

2A:18-61.1 et al

LEGISLATIVE HISTORY CHECKLIST

NJSA 2A:18-61.1 et al. (Condominium conversion--"senior citizens and disabled protected tenancy act")

LAWS 1981 CHAPTER 225

Bill No. S3028

Sponsor(s) Perskie

Date Introduced Jan. 22, 1981

Committee: Assembly Commerce, Industry and Professions

Senate County and Municipal Government

Amended during passage Yes Assembly Committee Substitute (OCR) enacted. Substituted for A3476 (attached)

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Following statements are attached if available:

Sponsor statement Yes

Committee Statement: Assembly Yes

Senate Yes

Fiscal Note No

Veto Message No

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Following were printed:

Reports No

Hearings Yes

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New Jersey. Office of the Governor.
In the matter of the public hearing
on condominium conversions in New Jersey,
held 1-31-81. Trenton, 1981.

(over)

Cited in hearing:

HHL.2: United States. Dept. of Housing and Urban
C75/8 Development. Office of Policy Development
and Research. Division of Policy Studies.

The conversion of rental housing to
condominiums and cooperatives: a national
study of scope, causes and impacts, Washington,
DC, 1980.

TB100 National Conference of Commissioners on Uniform
N277 State Laws Handbook... and proceedings of annual
meeting.

(See information on Uniform Condominium Act--
in 1977 and 1978 volumes)

Spring, 1980 Quarterly Review of Federal Reserve,
Bank of NY, "Co-op Fever in NYC" (attached)

CHAPTER 226
APPROVED 7-27-81

ASSEMBLY COMMITTEE SUBSTITUTE FOR
SENATE, No. 3028
[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

ADOPTED JUNE 8, 1981

By Senator PERSKIE

AN ACT to establish certain protections for certain senior citizens and disabled persons from eviction resulting from condominium or cooperative conversions, amending P. L. 1974, c. 49 and amending and supplementing P. L. 1975, c. 311.

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

1 1. (New section) This amendatory and supplementary act shall
2 be known and may be cited as the "Senior Citizens and Disabled
3 Protected Tenancy Act."

1 2. (New section) The Legislature finds that research studies
2 have demonstrated that the forced eviction and relocation of elderly
3 persons from their established homes and communities harm the
4 mental and physical health of these senior citizens, and that these
5 disruptions in the lives of older persons affect adversely the social,
6 economic and cultural characteristics of communities of the State,
7 and increase the costs borne by all State citizens in providing for
8 their public health, safety and welfare. These conditions are
9 particularly serious in light of the rising costs of home ownership,
10 and are of increasing concern where rental housing is converted
11 into condominiums or cooperatives which senior citizens on fixed
12 limited incomes cannot afford, an occurrence which is becoming
13 more and more frequent in this State under prevailing economic
14 circumstances. The Legislature, therefore, declares that it is in
15 the public interest of the State to avoid the forced eviction and
16 relocation of senior citizen tenants wherever possible, specifically
17 in those instances where rental housing market conditions and
18 particular financial circumstances combine to diminish the ability
19 of senior citizens to obtain satisfactory comparable housing within
20 their established communities, and where the eviction action is the
21 result not of any failure of the senior citizen tenant to abide by the

22 terms of a lease or rental agreement, but of the owner's decision
23 advantageously to dispose of residential property through the
24 device of conversion to a condominium or cooperative.

25 The Legislature further finds that it is in the public interest of
26 the State to avoid the forced eviction and the displacement of the
27 handicapped wherever possible because of their limited mobility
28 and the limited number of housing units which are suitable for their
29 needs.

30 The Legislature further declares that in the service of this public
31 interest it is appropriate that qualified senior citizen tenants and
32 disabled tenants be accorded a period of protected tenancy, during
33 which they shall be entitled to the fair enjoyment of the dwelling
34 unit within the converted residential structure, to continue for such
35 time, up to 40 years, as the conditions and circumstances which
36 make necessary such protected tenancy shall continue.

37 The Legislature further finds that the promotion of this public
38 interest is possible only if senior citizen tenants and disabled
39 tenants are protected during this period from alterations in the
40 terms of the tenancy or rent increases which are the result solely
41 of an owner's decision to convert.

1 3. (New section) As used in this amendatory and supplementary
2 act:

3 a. "Senior citizen tenant" means a person who is at least 62 years
4 of age on the date of the conversion recording for the building or
5 structure in which is located the dwelling unit of which he is a
6 tenant, or the surviving spouse of such a person if the person should
7 die after the owner files the conversion recording; provided that the
8 building or structure has been the principal residence of the senior
9 citizen tenant or the spouse for the 2 years immediately preceding
10 the conversion recording or the death, as the case may be;

