

40:55D-66.1 to 40:55D-66.3

LEGISLATIVE HISTORY CHECKLIST

NJSA 40:55D-66.1 to 40:55D-66.3 (Zoning-residences for mentally ill and retarded-limit municipal restrictions)

LAWS OF 1978 CHAPTER 159

Bill No. S210

Sponsor(s) Orechio, Hirkala & Scardino

Date Introduced Pre-filed

Committee: Assembly Institutions, Health & Welfare

Senate County & Municipal Gov't.

Amended during passage Yes ~~Yes~~ Amendments during passage denoted by asterisks

Date of Passage: Assembly Oct. 16, 1978

Senate May 25, 1978

Date of approval Dec. 7, 1978

Following statements are attached if available:

Sponsor statement Yes ~~Yes~~

Committee Statement: Assembly Yes ~~Yes~~

Senate Yes ~~Yes~~

Fiscal Note ~~Yes~~ No

Veto Message ~~Yes~~ No

Message on signing ~~Yes~~ No

Following were printed:

Reports ~~Yes~~ No

Hearings ~~Yes~~ No

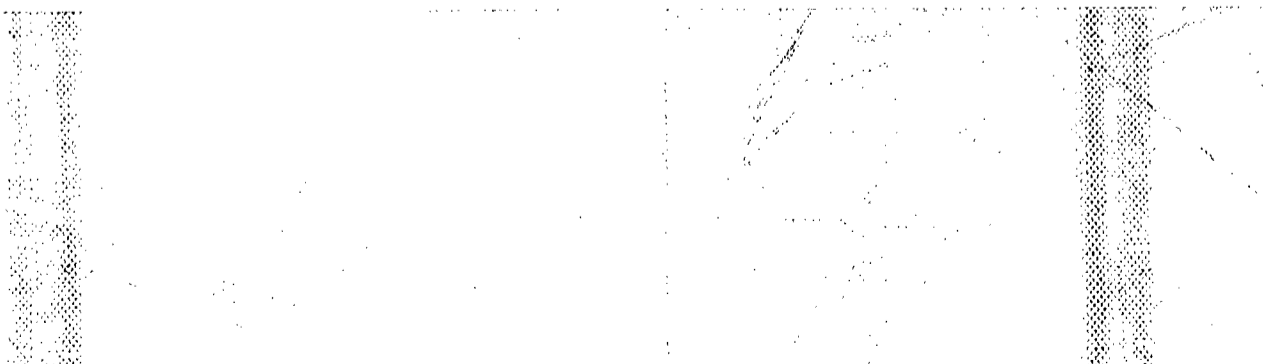
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Case cited in Senate Committee Statement may be located at: 156 NJ Super. 388 (1978).

EJ

9/1/78

MAY 1978



[SECOND OFFICIAL COPY REPRINT]

SENATE No. 210

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1978 SESSION

By Senators ORECHIO, HIRKALA and SCARDINO

AN ACT concerning **\*[planning and zoning]\*** *\*community residences for the developmentally disabled, and supplementing the "Municipal Land Use Law," approved January 14, 1976 (P. L. 1975, c. 291).\**

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

1 **\*[1. The provisions of any law or any ordinance regulating zon-**  
2 **ing and planning to the contrary notwithstanding, no municipal gov-**  
3 **erning body, planning board or zoning board of adjustment, as**  
4 **the case may be, shall deny, prevent or otherwise restrict the use**  
5 **or conversion for the purposes of a community-based residence**  
6 **for the mentally retarded, mentally ill or physically handicapped**  
7 **of any building in any area zoned for residential purposes including**  
8 **any building constructed as a single-family dwelling in any area**  
9 **zoned for single family dwellings, except where such use or con-**  
10 **version would substantially contribute to the excessive concentra-**  
11 **tion of such community-based residences within the municipality.]\***

12 *\*1. Community residences for the developmentally disabled shall*  
13 *be a permitted use in all residential districts of a municipality, and*  
14 *the requirements therefor shall be the same as for single family*  
15 *dwelling units located within such districts; provided, however,*  
16 *that, in the case of a community residence for the developmentally*  
17 *disabled housing more than six persons, excluding resident staff, a*  
18 *zoning ordinance may require for the use or conversion to use of a*  
19 *dwelling unit to such a community residence, a conditional use*  
20 *permit in accordance with section 54 of the act to which this act is*  
21 *a supplement (C. 40:55D-67). Any requirements imposed for 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.**

