnership, or
 17F as trustee for another person or persons; who enters or proposes
 17G to enter into a lease agreement with a municipality under the terms
 17H of this act; and who at the time of entering into such a lease is a
 17I bona fide resident of that municipality.*

18 c. **“Nonprofit housing]”* **“Housing”* corporation” means any
 19 corporation formed under the provisions of Title 15 of the Revised
 20 Statutes, which by its certificate of incorporation as issued or
 21 amended is empowered to engage in the activity of developing,
 22 constructing and operating residential accommodations for persons
 23 of low and moderate income*, or any private, limited-dividend or
 23A nonprofit housing corporation organized in accordance with the
 23B provisions of the “Limited-Dividend Nonprofit Housing Corpora-
 23C tions or Associations Law,” P. L. 1949, c. 184 (C. 55:16-1 et seq.)*.

24 d. “Nonresidential structure” means any building designed and
 25 built for use as a factory or warehouse, or for retail or wholesale
 26 merchandising, office, workshop, school, hospital, hotel, or any other
 27 commercial, industrial or institutional purposes; or which, having
 28 been designed and built for residential use, has been altered, con-
 29 verted or reconstructed for nonresidential use.

30 e. “Persons and families of low and moderate income” means
 31 persons and families whose income is insufficient, in relation to
 32 the current cost and condition of housing facilities available in the
 33 normal private-enterprise housing market, to secure safe, sanitary
 34 and decent housing adequate for the size of the family. **“Every*
 35 *schedule of rents contained in a lease entered into under authority*
 36 *of this act shall set forth specific levels of income, family size and*
 37 *such other guidelines as may be adopted for the purpose of imple-*
 38 *menting this definition in relation to economic and market condi-*
 39 *tions then prevailing, and with respect to the structure or structures*
 40 *covered by the lease; and such guidelines may be drawn up so as*
 41 *to conform to the requirements of any State or federal program*
 42 *of subsidy or assistance in the development or management of the*
 43 *project.]”**

44 f. “Residential structure” means any building constructed or

45 reconstructed, rehabilitated, converted or altered for the purpose
 46 of providing dwelling units for the accommodation of nontransient
 47 tenants. A structure containing nonresidential space and facilities
 48 not exceeding 25% of its total rental value shall be "residential"
 49 within this definition.

1 2. **(New section)** When a municipality holds title to any lot,
 2 parcel, or tract of real property ***[including]*** **that includes** a
 3 residential or nonresidential structure ***[that is vacant]***, if the
 4 municipal governing body determines that:

5 ***[(1)]*** **a.** The structure if nonresidential can not in the fore-
 6 seeable future be put to economically feasible use in its intended
 7 purpose; or if residential, requires rehabilitation to provide safe,
 8 sanitary and decent housing accommodations; and

9 ***[(2)]*** **b.** The property is not needed for public use by the
 10 municipality; and

11 ***[(3)]*** **c.** Conversion of the nonresidential structure to a
 12 residential structure, or rehabilitation of the residential structure,
 13 would be practicable and would help to meet a need within the
 14 municipality for housing for persons of low to moderate income;
 15 then the municipal governing body may **(1)** lease the property
 16 and structure to a ***[nonprofit]*** housing corporation **or resident*
 17 *first-time homebuyer** under terms requiring the ***[corporation]***
 18 **lessee** to undertake such **rehabilitation or** conversion and to
 19 maintain and operate the converted property for residential pur-
 20 poses in accordance with the provisions of this act and of the lease
 21 made under authority of this act **and (2) subordinate the municipal*
 22 *interest in the property and structure to any mortgage provided*
 23 *pursuant to financing the rehabilitation or conversion of the struc-*
 24 *ture**.

1 ***[3. A lease made under authority of this act, including a lease**
 2 **with option to purchase, shall be for a public purpose within the**
 3 **meaning of N. J. S. 40A:12-15, and shall be made in the manner,**
 4 **and subject to the conditions, provided for leases to a nonprofit**
 5 **corporation for a public purpose in N. J. S. 40A:12-14.]***

1 ***[4.]*** **3. (New section)** Before any lease is entered into under
 2 authority of this act the prospective lessee shall demonstrate to
 3 the satisfaction of the municipal governing body:

4 (1) Its financial capacity to undertake the proposed conversion,
 5 maintenance and operation, including reliable commitments for
 6 any financing reasonably required to meet its obligations under,
 7 and resulting from, the terms of the lease; and

8 (2) Its possession of adequate experience in, and qualification
 9 for, the management of projects of comparable type and magnitude,

10 or firm agreements to acquire the same through contractual ar-
 11 rangements conditioned upon execution of the lease.