11 b. "Disabled tenant" means a person who is, on the date of the
12 conversion recording for the building or structure in which is
13 located the dwelling unit of which he is a tenant, totally and
14 permanently unable to engage in any substantial gainful activity
15 by reason of any medically determinable physical or mental im-
16 pairment, including blindness; provided that the building or struc-
17 ture has been the principal residence of the disabled tenant for the
18 2 years immediately preceding the conversion recording. For
19 purposes of this subsection, "blindness" means central visual acuity
20 of 20/200 or less in the better eye with the use of correcting lens.
21 An eye which is accompanied by a limitation in the fields of vision
22 such that the widest diameter of the visual field subtends an angle
23 no greater than 20 degrees shall be considered as having a central
24 visual acuity of 20/200 or less;

25 c. "Tenant's annual household income" means the total income
26 from all sources during the last full calendar year for all members
27 of the household who reside in the dwelling unit at the time the
28 tenant applies for protected tenant status, whether or not such
29 income is subject to taxation by any taxing authority;

30 d. "Application for registration of conversion" means an applica-
31 tion for registration filed with the Department of Community
32 Affairs in accordance with "The Planned Real Estate Development
33 Full Disclosure Act," P. L. 1977, c. 419 (C. 45:22A-21 et seq.);

34 e. "Registration of conversion" means an approval of an applica-
35 tion for registration by the Department of Community Affairs in
36 accordance with "The Planned Real Estate Development Full Dis-
37 closure Act," P. L. 1977, c. 419 (C. 45:22A-21 et seq.);

38 f. "Convert" means to convert one or more buildings or struc-
39 tures containing in the aggregate not less than 5 dwelling units from
40 residential rental use to condominium, cooperative, planned resi-
41 dential development or separable fee simple ownership of the
42 dwelling units;

43 g. "Conversion recording" means the recording with the appro-
44 priate county officer of a master deed for condominium or a deed to
45 a cooperative corporation for a cooperative or the first deed of sale
46 to a purchaser of an individual unit for a planned residential
47 development or separable fee simple ownership of the dwelling
48 units;

49 h. "Protected tenancy period" means, except as otherwise pro-
50 vided in section 11 of this amendatory and supplementary act, the
51 40 years following the conversion recording for the building or
52 structure in which is located the dwelling unit of the senior citizen
53 tenant or disabled tenant.

1 4. (New section) Each eligible senior citizen tenant or disabled
2 tenant shall be granted a protected tenancy status with respect to
3 his dwelling unit whenever the building or structure in which that
4 unit is located shall be converted. The protected tenancy status
5 shall be granted upon proper application and qualification pursuant
6 to the provisions of this amendatory and supplementary act.

1 5. (New section) The governing body of the municipality may
2 authorize a municipal board, agency or officer to act as its admin-
3 istrative agency for the purposes of this amendatory and supple-
4 mentary act or may enter into a contractual agreement with a
5 county office on aging or a similar agency to act as its administrative
6 agency for purposes of this amendatory and supplementary act.
7 In the absence of such authorization or contractual agreement, this

8 amendatory and supplementary act shall be administered by a
9 municipal board whose principal responsibility concerns the regu-
10 lation of residential rents or, if no such board exists, by the
11 municipal clerk.

1 6. (New section) The owner of any building or structure who,
2 after the effective date of this amendatory and supplementary act,
3 seeks to convert any premises, shall, prior to his filing of the appli-
4 cation for registration of conversion with the Department of Com-
5 munity Affairs, notify the administrative agency or officer
6 responsible for administering this amendatory and supplementary
7 act of his intention to so file. The owner shall supply the agency
8 or officer with a list of every tenant residing in the premises, with
9 stamped envelopes addressed to each tenant and with sufficient
10 copies of the notice to tenants and application form for protected
11 tenancy status. Within 10 days thereafter, the administrative
12 agency or officer shall notify each residential tenant in writing of
13 the owner's intention and of the applicability of the provisions of
14 this amendatory and supplementary act and shall provide him with
15 a written application form. The agency's or officer's notice shall be
16 substantially in the following form:

"NOTICE

17 THE OWNER OF YOUR APARTMENT HAS NOTI-
18 FIED OF HIS
(insert name of municipality)

19 INTENTION TO CONVERT TO A CONDOMINIUM OR
20 COOPERATIVE. THE LEGISLATURE HAS PRO-
21 VIDED THAT, IF YOU ARE A SENIOR CITIZEN, 62
22 YEARS OF AGE OR OLDER, OR DISABLED, YOU
23 MAY BE ENTITLED TO A PROTECTED TENANCY
24 PERIOD. PROTECTED TENANCY MEANS THAT
25 YOU CANNOT BE EVICTED BECAUSE OF THE
26 CONVERSION. YOU MAY BE ELIGIBLE:

- 27 (1) IF YOU ARE 62, OR WILL SOON BE 62, OR IF
28 YOU ARE DISABLED; AND
 - 29 (2) IF YOU HAVE LIVED IN YOUR APARTMENT
30 FOR TWO YEARS; AND
 - 31 (3) IF YOUR HOUSEHOLD INCOME IS LESS THAN
32
- (insert current income figure for county as established
by section 7c of this amendatory and supplementary
act)