22 issuance of a conditional use permit shall be reasonably related to  
 23 the health, safety and welfare of the residents of the district; pro-  
 24 vided, however, that a municipality may deny such a permit to any  
 25 proposed community residence for the developmentally disabled  
 26 which would be located within 1500 feet of an existing such resi-  
 27 dence; provided further, however, that a municipality may deny the  
 28 issuance of any additional such permits if the number of develop-  
 29 mentally disabled and mentally ill persons resident at existing such  
 30 community residences within the municipality exceeds 50 persons,  
 31 or 0.5% of the population of the municipality, whichever is greater.\*

1 \***[2.** As used in this act, "community-based residences" means  
 2 those residences which are operated for the benefit of mentally  
 3 retarded, mentally ill or physically handicapped persons by any  
 4 division, board, bureau, agency or other instrumentality of this  
 5 State, or by an individual or individuals, corporation, partnership,  
 6 society or association, whether public or private, whether incor-  
 7 porated or unincorporated, whether for profit or nonprofit, under  
 8 regulation of this State, which provide food, shelter and personal  
 9 supervision appropriate to the needs of the persons housed therein,  
 10 and the primary purpose of which is to offer such persons the  
 11 opportunity to live in a community environment when such an  
 12 environment will foster the development, growth or recovery of  
 13 such persons. Such residences shall house no more than eight  
 14 persons at any one time and shall include, but not be limited to, the  
 15 following: halfway houses, transitional homes, group homes and  
 16 congregated care homes.]\*

17 \*2. As used in this act, "community residence for the develop-  
 18 mentally disabled" means any community residential facility  
 19 licensed pursuant to P. L. 1977, c. 448 (C. 30:11B-1 et seq.) pro-  
 20 viding food, shelter and personal guidance, under such supervision  
 21 as required, to not more than 15 developmentally disabled or  
 22 mentally ill persons, who require assistance, temporarily or perma-  
 23 nently, in order to live in the community, and shall include, but not  
 24 be limited to: group homes, half-way houses, intermediate care  
 25 facilities, supervised apartment living arrangements, and hostels.  
 26 Such a residence shall not be considered a health care facility within  
 27 the meaning of the "Health Care Facilities Planning Act" (P. L.  
 28 1971, c. 136; C. 26:2H-1 et seq.). In the case of such a community  
 29 residence housing mentally ill persons, such residence shall have  
 30 been approved for a purchase of service contract or an affiliation  
 31 agreement pursuant to such procedures as shall be established by  
 32 regulation of the Division of Mental Health and Hospitals of the  
 33 Department of Human Services. As used in this act, "develop-

34 *mentally disabled person*'' means a person who is developmentally  
 35 *disabled as defined in section 2 of P. L. 1977, c. 448 (C. 30:11B-2),*  
 36 *and "mentally ill person" means a person who is afflicted with a*  
 37 *mental illness as defined in R. S. 30:4-23\*\**, but shall not include  
 38 *a person who has been committed after having been found not guilty*  
 39 *of a criminal \*\*\*[charge or unfit to be tried on a criminal charge by*  
 40 *reason of insanity\*\*]\*\*\* \*\*offense by reason of insanity or having*  
 41 *been found unfit to be tried on a criminal charge\*\*\*.\**

1 *\*\*3. If any provision of this act or the application thereof to any*  
 2 *person or circumstance is found unconstitutional, the remainder of*  
 3 *this act and the application of such provisions to other persons or*  
 4 *circumstances shall not be affected thereby, and to this end the*  
 5 *provisions of this act are severable.\*\**

1 *\*\*[3.]\*\* \*\*4.\*\* This act shall take effect immediately.*

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SENATE No. 210

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1978 SESSION

By Senators ORECHIO, HIRKALA and SCARDINO

AN ACT concerning planning and zoning.

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

1 1. The provisions of any law or any ordinance regulating zoning  
2 and planning to the contrary notwithstanding, no municipal gov-  
3 erning body, planning board or zoning board of adjustment, as  
4 the case may be, shall deny, prevent or otherwise restrict the use  
5 or conversion for the purposes of a community-based residence  
6 for the mentally retarded, mentally ill or physically handicapped  
7 of any building in any area zoned for residential purposes including  
8 any building constructed as a single-family dwelling in any area  
9 zoned for single family dwellings, except where such use or con-  
10 version would substantially contribute to the excessive concentra-  
11 tion of such community-based residences within the municipality.