1 ***[5.]*** *4. (New section)* A lease entered into under authority
 1A of this act shall specify:

2 a. The term of the lease and the conditions, if any, under which
 3 the lessee may be entitled to renewal thereof or to the exercise of
 4 an option to purchase the leased property upon expiration, or
 5 during the term, of the lease. Such option to purchase shall be
 6 nontransferable.

7 b. The annual rental to be paid to the municipality, and the
 8 manner of payment.

9 c. The date, or a series of dates, running from the date of exe-
 10 cution of the lease, upon which the **rehabilitation or** conversion,
 11 or specified stages **[of the conversion]** **thereof**, shall be com-
 11A pleted.

12 d. The number and type of dwelling units to be provided in the
 13 **rehabilitated or** converted structure or structures, including the
 14 respective numbers of units to be provided for single occupancy
 15 and for families of varying sizes, together with the facilities to be
 16 provided in each unit, or in varying types and sizes of units, and
 17 in common areas or for common use of all tenants.

18 e. The schedule of rents to be charged for units of varying type,
 19 size and location, which schedule shall be subject to the provisions
 20 of section **[7]** *6* of this act.

21 f. The **[proportion of equity appreciation of the property]***
 22 **interest on the fair market value of the property and structure, as*
 23 *determined at the time of execution of the lease** to which **interest**
 24 the municipality shall be entitled upon purchase by the lessee pur-
 24A suant to options, or on any terms provided for in the lease or by
 24B the terms of this act.

25 g. Any other terms and conditions not inconsistent with the pro-
 26 visions of this act, or of any other law, to which the lessor munici-
 27 pality and lessee **[corporation]*** may agree.

1 **[6.]*** *5. (New section)* Every structure rehabilitated or con-
 2 verted by a lessee **[corporation]*** under authority of this act,
 3 and every dwelling unit in such structure, shall conform to all
 4 applicable codes relating to healthfulness, safety and structural
 5 soundness of comparable new construction in the municipality;
 6 except as the governing body may by ordinance grant modification
 7 of or exemption from applicable municipal codes or ordinances on
 8 reasonable grounds and without hazard to the health and safety of
 9 residents of the **rehabilitated or** converted structure.

1 **[7.]*** *6. (New section)* a. A schedule of rents under subsec-

2 tion e. of section ***[5]*** *4* of this act shall provide for total revenue
 3 sufficient to meet the necessary operating costs, debt service and
 4 other necessary commitments of the lessee ***[corporation]*** over
 5 the entire term of the lease, including surcharges permitted under
 6 section ***[8]*** *7* of this act; but shall not exceed amounts feasible
 7 for the accommodation of tenants of low and moderate income.

8 b. The schedule of rents may provide for adjustment of rents in
 9 accordance with income levels, family size, or extraordinary finan-
 10 cial hardships, of particular tenants, in order to assure adequate
 11 accommodation of the housing needs of persons of low and mod-
 12 erate income.

13 c. The schedule of rents shall not be altered during the term of
 14 the lease without consent of the lessor municipality, except as the
 15 lease may provide for automatic adjustments based on established
 16 operating costs; and the lease shall specify the manner in which
 17 such alterations may be from time to time proposed, negotiated,
 18 and allowed or disallowed.

1 ***[8.]*** *7. (New section)* a. If at the time of execution of the
 2 lease the municipality offers the lessee an option to purchase the
 3 property during, or at the expiration of, the lease, and if the lessee
 4 records in the lease its intention to exercise the option, then in
 5 establishing a schedule of rents the lessee shall be entitled to in-
 6 clude charges designed to accumulate over the period of the lease
 7 a fund which, including accrued interest during that period, is
 8 agreed upon by the municipality and the lessee to be probably
 9 sufficient to meet the lessee's cash requirements in connection with
 10 the purchase; provided, however, that the surcharge shall not in-
 11 crease rents to a level inconsistent with subsection a. of section
 11A ***[7]*** *6* of this act.