33 IF YOU WISH THIS PROTECTION, SEND IN THE
34 APPLICATION FORM BY
(insert date 60 days after
municipality's mailing)

35 TO THE
(insert name and address of
administrative agency)

36 FOR FURTHER INFORMATION CALL
(insert phone
number of
administrative
agency)

37 OR
(insert phone number of Department of
Community Affairs)

38 IF YOU DO NOT APPLY YOU CAN BE EVICTED BY
39 YOUR LANDLORD UPON PROPER NOTICE.”

40 The Department of Community Affairs shall not accept any
41 application for registration of conversion for any building or
42 structure unless included in the application is proof that the agency
43 or officer notified the tenants prior to the application for registra-
44 tion. The proof shall be by affidavit or in such other form as the
45 department shall require.

1 7. (New section) Within 30 days after receipt of an application
2 for protected tenancy status by a tenant, the administrative agency
3 or officer shall make a determination of eligibility. It shall send
4 written notice of eligibility to each senior citizen tenant or disabled
5 tenant who:

6 a. Applied therefor on or before the date of registration of con-
7 version by the Department of Community Affairs; and,

8 b. Qualifies as an eligible senior citizen tenant or disabled tenant
9 pursuant to this amendatory and supplementary act; and,

10 c. Has an annual household income that does not exceed an
11 amount equal to three times the County per capita personal income,
12 as last reported by the Department of Labor and Industry on the
13 basis of the U. S. Department of Commerce's Bureau of Economic
14 Analysis data; and,

15 d. Has occupied the premises as his principal residence for the
16 past 2 years.

17 The administrative agency or officer shall likewise send a notice
18 of denial with reasons to any tenant whom it determines to be
19 ineligible. The owner shall be notified of those tenants who are
20 determined to be eligible and ineligible.

21 The administrative agency or officer may require that the appli-
22 cation include such documents and information as may be necessary
23 to establish that the tenant is eligible for a protected tenancy status

24 under the provisions of this amendatory and supplementary act
25 and shall require such application to be submitted under oath. The
26 Department of Community Affairs may by regulation adopt forms
27 for application for protected tenancy status and notification of
28 eligibility or ineligibility or adopt such other regulations for the
29 procedure of determining eligibility as it determines are necessary.

1 8. (New section) No registration of conversion shall be approved
2 until the Department of Community Affairs receives proof that the
3 administrative agency or officer has made determinations and
4 notified all tenants who applied for protected tenancy status within
5 the initial 60-day period of their eligibility or lack of eligibility.
6 The proof shall be by affidavit or in such other form as the depart-
7 ment may require.

8 The department may grant registrations of conversion for appli-
9 cations pending on the effective date of this amendatory and
10 supplementary act upon the implementation of a procedure whereby
11 any eligible tenant may make application for protected tenancy
12 status in a manner comparable to that specified in sections 6 and 7
13 of this amendatory and supplementary act.

1 9. (New section) Protected tenancy status shall not be applica-
2 ble to any eligible tenant until such time as the owner has filed
3 his conversion recording. The protected tenancy status shall auto-
4 matically apply as soon as a tenant receives notice of eligibility
5 and the landlord files his conversion recording. The conversion
6 recording shall not be filed until after the registration of conversion.

1 10. (New section) In a municipality which does not have a rent
2 control ordinance in effect, no evidence of increased costs which
3 are solely the result of the conversion, including but not limited
4 to any increase in financing or carrying costs, and which do not
5 add services or amenities not previously provided shall be used
6 as a basis to establish the reasonableness of a rent increase under
7 section 2 f. of P. L. 1974, c. 49 (C. 2A:18-61.1).

8 In a municipality which has a rent control ordinance in effect,
9 a rent increase for a tenant with a protected tenancy status, or
10 for any tenant to whom notice of termination pursuant to section
11 3 g. of P. L. 1974, c. 49 (C. 2A:18-61.2) has been given, shall not
12 exceed the increase authorized by the ordinance for rent controlled
13 units. Increased costs which are solely the result of a conversion,
14 including but not limited to any increase in financing or carrying
15 costs, and which do not add services or amenities not previously
16 provided shall not be used as a basis for an increase in a fair re-
17 turn or hardship hearing before a municipal rent board or on any
18 appeal from such determination.

1 11. (New section) The administrative agency or officer shall
 2 terminate the protected tenancy status immediately upon finding
 3 that:

4 a. The dwelling unit is no longer the principal residence of the
 5 senior citizen tenant or disabled tenant; or

6 b. The tenant's annual household income, or the average of the
 7 tenant's annual household income for the current year, computed
 8 on an annual basis, and the tenant's annual household income for
 9 the 2 preceding years, whichever is less, exceeds an amount equal
 10 to three times the county per capita personal income as last re-
 11 ported by the Department of Labor and Industry on the basis of
 12 the U. S. Department of Commerce's Bureau of Economic Analysis
 13 data.