1 2. As used in this act, "community-based residences" means  
2 those residences which are operated for the benefit of mentally  
3 retarded, mentally ill or physically handicapped persons by any  
4 division, board, bureau, agency or other instrumentality of this  
5 State, or by an individual or individuals, corporation, partnership,  
6 society or association, whether public or private, whether incor-  
7 porated or unincorporated, whether for profit or nonprofit, under  
8 regulation of this State, which provide food, shelter and personal  
9 supervision appropriate to the needs of the persons housed therein,  
10 and the primary purpose of which is to offer such persons the  
11 opportunity to live in a community environment when such an  
12 environment will foster the development, growth or recovery of  
13 such persons. Such residences shall house no more than eight  
14 persons at any one time and shall include, but not be limited to, the  
15 following: halfway houses, transitional homes, group homes and  
16 congregate care homes.

1 3. This act shall take effect immediately.

## STATEMENT

Authorities agree that the development, growth or recovery of certain mentally retarded, mentally ill and physically handicapped persons can be accelerated when such persons are given the opportunity to live in a residential community rather than in an institutional environment, while at the same time receiving shelter and supervision appropriate to their needs and other services available in the community.

This bill ensures that public and private agencies will not be prevented by municipalities from using community-based residences for the care of the mentally retarded, the mentally ill and physically handicapped.

S210 (1978)

SENATE COUNTY AND MUNICIPAL GOVERNMENT  
COMMITTEE

STATEMENT TO  
**SENATE No. 210**  
with Senate committee amendments

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**STATE OF NEW JERSEY**

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DATED: MAY 18, 1978

As received by the committee, Senate Bill No. 210 would prohibit any municipal zoning ordinance from discriminating against, preventing or otherwise prohibiting community-based residences for the mentally retarded, mentally ill or physically handicapped.

Health and social welfare professionals generally agree that containment in large, remote institutions is often regressive and non-rehabilitative to the patient who is no longer in a crisis situation and does not require the controlled environment associated with such institutions. Efforts to provide a more humane and therapeutic setting, by integrating such persons into the community through the establishment of community residences, have met with restrictive zoning ordinances and with unyielding zoning boards which have refused to grant use variances for such residences except after long and expensive legal proceedings. In recent years several States, including California, Ohio and Wisconsin, have taken legislative action to limit the impact of restrictive zoning ordinances on such community residences. Also, recent court decisions in New Jersey have held that the use of such residences as transitional residences for the mentally handicapped can not be denied on the basis that such use violates zoning for single family use (see *Washington Township vs. Central Bergen Community Mental Health Center*, N.J. Superior Court, Law Division, January 4, 1978).

The committee received on the bill numerous statements from various professionals in the health and social welfare fields and from the State Department of Human Services, the major points of which may be summarized as follows:

1. That clear Legislative direction is needed that such community residences shall be a permitted use within residential districts, if long and expensive legal proceedings, which have often taken as long as 3 years, are to be avoided;

2. That the types of individuals to be placed in such community residences would not be those who are likely to be harmful to themselves or the community, and that such placement would be carefully monitored under State departmental licensing and approval procedures;

3. That the principles and philosophy behind the deinstitutionalization of such persons into community residences dictate that the establishment of these residences shall not overly saturate any given community, or change the residential character of the communities in which they are located;

4. That research studies on several communities in other States indicate that community residences do not negatively affect neighborhood residential property values; and,

5. That effective efforts should be undertaken to educate neighbors of such community residences of the purposes and character of the community residences, if the residences are to be successfully integrated into the communities.

The committee also received statements from various representatives of the League of Municipalities, stating in essence that the State should not legislate that any particular land use, no matter how worthy, shall be exempted from local zoning controls.

The bill as amended by the committee reflects its recognition of the merits of both of these arguments. This committee and the municipalities of the State have jointly worked for many years to provide the State with a modern planning and zoning law, which is uniform in application and is intelligible and workable in the local context. It is the particular responsibility of this committee to assure that the provisions of the bill are compatible with the uniform approach to zoning set forth in the "Municipal Land Use Law," and cause as little local disruption and confusion as possible.