12 b. Charges added to rents for this purpose shall be deposited
 13 in a financial institution qualified to exercise appropriate fiduciary
 14 powers under the laws of this State and shall not be withdrawn
 15 or used for any purpose during the term of the lease, or for any
 16 purpose thereafter, except to make payments in connection with
 17 the financing of the purchase of the property pursuant to exercise
 18 of the option, or as provided in subsection c. of this section.

19 c. Upon expiration of the lease without exercise of an option to
 20 purchase for which a fund has been accumulated pursuant to this
 20A section, the fund so accumulated shall:

21 (1) If the lessee declines renewal or in renewing declines to
 22 continue an option for purchase, be used for a reduction of tenants'
 23 rental charges according to a formula determined by the munici-
 24 pality, except as otherwise provided pursuant to subsection c. of
 25 section ***[9]*** *8* of this act;

26 (2) If the lessee accepts renewal with a continued option to pur-
 27 chase at the end of the extended term, but declines to continue
 28 accumulation of the fund, remain on deposit through the extended
 29 term subject to the restrictions of subsection b. of this section;

30 (3) If the lessee accepts renewal, with a continued option to
 31 purchase at the end of the extended term, remain on deposit and
 32 be added to in accordance with continuing charges for the purpose;
 33 but such charges shall be adjusted to take into account the longer
 34 term for accumulation, the new option price, if set under the terms
 35 of renewal, and any change in the fund's expected rate of earnings
 36 over the extended period.

1 ***[9.]*** *8. (*New section*)* Upon expiration of a lease entered
 2 into under authority of this act:

3 a. If the lessee exercises an option to purchase, the municipality
 4 shall be entitled to the ***[option price plus its proportion of equity**
 5 **appreciation]*** *fair market value of the property and structure,*
 5A *as determined at the time of execution of the lease, plus interest*
 5B *on such value*.*

6 b. If the lessee declines to exercise such option, or to request
 7 or accept renewal of the lease on mutually agreeable terms, the
 8 property shall revert to the possession of the municipality, which
 9 may thereupon****[**:

10 (1) Negotiate** *negotiate*** a lease *or purchase*** with
 11 another ****[nonprofit]**** *housing*** corporation *or resident first-*
 11A *time homebuyer** under **[the same]*** *applicable** terms and
 11B conditions authorized by this act****[**, or

12 (2) Sell the property to another nonprofit corporation, in the
 13 manner and subject to the conditions provided in* **[N. J. S.**
 14 **40A:12-13]*** *section 21 of P. L. 1971, c. 199 (C. 40A:12-21)** for
 15 sale of unneeded municipal property to certain associations and
 15A organizations]**.

16 c. (1) Upon sale of a property by the municipality under sub-
 17 section b. of this section, ***[the equity appreciation that would have**
 18 **accrued to the original lessee had its option to purchase been**
 19 **exercised, together with]*** any fund accumulated pursuant to sec-
 20 tion 8 of this act may be applied by the purchaser against the
 21 purchase price.

22 (2) Upon lease of a property by the municipality under subsec-
 23 tion b. of this section, ***[the equity appreciation to date, together**
 24 **with]*** any fund accumulated pursuant to section 8 of this act shall
 25 be treated as in a renewal of lease by the original lessee, and the
 26 new lessee shall succeed to all the rights therein of the original
 27 lessee.

1 *9. (New section) In order to avoid redundant or conflicting
 2 regulation, the municipal governing body may waive any require-
 3 ment pursuant to the provisions of this act upon finding that the
 4 requirements for a federal or State program for provision of low-
 5 and moderate-income housing in which the ****[nonprofit]**** ****resi-**
 6 **dent first-time homebuyer or housing**** corporation is to participate
 7 and to which the property in question is to be subject fulfills the
 8 general purpose of the requirement waived or that the requirement
 9 if not waived would prevent or impede participation in the federal
 10 or State program.