14 Upon the termination of the protected tenancy status by the
 15 administrative agency or officer, the senior citizen tenant or dis-
 16 abled tenant may be removed from the dwelling unit pursuant to
 17 P. L. 1974, c. 49 (C. 2A:18-61.1 et seq.), except that all notice and
 18 other times set forth therein shall be calculated and extend from
 19 the date of the expiration or termination of the protected tenancy
 20 period, or the date of the expiration of the last lease entered into
 21 with the senior citizen tenant or disabled tenant during the pro-
 22 tected tenancy period, whichever shall be later.

1 12. (New section) In the event that a senior citizen tenant or
 2 disabled tenant purchases the dwelling unit he occupies, the pro-
 3 tected tenancy status shall terminate immediately upon purchase.

1 13. Section 2 of P. L. 1974, c. 49 (C. 2A:18-61.1) is amended
 2 to read as follows:

3 2. No lessee or tenant or the assigns, under-tenants or legal
 4 representatives of such lessee or tenant may be removed by the
 5 county district court or the Superior Court from any house, build-
 6 ing, mobile home or land in a mobile home park or tenement leased
 7 for residential purposes, other than owner-occupied premises with
 8 not more than two rental units or a hotel, motel or other guest
 9 house or part thereof rented to a transient guest or seasonal
 10 tenant, except upon establishment of one of the following grounds
 11 as good cause:

12 a. The person fails to pay rent due and owing under the lease
 13 whether the same be oral or written;

14 b. The person has continued to be, after written notice to
 15 cease, so disorderly as to destroy the peace and quiet of the occu-
 16 pants or other tenants living in said house or neighborhood;

17 c. The person has willfully or by reason of gross negligence
 18 caused or allowed destruction, damage or injury to the premises;

19 d. The person has continued, after written notice to cease, to
20 substantially violate or breach any of the landlord's rules and
21 regulations governing said premises, provided such rules and
22 regulations are reasonable and have been accepted in writing by the
23 tenant or made a part of the lease at the beginning of the lease term;

24 e. The person has continued, after written notice to cease, to
25 substantially violate or breach any of the covenants or agreements
26 contained in the lease for the premises where a right of reentry
27 is reserved to the landlord in the lease for a violation of such
28 covenant or agreement, provided that such covenant or agreement
29 is reasonable and was contained in the lease at the beginning of the
30 lease term;

31 f. The person has failed to pay rent after a valid notice to quit
32 and notice of increase of said rent, provided the increase in rent
33 is not unconscionable and complies with any and all other laws or
34 municipal ordinances governing rent increases.

35 g. The landlord or owner (1) seeks to permanently board up or
36 demolish the premises because he has been cited by local or State
37 housing inspectors for substantial violations affecting the health
38 and safety of tenants and it is economically unfeasible for the
39 owner to eliminate the violations; (2) seeks to comply with local or
40 State housing inspectors who have cited him for substantial viola-
41 tions affecting the health and safety of tenants and it is unfeasible
42 to so comply without removing the tenant; simultaneously with
43 service of notice of eviction pursuant to this clause, the landlord
44 shall notify the Department of Community Affairs of the intention
45 to institute proceedings and shall provide the department with
46 such other information as it may require pursuant to rules and
47 regulations. The department shall inform all parties and the court
48 of its view with respect to the feasibility of compliance without re-
49 moval of the tenant and may in its discretion appear and present
50 evidence; (3) seeks to correct an illegal occupancy because he has
51 been cited by local or State housing inspectors and it is unfeasible
52 to correct such illegal occupancy without removing the tenant or;
53 (4) is a governmental agency which seeks to permanently retire
54 the premises from the rental market pursuant to a redevelopment
55 or land clearance plan in a blighted area. In those cases where the
56 tenant is being removed for any reason specified in this subsection,
57 no warrant for possession shall be issued until P. L. 1967, c. 79
58 (C. 52:31B-1 et seq.) and P. L. 1971, c. 362 (C. 20:4-1 et seq.) have
59 been complied with.

60 h. The owner seeks to retire permanently the residential build-
61 ing or the mobile home park from residential use or use as a mobile

62 home park, provided this paragraph shall not apply to circum-
 63 stances covered under paragraph g. of this section.

64 i. The landlord or owner proposes, at the termination of a lease,
 65 reasonable changes of substance in the terms and conditions of the
 66 lease, including specifically any change in the term thereof, which
 67 the tenant, after written notice, refuses to accept; *provided that*
 68 *in cases where a tenant has received a notice of termination pur-*
 69 *suant to section 3 g. of P. L. 1974, c. 49 (C. 2A:18-61.2), or has a*
 70 *protected tenancy status pursuant to section 9 of the "Senior Citi-*
 71 *zens and Disabled Protected Tenancy Act," P. L., c.*
 72 *(C.) the landlord or owner shall have the burden of*
 73 *proving that any change in the terms and conditions of the lease,*
 74 *rental or regulations both is reasonable and does not substantially*
 75 *reduce the rights and privileges to which the tenant was entitled*
 76 *prior to the conversion.*

77 j. The person, after written notice to cease, has habitually and
 78 without legal justification failed to pay rent which is due and owing.