In this context, the committee amendments utilize the "conditional use" procedure currently established under the "Municipal Land Use Law" (C. 40:55D-67). The "conditional use" is a continuation of the "special exception" provided for under the old land use law. The purpose of the device is to provide for certain permitted uses in residential (and other) districts which do not conform to the uniform use standards of those districts. The "conditional use" is regularly used in residential districts for such buildings as churches, firehouses and public libraries, which a municipality wishes to see located in a residential district, but which cannot meet the uniform use standards imposed by the zoning ordinance for residences. These buildings are, therefore, required to meet separate "conditional use" standards and specifications set forth in the ordinance. Unlike a "use variance," a



conditional use permit cannot be denied as a nonconforming use, but is a "permitted use" which can be denied only for failure to meet the standards and specifications set forth for that particular conditional use. Such standards and specifications commonly relate to such matters as: side yards, set backs, heights, and the provision of off-street parking.

Specifically, the amended bill would provide that community residences for the developmentally disabled and the mentally ill, housing not more than 15 persons excluding resident staff, which have been licensed or approved by the Department of Human Services, shall be a permitted use in all residential districts of a municipality. A municipality may, however, require that any community residence housing more than 6 persons, excluding resident staff, shall obtain a conditional use permit from the planning board. The planning board's standards and specifications for such a conditional use shall be reasonably related to the health, safety and welfare of the residents of the district. The hearing before the planning board would provide the opportunity for the type of neighborhood educational effort which health and social welfare professionals acknowledge to be necessary. The planning board may deny such a conditional use permit to any community residence which would be located within 1500 feet of another, and may deny the issuance of any additional permits whenever the population of existing community residences exceeds 50 persons, or 0.5% of the municipal population, whichever is greater. This provision would provide a safeguard against changing the residential character of a given municipality, through the placement in the municipality of too many such residences.

The committee amendments would also:

1. Require that persons living in such community residences be under supervision, and remove the implication that such persons would live "independently" in the community;

2. Require that such residences be licensed pursuant to P. L. 1977, c. 448 (C. 30:11B-1 et seq.) in the case of a community residences housing the developmentally disabled, or approved for a purchase of service contract by the Division of Mental Health and Hospitals in the case of community residences housing the mentally ill; and,

3. Provide for definitions of "developmentally disabled person" and "mentally ill person" by reference to definitions contained in Title 30 (Institutions and Agencies).

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SENATE COMMITTEE AMENDMENTS TO

**SENATE, No. 210**

**STATE OF NEW JERSEY**

ADOPTED MAY 18, 1978

Amend page 1, title, line 1, omit "planning and zoning", insert "community residences for the developmentally disabled, and supplementing the "Municipal Land Use Law," approved January 14, 1976 (P. L. 1975, c. 291)".

Amend page 1, section 1, lines 1-11, omit.

Amend page 1, section 1, after line 11, insert a new section 1 as follows:

"1. Community residences for the developmentally disabled shall be a permitted use in all residential districts of a municipality, and the requirements therefor shall be the same as for single family dwelling units located within such districts; provided, however, that, in the case of a community residence for the developmentally disabled housing more than six persons, excluding resident staff, a zoning ordinance may require for the use or conversion to use of a dwelling unit to such a community residence, a conditional use permit in accordance with section 54 of the act to which this act is a supplement (C. 40:55D-67). Any requirements imposed for the issuance of a conditional use permit shall be reasonably related to the health, safety and welfare of the residents of the district; provided, however, that a municipality may deny such a permit to any proposed community residence for the developmentally disabled which would be located within 1500 feet of an existing such residence; provided further, however, that a municipality may deny the issuance of any additional such permits if the number of developmentally disabled and mentally ill persons resident at existing such community residences within the municipality exceeds 50 persons, or 0.5% of the population of the municipality, whichever is greater."

Amend page 1, section 2, lines 1-16, omit.

Amend page 1, section 2, after line 16, insert a new section 2 as follows:

"2. As used in this act, "community residence for the developmentally disabled" means any community residential facility licensed pursuant to P. L. 1977, c. 448 (C. 30:11B-1 et seq.) providing food, shelter and personal guidance, under such supervision as required, to not more than

15 developmentally disabled or mentally ill persons, who require assistance, temporarily or permanently, in order to live in the community, and shall include, but not be limited to: group homes, half-way houses, intermediate care facilities, supervised apartment living arrangements, and hostels. Such a residence shall not be considered a health care facility within the meaning of the "Health Care Facilities Planning Act" (P. L. 1971, c. 136; C. 26:2H-1 et seq.). In the case of such a community residence housing mentally ill persons, such residence shall have been approved for a purchase of service contract or an affiliation agreement pursuant to such procedures as shall be established by regulation of the Division of Mental Health and Hospitals of the Department of Human Services. As used in this act, "developmentally disabled person" means a person who is developmentally disabled as defined in section 2 of P. L. 1977, c. 448 (C. 30:11B-2), and "mentally ill person" means a person who is afflicted with a mental illness as defined in R. S. 30:4-23."

