

45:22A-46.1

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2008 **CHAPTER:** 71
NJSA: 45:22A-46.1 (Requires certification by purchaser or grantee that federal law will not be violated by sale in age-restricted community)
BILL NO: S88 (Substituted for A305)

SPONSOR(S): Connors and others

DATE INTRODUCED: January 8, 2008

COMMITTEE: ASSEMBLY: Housing and Local Government
SENATE: Community and Urban Affairs

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: ASSEMBLY: June 23, 2008
SENATE: March 3, 2008

DATE OF APPROVAL: September 6, 2008

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (Original version of bill enacted)

S88

[SPONSOR'S STATEMENT:](#) (Begins on page 3 of original bill) [Yes](#)

COMMITTEE STATEMENT: ASSEMBLY: [Yes](#)

SENATE: [Yes](#)

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

A305

[SPONSOR'S STATEMENT:](#) (Begins on page 3 of original bill) [Yes](#)

COMMITTEE STATEMENT: ASSEMBLY: [Yes](#)

SENATE: No

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

LAW/IS 12/31/08

§§1,2 -
C.45:22A-46.1 &
45:22A-46.2
§3 - C.46:15-6.2

P.L. 2008, CHAPTER 71, *approved September 6, 2008*

Senate, No. 88

1 **AN ACT** concerning housing for older persons and homeowners'
2 associations, and supplementing P.L.1993, c. 30 (C.45:22A-43 et
3 seq.) and Title 46 of the Revised Statutes.

4

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

7

8 1. The Legislature finds and declares:

9 a. Age-restricted communities are one of the fastest growing
10 types of developments in the nation and in the State;

11 b. Age-restrictions violate federal laws against discrimination
12 in housing, unless certain exceptions are met for age-restricted
13 communities as authorized by federal law;

14 c. Homeowners' associations which manage the property in
15 age-restricted communities currently have no methods by which to
16 ensure that the exceptions to federal anti-discrimination provisions
17 will be maintained upon the resales of units in such communities;
18 and

19 d. It is necessary and in the public interest for the Legislature
20 to create a method of ensuring compliance by age-restricted
21 communities with federal law.

22

23 2. Notwithstanding any law or governing document to the
24 contrary, the purchaser or grantee by operation of law of a dwelling
25 unit in an age-restricted community shall be required to certify,
26 prior to the resale or transfer by operation of law of a dwelling unit
27 within the community, that the dwelling unit will be occupied by a
28 person of an age that ensures compliance with the "housing for
29 older persons" exception from the federal "Fair Housing
30 Amendments Act of 1988," Pub.L. 100-430 (42 U.S.C. ss.3601 et
31 seq.) for that community as set forth in section 100.301 of Title 24,
32 Code of Federal Regulations. The certification shall be on such
33 form as may be prescribed by the Commissioner of Community
34 Affairs, but shall not exceed one page in length. A copy of the
35 certification shall be provided to the purchaser for recording. For
36 the purpose of P.L. , c. (C.) (pending before the
37 Legislature as this bill), "resale" shall mean any sale of a dwelling
38 unit within an age-restricted community, other than the initial sale
39 of the unit made by the developer to a purchaser.

1 3. No deed shall be recorded with a county recording office for
2 a property to which an age restriction applies unless the
3 certification required pursuant to P.L. , c. (C.) (pending
4 before the Legislature as this bill) accompanies such filing and is
5 recorded with the deed as an addendum thereto.

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7 4. This act shall take effect immediately.

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12 Requires certification by purchaser or grantee that federal law
13 will not be violated by sale in age-restricted community.

SENATE, No. 88

STATE OF NEW JERSEY 213th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

Sponsored by:

Senator CHRISTOPHER J. CONNORS

District 9 (Atlantic, Burlington and Ocean)

SYNOPSIS

Requires certification by purchaser or grantee that federal law will not be violated by sale in age-restricted community.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning housing for older persons and homeowners'
2 associations, and supplementing P.L.1993, c. 30 (C.45:22A-41 et
3 seq.) and Title 46 of the Revised Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. The Legislature finds and declares:

9 a. Age-restricted communities are one of the fastest growing
10 types of developments in the nation and in the State;

11 b. Age-restrictions violate federal laws against discrimination
12 in housing, unless certain exceptions are met for age-restricted
13 communities as authorized by federal law;

14 c. Homeowners' associations which manage the property in
15 age-restricted communities currently have no methods by which to
16 ensure that the exceptions to federal anti-discrimination provisions
17 will be maintained upon the resales of units in such communities;
18 and

19 d. It is necessary and in the public interest for the Legislature
20 to create a method of ensuring compliance by age-restricted
21 communities with federal law.