79 k. The landlord or owner of the building or mobile home park
 80 is converting from the rental market to a condominium, coopera-
 81 tive or fee simple ownership of two or more dwelling units or park
 82 sites, except as hereinafter provided in subsection l. Where the
 83 tenant is being removed pursuant to this subsection, no warrant
 84 for possession shall be issued until this act has been complied with.
 85 *No action for possession shall be brought pursuant to this subsec-*
 86 *tion against a senior citizen tenant or disabled tenant with pro-*
 87 *ected tenancy status pursuant to the "Senior Citizen and Disabled*
 88 *Protected Tenancy Act," P. L., c. (C.), as*
 89 *long as the agency has not terminated the protected tenancy status*
 90 *or the protected tenancy period has not expired.*

91 l. (1) The owner of a building or mobile home park, which is
 92 constructed as or being converted to a condominium, cooperative
 93 or fee simple ownership, seeks to evict a tenant or sublessee whose
 94 initial tenancy began after the master deed, agreement establish-
 95 ing the cooperative or subdivision plat was recorded, because the
 96 owner has contracted to sell the unit to a buyer who seeks to per-
 97 sonally occupy it and the contract for sale calls for the unit to be
 98 vacant at the time of closing. However, no action shall be brought
 99 against a tenant under paragraph (1) of this subsection unless the
 100 tenant was given a statement in accordance with section 6 of this
 101 amendatory act.

102 (2) The owner of three or less condominium or cooperative units
 103 seeks to evict a tenant whose initial tenancy began by rental from

104 an owner of three or less units after the master deed or agreement
105 establishing the cooperative was recorded, because the owner seeks
106 to personally occupy the unit, or has contracted to sell the unit to
107 a buyer who seeks to personally occupy it and the contract for sale
108 calls for the unit to be vacant at the time of closing.

109 (3) The owner of a building of three residential units or less
110 seeks to personally occupy a unit, or has contracted to sell the
111 residential unit to a buyer who wishes to personally occupy it and
112 the contract for sale calls for the unit to be vacant at the time of
113 closing.

114 m. The landlord or owner conditioned the tenancy upon and in
115 consideration for the tenant's employment by the landlord or owner
116 as superintendent, janitor or in some other capacity and such
117 employment is being terminated.

1 14. Section 8 of P. L. 1975, c. 311 (C. 2A:18-61.11) is amended
2 to read as follows:

3 8. a. Tenants receiving notice under section 3 g. of P. L. 1974, c.
4 49 may request of the landlord within 18 full months after receipt
5 of such notice, and the landlord shall offer to the tenant, personally
6 or through an agent, the rental of comparable housing or park site
7 and a reasonable opportunity to examine and rent such comparable
8 housing or park site. In any proceeding under subsection 2 k. of
9 P. L. 1974, c. 49 instituted following the expiration of notice re-
10 quired under section 3 g. of P. L. 1974, c. 49, the owner shall prove
11 that a tenant was offered such comparable housing or park site
12 and provided such reasonable opportunity to examine and rent
13 such housing or park site as requested pursuant to this section.
14 The court shall authorize 1-year stays of eviction with reasonable
15 rent increases until such time as the court is satisfied that the
16 tenant has been offered comparable housing or park site and pro-
17 vided a reasonable opportunity to examine and rent such housing
18 or park site as requested pursuant to this section. However, in no
19 case shall more than five such stays be granted.

20 b. The court shall automatically renew any 1-year stay of evic-
21 tion in any case where the landlord failed to allege to the court
22 within 1 year of a prior stay that the tenant was offered a reason-
23 able opportunity to examine and rent comparable housing or park
24 site within such prior year.

25 c. However the court shall not authorize any further stays at any
26 time after one such stay has been authorized when the owner
27 has also provided a tenant with hardship relocation compensation
28 of waiver of payment of 5 months' rent.

29 d. On or after the effective date of the "Senior Citizens and
 30 Disabled Protected Tenancy Act," P. L. , c. (C.),
 31 notwithstanding the provisions of subsection a. of this section,
 32 where the court has jurisdiction pursuant to that subsection,
 33 whether by virtue of the authorization by the court of a stay of
 34 eviction or by virtue of any other proceedings required or instituted
 35 pursuant to P. L. 1974, c. 49 (C. 2A:18-61.1 et seq.) or P. L. 1975,
 36 c. 311 (C. 2A:18-61.6 et seq.), or in any action for declaratory judg-
 37 ment, the court may invoke some or all of the provisions of the
 38 "Senior Citizens and Disabled Protected Tenancy Act" and grant
 39 to a tenant, pursuant to that amendatory and supplementary act,
 40 a protected tenancy period upon the court's determination that:

41 (1) The tenant would otherwise qualify as a senior citizen tenant
 42 or disabled tenant pursuant to that amendatory and supplementary
 43 act, except that the building or structure in which the dwelling
 44 unit is located was converted prior to the effective date of that
 45 amendatory and supplementary act; and

46 (2) The granting of the protected tenancy period as applied to
 47 the tenant, giving particular consideration to whether a unit was
 48 sold on or before the date that the amendatory and supplementary
 49 act takes effect to a bona fide individual purchaser who intended
 50 personally to occupy the unit, would not be violative of concepts
 51 of fundamental fairness or due process. Where a court declines to
 52 grant a protected tenancy status, it shall nevertheless order such
 53 hardship stays as authorized by subsections a. and b. of this
 54 section until comparable relocation housing is provided. The hard-
 55 ship relocation compensation alternative of subsection c. of this
 56 section shall not be applicable in this situation.

1 15. (New section) Any public offering statement for a con-
 2 version as required by "The Planned Real Estate Development Full
 3 Disclosure Act," P. L. 1977, c. 419 (C. 45:22A-21 et seq.), shall
 4 clearly inform the prospective purchaser of the provisions of this
 5 amendatory and supplementary act, including, but not limited to,
 6 the provisions concerning eviction, rent increase and leases. Any
 7 contract or agreement for sale of a converted unit shall contain a
 8 clause in 10-point bold type or larger that the contract is subject
 9 to the terms of this amendatory and supplementary act concerning
 10 eviction and rent increases and an acknowledgement that the
 11 purchaser has been informed of these terms.

1 16. (New section) A municipality is authorized to charge an
 2 owner a fee which may vary according to the size of the building
 3 to cover the cost of providing the services required by this amenda-
 4 tory and supplementary act.

1 17. (New section) Except as otherwise provided in this section,
2 any provision in a lease or other agreement which waives or modi-
3 fies any provision of this amendatory and supplementary act shall
4 be void and unenforceable as against public policy. An owner and
5 a tenant may, however, agree to a modification or waiver of some
6 or all of the protections afforded to the tenant pursuant to the
7 provisions of this amendatory and supplementary act provided
8 that:

9 a. The modification or waiver is encompassed in written con-
10 tract separate from the lease;

11 b. The modification or waiver is voluntarily entered into without
12 duress;

13 c. The modification or waiver is entered into with full under-
14 standing of the terms by each party;

15 d. The modification or waiver is for adequate consideration; and,

16 e. The tenant's signature on the modification or waiver is affixed
17 and notarized after the tenant moves into the apartment.

18 In any action involving a modification or waiver, the owner shall
19 have the burden of proof to establish that the requirements of
20 this section have been met.

1 18. (New section) If any section, subsection, paragraph, sentence
2 or other part of this amendatory and supplementary act is adjudged
3 unconstitutional or invalid, such judgment shall not affect, impair
4 or invalidate the remainder of this act, but shall be confined in its
5 effect to the section, subsection, paragraph, sentence or other part of
6 this act directly involved in the controversy in which said judgment
7 shall have been rendered.

1 19. (New section) The Department of Community Affairs is
2 authorized to adopt such rules and regulations as may be necessary
3 to implement the provisions of this amendatory and supplementary
4 act.

1 20. (New section) This amendatory and supplementary act shall
2 be liberally construed to effectuate the purposes thereof.

1 21. This act shall take effect immediately.

45 *the dwelling unit is located was converted to a condominium or*
46 *cooperative by the filing of a master deed or cooperative agreement*
47 *prior to the effective date of that act; and,*

48 (3) *The provisions of that act provide the most just and effective*
49 *remedy for the tenant available pursuant to law.*

1 14. This act shall take effect immediately.

STATEMENT

When apartment housing is converted into a condominium or cooperative, it is often senior citizens, because of their limited incomes, who are forced to relocate. Recent studies have shown that the severe disruption which forced eviction and removal signify in the lives of elderly persons, has a harmful affect upon their physical and mental health.

This bill, the "Senior Citizens Protected Tenancy Act," would provide for a period of protected tenancy for qualified senior citizens, 62 years of age or older, who reside in buildings to be converted to condominiums or cooperatives, which are located in municipalities wherein the vacancy rate for rental dwelling units is 5% or less. The building shall have been the principal residence of the senior citizen for the 2 years immediately preceding the conversion date, and the annual household income of the senior citizen shall not exceed an amount equal to twice the State per capita personal income.

During the protected tenancy period the senior citizen would be entitled to the fair enjoyment of the dwelling unit within the converted residential structure. The period would continue for such time, up to 25 years, as the rental housing market conditions and the senior citizen's financial circumstances continue. Upon termination of the protected tenancy period, the senior citizen would be entitled to the notice and relocation rights to comparable housing accorded under current law.

The bill would also permit a court to invoke the provisions of the "Senior Citizens Protected Tenancy Act" in any instance where the court has jurisdiction pursuant to current law over eviction proceedings against a senior citizen resulting from a condominium or cooperative conversion, if the court finds that the act provides the most just and effective remedy available for the senior citizen tenant.