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[OFFICIAL COPY REPRINT]

SENATE No. 210

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1978 SESSION

By Senators ORECHIO, HIRKALA and SCARDINO

AN ACT concerning **\*[planning and zoning]\*** *\*community residences for the developmentally disabled, and supplementing the "Municipal Land Use Law," approved January 14, 1976 (P. L. 1975, c. 291).\**

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
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1 \***[1. The provisions of any law or any ordinance regulating zon-**  
2 **ing and planning to the contrary notwithstanding, no municipal gov-**  
3 **erning body, planning board or zoning board of adjustment, as**  
4 **the case may be, shall deny, prevent or otherwise restrict the use**  
5 **or conversion for the purposes of a community-based residence**  
6 **for the mentally retarded, mentally ill or physically handicapped**  
7 **of any building in any area zoned for residential purposes including**  
8 **any building constructed as a single-family dwelling in any area**  
9 **zoned for single family dwellings, except where such use or con-**  
10 **version would substantially contribute to the excessive concentra-**  
11 **tion of such community-based residences within the municipality.]\***

12 *\*1. Community residences for the developmentally disabled shall*  
13 *be a permitted use in all residential districts of a municipality, and*  
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15 *dwelling units located within such districts; provided, however,*  
16 *that, in the case of a community residence for the developmentally*  
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18 *zoning ordinance may require for the use or conversion to use of a*  
19 *dwelling unit to such a community residence, a conditional use*  
20 *permit in accordance with section 54 of the act to which this act is*  
21 *a supplement (C. 40:55D-67). Any requirements imposed for the*  
22 *issuance of a conditional use permit shall be reasonably related to*  
23 *the health, safety and welfare of the residents of the district; pro-*  
24 *vided, however, that a municipality may deny such a permit to any*  
25 *proposed community residence for the developmentally disabled*  
26 *which would be located within 1500 feet of an existing such resi-*

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

27 dence; provided further, however, that a municipality may deny the  
 28 issuance of any additional such permits if the number of develop-  
 29 mentally disabled and mentally ill persons resident at existing such  
 30 community residences within the municipality exceeds 50 persons,  
 31 or 0.5% of the population of the municipality, whichever is greater.\*

1 \*2. As used in this act, "community-based residences" means  
 2 those residences which are operated for the benefit of mentally  
 3 retarded, mentally ill or physically handicapped persons by any  
 4 division, board, bureau, agency or other instrumentality of this  
 5 State, or by an individual or individuals, corporation, partnership,  
 6 society or association, whether public or private, whether incor-  
 7 porated or unincorporated, whether for profit or nonprofit, under  
 8 regulation of this State, which provide food, shelter and personal  
 9 supervision appropriate to the needs of the persons housed therein,  
 10 and the primary purpose of which is to offer such persons the  
 11 opportunity to live in a community environment when such an  
 12 environment will foster the development, growth or recovery of  
 13 such persons. Such residences shall house no more than eight  
 14 persons at any one time and shall include, but not be limited to, the  
 15 following: halfway houses, transitional homes, group homes and  
 16 congregate care homes. ]\*

17 \*2. As used in this act, "community residence for the develop-  
 18 mentally disabled" means any community residential facility  
 19 licensed pursuant to P. L. 1977, c. 448 (C. 30:11B-1 et seq.) pro-  
 20 viding food, shelter and personal guidance, under such supervision  
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 23 nently, in order to live in the community, and shall include, but not  
 24 be limited to: group homes, half-way houses, intermediate care  
 25 facilities, supervised apartment living arrangements, and hostels.  
 26 Such a residence shall not be considered a health care facility within  
 27 the meaning of the "Health Care Facilities Planning Act" (P. L.  
 28 1971, c. 136; C. 26:2H-1 et seq.). In the case of such a community  
 29 residence housing mentally ill persons, such residence shall have  
 30 been approved for a purchase of service contract or an affiliation  
 31 agreement pursuant to such procedures as shall be established by  
 32 regulation of the Division of Mental Health and Hospitals of the  
 33 Department of Human Services. As used in this act, "develop-  
 34 mentally disabled person" means a person who is developmentally  
 35 disabled as defined in section 2 of P. L. 1977, c. 448 (C. 30:11B-2),  
 36 and "mentally ill person" means a person who is afflicted with a  
 37 mental illness as defined in R. S. 30:4-23.\*

1 3. This act shall take effect immediately.