1 10. (New section) The Commissioner of the Department of Com-
 2 munity Affairs shall have the power to adopt, amend, revise and
 3 repeal rules and regulations to promote implementation of the
 4 provisions of this act.

1 11. Section 14 of P. L. 1971, c. 199 (C. 40A:12-14) is amended
 2 to read as follows:

3 14. Leasing of county or municipal real property, capital im-
 4 provements or personal property. Any county or municipality may
 5 lease any real property, capital improvement or personal property
 6 not needed for public use as set forth in the resolution or ordinance
 7 authorizing the lease, other than the county or municipal real
 8 property otherwise dedicated or restricted pursuant to law, and
 9 except as otherwise provided by law, all such leases shall be made
 10 in the manner provided by this section.

11 (a) In the case of a lease to any private person, said lease shall
 12 be made by public letting to the highest bidder after advertisement
 13 thereof in a newspaper circulating in the municipality or municipi-
 14 palities in which the leasehold is situated by two insertions at least
 15 once a week during two consecutive weeks; the lease publication
 16 to be not earlier than seven days prior to the letting of the lease.
 17 The governing body may, by resolution, fix a minimum rental with
 18 the reservation of the right to reject all bids where the highest bid
 19 is not accepted. Notice of such reservation shall be included in
 20 the advertisement of the letting of the lease and public notice
 21 thereof shall be given of the time of the letting of the lease. Such
 22 resolution may provide that upon the completion of the bidding,
 23 the highest bid may be accepted or all of the bids may be rejected.
 24 It shall also set out the conditions, restrictions and limitations
 25 upon the tenancy subject to the lease. Acceptance or rejection of
 26 the bid or bids shall be made not later than at the second regular
 27 meeting of the governing body following the opening of the bids,
 28 and, if the governing body shall not so accept such highest bid, or
 29 reject all bids, said bids shall be deemed to have been rejected. Any

40 such award may be adjourned at the time advertised for not more
41 than one week without readvertising.

42 (b) In the case of a lease to a public body, the lease may be upon
43 such terms and conditions and for nominal or other consideration
44 as the governing body of the county or municipality shall approve
45 by ordinance or resolution.

46 (c) In the case of a lease to a nonprofit corporation for a public
47 purpose, the lease shall be authorized by resolution, in the case
48 of a county, or by ordinance, in the case of a municipality, and may
49 be for nominal or other consideration. Said authorization shall
50 include the nominal or other consideration for the lease; the name
51 of the corporation or corporations who shall be the lessees; the
52 public purpose served by the lessee; the number of persons bene-
53 fitting from the public purpose served by the lessees, whether within
54 or without the municipality in which the leasehold is located; the
55 term of the lease, and the officer, employee or agency responsible
56 for enforcement of the conditions of the lease. Said ordinance or
57 resolution shall also require any nonprofit corporation holding a
58 lease for a public purpose pursuant to this section, to annually
59 submit a report to the officer, employee or agency designated by
60 the governing body, setting out the use to which the leasehold was
61 put during each year, the activities of the lessee undertaken in
62 furtherance of the public purpose for which the leasehold was
63 granted; the approximate value or cost, if any, of such activities
64 in furtherance of such purpose; and an affirmation of the continued
65 tax-exempt status of the nonprofit corporation pursuant to both
66 State and federal law.

67 (d) *In the case of a lease to a housing corporation or resident*
68 *first-time homebuyer for the public purposes, and pursuant to the*
69 *provisions of P. L., c. (C.) (now pending in*
70 *the Legislature as Assembly Bill No. 1312 of 1982) the lease shall*
71 *be authorized by ordinance by a municipality.*

1 **[12. Section 21 of P. L. 1971, c. 199 (C. 40A:12-21) is amended
2 to read as follows:

3 21. Private sales to certain organizations upon nominal con-
3A sideration. When the governing body of any county or munici-
4 pality shall determine that all or any part of a tract of land, with
5 or without improvements, owned by the county or municipality,
6 is not then needed for county or municipal purposes, as the case
7 may be, said governing body, by resolution or ordinance, may
8 authorize a private sale and conveyance of the same, or any part
9 thereof without compliance with any other law governing disposal
10 of lands by counties and municipalities for a consideration; which