ASSEMBLY COMMERCE, INDUSTRY AND PROFESSIONS
COMMITTEE

STATEMENT TO
ASSEMBLY COMMITTEE SUBSTITUTE FOR

SENATE, No. 3028

[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

DATED: JUNE 8, 1981

When apartment housing is converted into a condominium or cooperative, it is often senior citizens with limited incomes and disabled persons with limited mobility and suitable housing alternatives who are forced to relocate. Recent studies have shown that the severe disruption which accompanies forced eviction and removal, has a harmful affect upon the physical and mental health of elderly persons.

This Assembly Committee Substitute for Senate Bill No. 3028 (OCR), the "Senior Citizens and Disabled Protected Tenancy Act," provides for a period of protected tenancy for qualified senior citizen tenants, 62 years of age or older, and disabled tenants who reside in buildings to be converted to condominiums or cooperatives. The building must have been the principal residence of the senior citizen tenant or disabled tenant for the 2 years immediately preceding the recording of the deed concerning the conversion, and the annual household income of such tenant must not exceed an amount equal to three times the county per capita personal income as compiled by the Bureau of Economic Analysis of the U. S. Department of Commerce.

During the protected tenancy period the senior citizen and disabled person would be entitled to the fair enjoyment of the dwelling unit within the converted residential structure. Section 13 of the bill amends subsection i. of section 2 of P. L. 1974, c. 49 (C. 2A:18-61.1) to provide that a landlord cannot evict the senior citizen or disabled tenant for refusing to accept a change in the terms and conditions of the lease, rental or regulations unless the landlord proves that the change both is reasonable and does not substantially reduce the rights and privileges to which such tenant was entitled prior to the conversion. Fair enjoyment is further protected in section 10 of this bill. In a municipality with rent control, the rent of a tenant with protected tenancy status or a tenant who has received the 3-year notice to terminate his tenancy would be controlled. In a municipality without rent control, the rent of these tenants would be protected to the extent that a landlord could not use the increased costs which were solely the result of the

conversion and which do not add services or amenities not previously provided as evidence in an eviction proceeding to prove that a rent increase is not unreasonable under the eviction statute (section 2 f. of P. L. 1974, c. 49 (C. 2A:18-61.1)).

The protected tenancy period would continue for such time, up to 40 years, as the senior citizen tenant's or disabled tenant's financial circumstances continues and the dwelling unit is his principal residence. Upon termination of the protected tenancy period, the senior citizen tenant and disabled tenant would be entitled to the notice and relocation rights to comparable housing accorded under current law.

The senior citizens and disabled protected tenancy program would be administered at the local level. The governing body of a municipality may designate a municipal agency or contract with a county office on aging or similar agency to act as the administrative agency. If the governing body does not so act, the rent control board in a municipality with rent control or the clerk of the municipality in other municipalities would act as the administrative agency. Owners who seek to convert an apartment to a cooperative or condominium would be required to notify the administrative agency of intent to convert prior to filing for his registration to convert. The administrative agency must then notify each residential tenant of the procedures for applying for protected tenancy. A tenant seeking protected tenancy status would be asked to send his application to the agency within 60 days of the notification; however, a tenant seeking protected tenancy status may make application for the protected tenancy until the date of the registration of the building's conversion with the Department of Community Affairs. The administrative agency would be responsible for terminating the protected tenancy status of a senior citizen or disabled person who is no longer qualified.

The bill would also permit a court to invoke the provisions of the "Senior Citizens and Disabled Protected Tenancy Act" in any instance where the court has jurisdiction pursuant to current law over eviction proceedings against a senior citizen or disabled person resulting from a condominium or cooperative conversion or in an action for declaratory judgment, if the court finds that the senior citizen tenant or disabled tenant otherwise qualifies under the bill except that the apartment house he lives in converted prior to the effective date of this bill and that the granting of the protected tenancy period would not be violative of concepts of fundamental fairness or due process.

SENATE COMMITTEE AMENDMENT TO
SENATE, No. 3028

STATE OF NEW JERSEY

ADOPTED JANUARY 29, 1981

Amend page 2, section 3, line 2, after "municipality", insert "having a population of 1,000 or more, according to the latest Federal decennial census, or, for any year subsequent to the third year immediately following the completion of a census, according to the most recent population estimates published by the New Jersey Department of Labor and Industry,".

SENATE COUNTY AND MUNICIPAL
GOVERNMENT COMMITTEE

STATEMENT TO

SENATE, No. 3028

STATE OF NEW JERSEY

DATED: JANUARY 29, 1981

When apartment housing is converted into a condominium or cooperative, it is often senior citizens, because of their limited incomes, who are forced to relocate. Recent studies have shown that the severe disruption which accompanies forced eviction and removal, has a harmful affect upon the physical and mental health of elderly persons.