CORRECTED COPY  
[OFFICIAL COPY REPRINT]  
SENATE No. 210

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1978 SESSION

By Senators ORECHIO, HIRKALA and SCARDINO

AN ACT concerning **\*[planning and zoning]\*** *\*community residences for the developmentally disabled, and supplementing the "Municipal Land Use Law," approved January 14, 1976 (P. L. 1975, c. 291).\**

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2 *of New Jersey:*

1 **\*[1. The provisions of any law or any ordinance regulating zon-**  
2 **ing and planning to the contrary notwithstanding, no municipal gov-**  
3 **erning body, planning board or zoning board of adjustment, as**  
4 **the case may be, shall deny, prevent or otherwise restrict the use**  
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 3 retarded, mentally ill or physically handicapped persons by any  
 4 division, board, bureau, agency or other instrumentality of this  
 5 State, or by an individual or individuals, corporation, partnership,  
 6 society or association, whether public or private, whether incor-  
 7 porated or unincorporated, whether for profit or nonprofit, under  
 8 regulation of this State, which provide food, shelter and personal  
 9 supervision appropriate to the needs of the persons housed therein,  
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 36 and "mentally ill person" means a person who is afflicted with a  
 37 mental illness as defined in R. S. 30:4-23.\*

1 3. This act shall take effect immediately.

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ASSEMBLY INSTITUTIONS, HEALTH AND WELFARE  
COMMITTEE

STATEMENT TO

**SENATE, No. 210**

with Senate committee amendments  
and Assembly committee amendments

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**STATE OF NEW JERSEY**

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DATED: SEPTEMBER 25, 1978

This bill prohibits municipal zoning ordinances from discriminating against, preventing or otherwise prohibiting community-based residences for the mentally retarded, mentally ill or physically handicapped.

The bill was amended by the committee to insure that certain mentally ill persons would not be placed within such community residences. To this end, the definition of "mentally ill person" within the bill was narrowed to exclude persons committed after having been found either not guilty of a criminal charge or unfit to be tried on a criminal charge by reason of insanity.

The bill was further amended to include a severability clause to insure that any section found to be unconstitutional can be severed from the bill, while remaining sections would still be in effect.



ASSEMBLY COMMITTEE AMENDMENTS TO

**SENATE, No. 210**

[CORRECTED COPY]

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**STATE OF NEW JERSEY**

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ADOPTED SEPTEMBER 25, 1978

Amend page 2, section 2, line 37, after "R. S. 30:4-23", insert " , but shall not include a person who has been committed after having been found not guilty of a criminal charge or unfit to be tried on a criminal charge by reason of insanity".

Amend page 2, section 2, after line 37, insert new section 3 as follows:

"3. If any provision of this act or the application thereof to any person or circumstance is found unconstitutional, the remainder of this act and the applications of such provisions to other persons or circumstances shall not be affected thereby, and to this end the provisions of this act are severable."

Amend page 2, section 3, line 1, omit "3", insert "4".

[ASSEMBLY REPRINT]  
**SENATE No. 210**  
[CORRECTED COPY]  
[OFFICIAL COPY REPRINT]

with Assembly committee amendments adopted September 25, 1978

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**STATE OF NEW JERSEY**

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PRE-FILED FOR INTRODUCTION IN THE 1978 SESSION

By Senators ORECHIO, HIRKALA and SCARDINO

AN ACT concerning \***[planning and zoning]**\* *\*community residences for the developmentally disabled, and supplementing the "Municipal Land Use Law," approved January 14, 1976 (P. L. 1975, c. 291).\**

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

1 \***[1. The provisions of any law or any ordinance regulating zon-**  
2 **ing and planning to the contrary notwithstanding, no municipal gov-**  
3 **erning body, planning board or zoning board of adjustment, as**  
4 **the case may be, shall deny, prevent or otherwise restrict the use**  
5 **or conversion for the purposes of a community-based residence**  
6 **for the mentally retarded, mentally ill or physically handicapped**  
7 **of any building in any area zoned for residential purposes including**  
8 **any building constructed as a single-family dwelling in any area**  
9 **zoned for single family dwellings, except where such use or con-**  
10 **version would substantially contribute to the excessive concentra-**  
11 **tion of such community-based residences within the municipality.]\***