11 may be nominal, and containing a limitation that such lands or
12 buildings shall be used only for the purposes of such organization
13 or association, and to render such services or to provide such
14 facilities as may be agreed upon, and not for commercial business
15 trade or manufacture, and that if said lands or buildings are not
16 used in accordance with said limitation, title thereto shall revert
17 to the county or municipality without any entry or reentry made
18 thereon on behalf of such county or municipality, to

19 (a) A duly incorporated volunteer fire company or board of fire
20 commissioners or first aid and emergency or volunteer ambulance
21 or rescue squad association of a municipality within the county,
22 in the case of a county, or of the municipality, in the case of a
23 municipality, for the construction thereon of a firehouse or fire
24 school or a first aid and emergency or volunteer ambulance or
25 rescue squad building or for the use of any existing building for
26 any or all of said purposes and any such land or building sold to
27 any duly incorporated volunteer fire company may be leased by
28 such fire company to any volunteer firemen's association for the
29 use thereof for fire school purposes for the benefit of the members
30 of such association, or

31 (b) Any nationally chartered organization or association of
32 veterans of any war, in which the United States has or shall have
33 been engaged, by a conveyance for a consideration, a part of which
34 may be an agreement by the organization or association to render
35 service or to provide facilities for the general public of the county
36 or municipality, of a kind which the county or municipality may
37 furnish to its citizens and to the general public, or

38 (c) Any duly incorporated nonprofit hospital association for
39 the construction or maintenance thereon of a general hospital, or

40 (d) Any paraplegic veteran, that is to say, any officer, soldier,
41 sailor, marine, nurse or other person, regularly enlisted or inducted,
42 who was or shall have been in the active military or naval forces
43 of the United States in any war in which the United States was
44 engaged, and who, at the time he was commissioned, enlisted, in-
45 ducted, appointed or mustered into such military or naval service,
46 was a resident of and who continues to reside in this State, who
47 is suffering from paraplegia and has permanent paralysis of both
48 legs or the lower parts of the body resulting from injuries sus-
49 tained through enemy action or accident while in such active mili-
50 tary or naval service, for the construction of a home to domicile
51 him, or to any organization or association of veterans, for the
52 construction of a home or homes to domicile paraplegic veterans,
53 with powers to convey said lands and premises to the paraplegic

54 veterans or veterans on whose behalf said organization or associa-
55 tion shall acquire title to said land, or

56 (e) Any duly incorporated nonprofit association or any regional
57 commission or authority composed of one or more municipalities
58 or one or more counties for the construction or maintenance thereon
59 of an animal shelter, or

60 (f) Any duly incorporated nonprofit historical society for the
61 acquisition of public owned historic sites for their restoration,
62 preservation, improvement and utilization for the benefit of the
63 general public, or

64 (g) Any duly incorporated nonprofit cemetery organization or
65 association serving the residents of the municipality or county, or
66 both, for the use thereof for cemetery purposes, or

67 (h) Any duly incorporated nonprofit organization for the princi-
68 pal purpose of the education or treatment of persons afflicted with
69 developmental disabilities including cerebral palsy, or

70 (i) Any county or municipal sewerage authority serving the
71 residents of the county or municipality, for the use thereof for
72 sewerage authority purposes, or

73 (j) *Any duly incorporated housing corporation or any resident*
74 *first-time homebuyer pursuant to paragraph (2) of subsection b. of*
75 *section 8 of P. L., c. (C.) (now pending be-*
76 *fore the Legislature as Assembly Bill No. 1312 of 1982).***

1 ***[10.]*** ****[*13.*]**** **12.** This act shall take effect imme-
2 diately.

16 c. (1) Upon sale of a property by the municipality under sub-
 17 section b. of this section, the equity appreciation that would have
 18 accrued to the original lessee had its option to purchase been
 19 exercised, together with any fund accumulated pursuant to sec-
 20 tion 8 of this act may be applied by the purchaser against the
 21 purchase price.

22 (2) Upon lease of a property by the municipality under subsec-
 23 tion b. of this section, the equity appreciation to date, together
 24 with any fund accumulated pursuant to section 8 of this act shall
 25 be treated as in a renewal of lease by the original lessee, and the
 26 new lessee shall succeed to all the rights therein of the original
 27 lessee.