Senate Bill 3028, the "Senior Citizens Protected Tenancy Act," provides for a period of protected tenancy for qualified senior citizens, 62 years of age or older, who reside in buildings to be converted to condominiums or cooperatives, which are located in municipalities wherein the vacancy rate for rental dwelling units is 5% or less. The building shall have been the principal residence of the senior citizen for the 2 years immediately preceding the conversion date, and the annual household income of the senior citizen shall not exceed an amount equal to twice the State per capita personal income.

During the protected tenancy period the senior citizen would be entitled to the fair enjoyment of the dwelling unit within the converted residential structure. The period would continue for such time, up to 25 years, as the rental housing market conditions and the senior citizen's financial circumstances continue. Upon termination of the protected tenancy period, the senior citizen would be entitled to the notice and relocation rights to comparable housing accorded under current law.

The senior citizens protected tenancy program would be administered at the local level. The governing body of a qualified municipality designates an appropriate board, agency or other body of the municipal government to act as administrative agency. Owners who seek to convert an apartment building to a cooperative or condominium are required to notify the administrative agency of intention to convert at least 120 days before filing. The administrative agency shall then notify each residential tenant of the procedures for applying for protected tenancy. During the protected tenancy period, the administrative agency would review each lease entered into by the senior citizen to assure that the tenant shall be entitled to the fair enjoyment of the dwelling unit according to the terms and conditions of the lease, and in return for a reasonable rent. The administrative agency would be

responsible for reviewing, periodically or upon application and at reasonable intervals, the conditions under which the protected tenancy was granted.

The bill would also permit a court to invoke the provisions of the "Senior Citizens Protected Tenancy Act" in any instance where the court has jurisdiction pursuant to current law over eviction proceedings against a senior citizen resulting from a condominium or cooperative conversion, if the court finds that the act provides the most just and effective remedy available for the senior citizen tenant.

The Senate committee amended the bill to make it apply only to municipalities having a population of 1,000 or more. Vacancy rates are not available, and are extremely difficult to determine, for municipalities with very small populations.

FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

JULY 27, 1981

KATHRYN FORSYTH

Governor Brendan Byrne today signed the "Senior Citizens and Disabled Protected Tenancy Act," giving every eligible senior citizen and disabled renter a 40-year protected tenancy if his or her apartment building undergoes conversion to condominiums, cooperatives, planned real estate development or separable fee simple ownership.

The bill, ACS S-3028, sponsored by Senator Steven Perskie (D-Atlantic) was signed in a public ceremony in the Governor's office.

To qualify for the protection, the tenant must:

- be at least 62 years old on the date of the conversion or qualify as disabled under the definition set down in the bill;
- have used the apartment as his principle residence for the past two years;
- have an annual household income not exceeding an amount equal to three times the county per capita personal income as last reported by the Department of Labor and Industry on the basis of the U.S. Department of Commerce's Bureau of Economic Analysis data. (Range: \$33,396 in Bergen County to \$20,395 in Gloucester County.)
- have applied for the protected tenancy on or before the date the conversion was registered.

Apartment buildings with less than five dwelling units are excluded from the bill.

During the protected tenancy period, the converter cannot use the costs associated with the conversion which do not add new services or amenities for the tenants to justify a rent increase. In municipalities which have rent control ordinances, the apartment would be governed by that ordinance.

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In addition, the terms and conditions of a renter's lease cannot be changed unless the change is "reasonable and does not substantially reduce the rights and privileges to which the tenant was entitled before the conversion."

The protected tenancy will terminate upon a finding that:

- the unit no longer serves as the tenant's principle residence;
- the tenants average annual income for the current year and two preceeding years exceeds the income limitations set down in the bill;
- the 40 years expires;
- the tenant purchases the apartment.

If a tenant dies leaving a spouse, the protected tenancy would continue in the spouse's name, provided that the apartment had also been that person's principle place of residence for the two years preceeding the conversion.

The measure also sets down a procedure to implement the act:

Before filing an application to register the conversion, the landlord or converter must supply the designated municipal agency with a list of tenants, notices of conversions and stamped, addressed envelopes. Within 10 days, the municipal official will mail the notices to the tenants.

The tenants then have 60 days to apply for protected tenancy status. Within 30 days of the receipt of the tenants application, the municipal official will decide whether or not the tenant is eligible for the protection.

The Department of Community Affairs cannot act on a registration of conversion until it has proof that all tenants applying for protection within the 60 day period have been advised as to their eligibility.

Pending applications for conversions are also covered under the provisions of the bill. In addition, the measure gives the court the discretion to extend protected tenancy to eligible renters whose buildings have already been converted. In doing so, the court must determine that granting protective tenancy "would not be violative of concepts of fundamental fairness or due process" and special consideration is to be given to units which have been sold to the purchaser who intended to personally occupy the unit. In cases in which tenants are denied protective tenancy, the court must give them the maximum number of hardship stays under existing law and the landlord may not exercise the buy out option.

The Department of Community Affairs is authorized to adopt regulations necessary for the implementation of the act.

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