12 *\*1. Community residences for the developmentally disabled shall*  
13 *be a permitted use in all residential districts of a municipality, and*  
14 *the requirements therefor shall be the same as for single family*  
15 *dwelling units located within such districts; provided, however,*  
16 *that, in the case of a community residence for the developmentally*  
17 *disabled housing more than six persons, excluding resident staff, a*  
18 *zoning ordinance may require for the use or conversion to use of a*  
19 *dwelling unit to such a community residence, a conditional use*  
20 *permit in accordance with section 54 of the act to which this act is*  
21 *a supplement (C. 40:55D-67). Any requirements imposed for 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.**

22 *issuance of a conditional use permit shall be reasonably related to*  
23 *the health, safety and welfare of the residents of the district; pro-*  
24 *vided, however, that a municipality may deny such a permit to any*  
25 *proposed community residence for the developmentally disabled*  
26 *which would be located within 1500 feet of an existing such resi-*  
27 *dence; provided further, however, that a municipality may deny the*  
28 *issuance of any additional such permits if the number of develop-*  
29 *mentally disabled and mentally ill persons resident at existing such*  
30 *community residences within the municipality exceeds 50 persons,*  
31 *or 0.5% of the population of the municipality, whichever is greater.\**

1     \***[**2. As used in this act, "community-based residences" means  
2 those residences which are operated for the benefit of mentally  
3 retarded, mentally ill or physically handicapped persons by any  
4 division, board, bureau, agency or other instrumentality of this  
5 State, or by an individual or individuals, corporation, partnership,  
6 society or association, whether public or private, whether incor-  
7 porated or unincorporated, whether for profit or nonprofit, under  
8 regulation of this State, which provide food, shelter and personal  
9 supervision appropriate to the needs of the persons housed therein,  
10 and the primary purpose of which is to offer such persons the  
11 opportunity to live in a community environment when such an  
12 environment will foster the development, growth or recovery of  
13 such persons. Such residences shall house no more than eight  
14 persons at any one time and shall include, but not be limited to, the  
15 following: halfway houses, transitional homes, group homes and  
16 congregate care homes.]\*

17     \*2. As used in this act, "community residence for the develop-  
18 mentally disabled" means any community residential facility  
19 licensed pursuant to P. L. 1977, c. 448 (C. 30:11B-1 et seq.) pro-  
20 viding food, shelter and personal guidance, under such supervision  
21 as required, to not more than 15 developmentally disabled or  
22 mentally ill persons, who require assistance, temporarily or perma-  
23 nently, in order to live in the community, and shall include, but not  
24 be limited to: group homes, half-way houses, intermediate care  
25 facilities, supervised apartment living arrangements, and hostels.  
26 Such a residence shall not be considered a health care facility within  
27 the meaning of the "Health Care Facilities Planning Act" (P. L.  
28 1971, c. 136; C. 26:2H-1 et seq.). In the case of such a community  
29 residence housing mentally ill persons, such residence shall have  
30 been approved for a purchase of service contract or an affiliation  
31 agreement pursuant to such procedures as shall be established by  
32 regulation of the Division of Mental Health and Hospitals of the  
33 Department of Human Services. As used in this act, "develop-

34 *mentally disabled person*” means a person who is developmentally  
35 *disabled as defined in section 2 of P. L. 1977, c. 448 (C. 30:11B-2),*  
36 *and “mentally ill person” means a person who is afflicted with a*  
37 *mental illness as defined in R. S. 30:4-23\*\*, but shall not include*  
38 *a person who has been committed after having been found not guilty*  
39 *of a criminal charge or unfit to be tried on a criminal charge by*  
40 *reason of insanity\*\*.\**

1 *\*\*3. If any provision of this act or the application thereof to any*  
2 *person or circumstance is found unconstitutional, the remainder of*  
3 *this act and the application of such provisions to other persons or*  
4 *circumstances shall not be affected thereby, and to this end the*  
5 *provisions of this act are severable.\*\**

1 *\*\*[3.]\*\* \*\*4.\*\* This act shall take effect immediately.*

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SENATE AMENDMENT TO  
ASSEMBLY AMENDMENTS TO  
**SENATE, No. 210**  
[CORRECTED COPY]  
[OFFICIAL COPY REPRINT]

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**STATE OF NEW JERSEY**

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ADOPTED NOVEMBER 13, 1978

Amend page 3, section 2, lines 39-40, after "criminal", omit remainder of line 39 and "reason of insanity" on line 40; insert "offense by reason of insanity or having been found unfit to be tried on a criminal charge".