1 10. This act shall take effect immediately.

STATEMENT

This bill would empower municipalities to dispose of tax-fore-
 closed property in a manner that would both enable the munic-
 ipality to realize adequate revenue and would also promote the
 creation of needed housing for persons of low and moderate income.

The properties involved might be either abandoned apartment
 buildings in need of rehabilitation, or disused commercial structures
 capable of being economically converted to multiple-dwelling uses.
 The municipality would enter into a lease-purchase arrangement
 with a nonprofit housing corporation. During the term of the lease,
 the corporation would rehabilitate the structure; make apartments
 available on a rent schedule fixed pursuant to the lease agreement;
 and use its rental income, plus anticipated appreciation in the value
 of the property, to finance ultimate acquisition of the property by
 exercising an option granted under the terms of the original lease.
 The lease would also provide for the municipality to share in the
 appreciation of the property, thus realizing an ultimate gain on a
 property that might otherwise have brought little or nothing
 through the usual tax-sale procedure.

A1312(1982)

ASSEMBLY HOUSING AND URBAN POLICY
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1312

with Assembly committee amendment

STATE OF NEW JERSEY

DATED: JANUARY 31, 1983

This bill authorizes municipalities to dispose of tax-foreclosed property by lease-purchase arrangements providing for development of low/moderate income housing.

The bill authorizes the municipality to enter into a lease-purchase arrangement with a nonprofit or limited-dividend housing corporation, providing for the corporation to convert or rehabilitate a municipally owned structure to provide dwelling units, whenever: (a) the structure, if residential, needs rehabilitation, or, if nonresidential, can no longer be used for its original purpose; (b) the property is not needed for a public purpose; and (c) rehabilitation or conversion would meet a need for low/moderate income housing. As amended, the bill also allows the municipality to make leases on like terms to residents of the municipality who are first-time homebuyers.

The corporation, or resident homebuyer, must demonstrate ability to undertake and carry through the rehabilitation or conversion project.

The lease will specify: (a) rental to be paid to the municipality; (b) schedule for completion of the project; (c) number and type of dwelling units to be provided, and a schedule of rents; (d) the interest on the fair market value of the property (as determined at the time of execution of the lease) to which the municipality shall become entitled when the lease expires or the property is sold. It may also provide that the lessee will have an option to purchase the property at a price set at the time when the lease is entered into.

Rent schedules set in the lease are to be sufficient to cover project costs, but are not to exceed amounts feasible for tenants of low and moderate income. Rents may not be altered without consent of the municipality, except as the schedule may provide for automatic adjustments based on established operating costs. If the lessee intends to purchase at the end of the lease term, it may include in the rent schedule charges designed to build a fund to meet expected cash requirements at the time of purchase; such charges are to be accumulated in separate accounts, and not used for any other purpose.

If the lessee exercises an option to purchase, it may buy the property at the price fixed when the lease was entered into; the municipality shall also become entitled to its pre-arranged interest on the original market value.

The committee has, in addition to that noted in paragraph 2, above, adopted amendments: (1) dropping the bill's original concept of according the municipality a share of the "equity appreciation" of the property over the term of the lease, in favor of the more determinate "interest on fair market value"; (2) specifically amending N. J. S. 40A:12-14,21 to permit this type of lease-purchase arrangement; (3) permitting a municipality to subordinate its interest in a leased property to a mortgage made for financing its rehabilitation or conversion; (4) omitting from the definition (in § 1) of "low and moderate income families" certain administrative details regarding the setting of rent schedules. Another series of amendments inserts the word "rehabilitation" in several phrases ("rehabilitation or conversion") where it was apparently omitted by inadvertence.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

May 26, 1983

ASSEMBLY BILL NO. 1312 (OCR)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the Constitution, I herewith return Assembly Bill No. 1312 (OCR) with my objections for reconsideration.

This bill establishes a mechanism whereby municipalities that own deteriorated property can encourage redevelopment of the property through lease-purchase arrangements with resident first-time homebuyers and housing corporations. The bill would enable municipalities to enter into a lease-purchase arrangement with a resident first-time homebuyer or a housing corporation for municipal property which meets certain criteria set forth in the bill.