[SENATE REPRINT]  
**SENATE No. 210**  
[CORRECTED COPY]  
[OFFICIAL COPY REPRINT]  
[ASSEMBLY REPRINT]

with Assembly committee amendments adopted September 25, 1978 and  
Senate amendment adopted November 13, 1978

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**STATE OF NEW JERSEY**

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 2 *those residences which are operated for the benefit of mentally*  
 3 *retarded, mentally ill or physically handicapped persons by any*  
 4 *division, board, bureau, agency or other instrumentality of this*  
 5 *State, or by an individual or individuals, corporation, partnership,*  
 6 *society or association, whether public or private, whether incor-*  
 7 *porated or unincorporated, whether for profit or nonprofit, under*  
 8 *regulation of this State, which provide food, shelter and personal*  
 9 *supervision appropriate to the needs of the persons housed therein,*  
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 32 *regulation of the Division of Mental Health and Hospitals of the*  
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38 *a person who has been committed after having been found not guilty*  
39 *of a criminal \*\*\*[charge or unfit to be tried on a criminal charge by*  
40 *reason of insanity\*\*]\*\*\* offense by reason of insanity or having*  
41 *been found unfit to be tried on a criminal charge\*\*\*.\**

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1 *\*\*[3.]\*\* \*\*4.\*\* This act shall take effect immediately.*

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DECEMBER 7, 1978 ~~7~~

A-708, sponsored by Assemblyman Peter Shapiro (D-Essex), which clarifies the terms under which mental patients may have the record of their commitment expunged.

The prior law states only that patients must be "recovered" without actually defining the word recovered. A-708 amends the law to permit former patients of mental institutions to apply for expungement if they were discharged as "recovered" or whose illness subsequent to discharge was "substantially improved or in substantial remission."

The bill also specifically identifies the county court as the court to which patients who were voluntarily committed must apply for expungement of their records. However, since today is the effective date of the court merger approved by the voters in November, the Superior Court automatically becomes the designated court for application for expungement in lieu of the county court.

A-1256, sponsored by Assemblyman George Otlowski (D-Middlesex), which allows for the appointment of a deputy chief of county detectives in Middlesex and Union Counties.

A-1557, sponsored by Assemblyman Richard Van Wager (D-Monmouth), which amends the State Tax Uniform Procedure Law by making any unauthorized disclosure a misdemeanor, including disclosures by former officers or employees engaged in the administration of any state tax law.

The bill provides specific penalties of a fine not to exceed \$1,000 or imprisonment not to exceed one year or both. The amendment brings New Jersey's penalty statute into compliance with the requirements of the Internal Revenue Code.

S-210, sponsored by Senator Carmen Orechio (D-Essex) which makes community residences housing developmentally disabled persons a permitted use in all residential districts of a municipality.

Although the bill provides that municipal zoning ordinances may require a conditional use permit for community residences housing more than six developmentally disabled persons, excluding resident staff, the requirements imposed for the issuance of a conditional use permit must be reasonably related to the health, safety and welfare of the residents of the district.

-continued-

DECEMBER 7, 1978 #

In addition, the bill establishes concentration standards to avoid concentration with community residences in any one area by specifically permitting a municipality to deny a conditional use permit to any proposed community residence if it is to be located within 1500 feet of an existing residence.

It also specifically allows the municipality to deny the conditional use permit if the number of developmentally disabled persons living in community residences in the municipality exceeds 50 people or .5% of the population, whichever is greater.

The bill defines "community residence for the developmentally disabled" as either community residential facilities licensed by the Division of Mental Retardation in the Department of Human Services or community residences which are under service contracts or affiliation agreements approved by the Division of Mental Health and Hospitals in the Department of Human Services.

S-1109, sponsored by Senator Eugene Bedell (D-Monmouth) which raises the ceiling for group credit life insurance policies.

Under prior law, the ceiling was the lesser of (1) the unpaid amount of the indebtedness or (2) \$30,000 for real estate mortgages and \$20,000 in all other cases.

This bill raises the dollar limit to \$75,000 in the case of real estate mortgages and \$40,000 in all other cases.

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