Under the terms of the lease, the lessee must undertake the rehabilitation or conversion of the property for residential purposes pursuant to a schedule set forth in the lease. The bill anticipates that the property leased from the municipality will be rehabilitated or converted, and then the units leased to low and moderate income tenants. The rents charged to these tenants must be within low and moderate income ranges.

The lease with the municipality may give the first-time homebuyer or housing corporation an option to purchase the property. The purchase price must reflect the fair market value of the property as determined at the time of the execution of the lease, plus the interest on this value. In order to obtain funds to exercise the option, the lessee may include in the rents charges which may be accumulated to be used to purchase the property.

I have no objections to the program set forth in this bill. I am returning it for technical amendments. I am proposing a series of amendments which will assure that the terms "housing corporation" and "resident first-time homebuyer" are used uniformly throughout the bill to refer to the lessee under discussion. In some places the bill refers to a "nonprofit corporation" or "lessee corporation," terms that are inconsistent with the definition amendments made to the bill in committee. I am also deleting from the bill the inconsistent cross-references between section 8 and section 12 with respect to a proposed amendment to N.J.S. 40A:12-21. The sponsor advises that this

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cross-reference is unnecessary and that the amendment to N.J.S. 40A:12-21 may be deleted from the bill. In its place, an amendment may be inserted in section 8.b. to clarify that if the lessee declines to exercise its option to purchase the property or renew the lease, the municipality may negotiate a lease or purchase with another housing corporation or resident first-time homebuyer pursuant to the terms and conditions of the bill.

Therefore, I herewith return Assembly Bill No. 1312 (OCR) and recommend that it be amended as follows:

- Page 1, Title, line 2: Delete "stuctures" and insert "structures"
- Page 1, Title, line 4: Delete "rousing" and insert "housing" delete "law" and insert "low"
- Page 1, Title, line 7: After ";" insert "and"
- Page 1, Title, line 8: Omit ", and amending P.L. 1971, c. 199"
- Page 2, Section 1, line 17: Delete "buyer" and insert "homebuyer"
- Page 4, Section 5, line 2: Delete "corporation"
- Page 6, Section 8, lines 9 and 10: Delete ": (1) Negotiate" and insert "negotiate" after "lease" insert "or purchase" delete "nonprofit" and insert "housing"
- Page 6, Section 8, lines 11A-15A: On line 11A delete ", or", all of lines 12 through 15 and "organizations" on line 15A
- Page 7, Section 9, line 5: Delete "nonprofit" and insert "resident first-time homebuyer or housing"
- Pages 8, 9, 10, Section 12, lines 1-76: Delete
- Page 10, Section 13, line 1: Delete "13" and insert "12"

Respectfully,

Thomas H. Kean

GOVERNOR

[seal]

Attest:

/s/ W. Cary Edwards

Chief Counsel

OFFICE OF THE GOVERNOR

RELEASE: IMMEDIATE

CONTACT: CARL GOLDEN

FRIDAY, SEPTEMBER 2, 1983

Governor Thomas H. Kean today signed the following bills:

A-1231, sponsored by Senator Raymond Lesniak, D-Union, (Lesniak was a member of the General Assembly when he introduced this legislation) which requires the owner or operator of an industrial facility with which hazardous wastes are associated to submit to the Department of Environmental Protection, prior to the sale or transfer of the facility, a written declaration that there has been no discharge of hazardous material, or a cleanup plan which sets out the measures needed to detoxify the site.

The bill also requires posting of a surety bond or other financial instrument by the owner in the amount of the estimated cost of the cleanup. The bill provides for deferment of the cleanup if the purchaser of the property intends to use the facility for the same purposes and agrees to assume responsibility for the cleanup.

A-1312, sponsored by Assemblyman Joseph Charles Jr., D-Hudson, which establishes a program whereby municipalities can enter into lease-purchase arrangements with housing corporations and first-time homebuyers with respect to unneeded municipal property. The bill was the subject of a conditional veto which made technical amendments.

A-978, sponsored by Assemblyman Thomas H. Pankok, D-Salem, which provides that a communication made under the "harassment" statute shall be considered to have taken place either where it was made or where it was received. The bill was conditionally vetoed to correct a technical problem and make its language conform to the rest of the statute.

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