22
23 2. Notwithstanding any law or governing document to the
24 contrary, the purchaser or grantee by operation of law of a dwelling
25 unit in an age-restricted community shall be required to certify,
26 prior to the resale or transfer by operation of law of a dwelling unit
27 within the community, that the dwelling unit will be occupied by a
28 person of an age that ensures compliance with the "housing for
29 older persons" exception from the federal "Fair Housing
30 Amendments Act of 1988," Pub.L. 100-430 (42 U.S.C. ss.3601 et
31 seq.) for that community as set forth in section 100.301 of Title 24,
32 Code of Federal Regulations. The certification shall be on such
33 form as may be prescribed by the Commissioner of Community
34 Affairs, but shall not exceed one page in length. A copy of the
35 certification shall be provided to the purchaser for recording. For
36 the purpose of P.L. , c. (C.) (pending before the
37 Legislature as this bill), "resale" shall mean any sale of a dwelling
38 unit within an age-restricted community, other than the initial sale
39 of the unit made by the developer to a purchaser.

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41 3. No deed shall be recorded with a county recording office for
42 a property to which an age restriction applies unless the
43 certification required pursuant to P.L. , c. (C.) (pending
44 before the Legislature as this bill) accompanies such filing and is
45 recorded with the deed as an addendum thereto.

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47 4. This act shall take effect immediately.

STATEMENT

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This bill ensures better compliance with provisions of federal law by inhibiting improper sales or transfers of properties which are located in retirement communities to persons who are not age-qualified to reside in such communities. Federal law permits the existence of age-restricted communities as an exception known as “housing for older persons” to the anti-discrimination provisions of the “Fair Housing Amendments Act of 1988,” provided that certain quotas are maintained of age-appropriate persons occupying the premises. For communities which were organized by a developer to restrict occupancy to persons aged 62 or older, 100 percent of the occupants must be aged 62 or older. For communities which were organized by a developer to house persons age 55 and over, at least 80 percent of the residents (and one per each household) must be aged 55 or older.

The bill requires the purchaser or grantee, by operation of law, of a dwelling unit in an age-restricted community to certify, prior to resale or transfer of the unit, that the unit will be occupied by a person whose age complies with federal law. The certification, which may not exceed one page in length, would be recorded as an addendum to the deed, in the appropriate county recording office. A person purchasing a dwelling unit in an age-restricted community, other than from the developer, or a person taking ownership in any other manner could not record a deed without the certification required by the bill.

ASSEMBLY HOUSING AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO

SENATE, No. 88

STATE OF NEW JERSEY

DATED: JUNE 5, 2008

The Assembly Housing and Local Government Committee reports favorably Senate Bill No. 88.

This bill ensures better compliance with provisions of federal law by inhibiting improper sales or transfers of properties which are located in retirement communities to persons who are not age-qualified to reside in such communities. Federal law permits the existence of age-restricted communities as an exception, known as "housing for older persons," to the anti-discrimination provisions of the "Fair Housing Amendments Act of 1988," provided that certain quotas are maintained of age-appropriate persons occupying the premises. For communities which were organized by a developer to restrict occupancy to persons aged 62 or older, 100 percent of the occupants must be aged 62 or older. For communities which were organized by a developer to house persons aged 55 and over, at least 80 percent of the residents (and one per each household) must be aged 55 or older.

The bill requires the purchaser or grantee, by operation of law, of a dwelling unit in an age-restricted community to certify, prior to resale or transfer of the unit, that the unit will be occupied by a person whose age complies with federal law. The certification, which may not exceed one page in length, would be recorded as an addendum to the deed, in the appropriate county recording office. A person purchasing a dwelling unit in an age-restricted community, other than from the developer, or a person taking ownership in any other manner could not record a deed without the certification required by the bill.

This bill is identical to Assembly No. 305 as amended and reported by the committee today.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 88

STATE OF NEW JERSEY

DATED: JANUARY 24, 2008

The Senate Community and Urban Affairs Committee reports favorably Senate Bill No. 88.

This bill ensures better compliance with provisions of federal law by inhibiting improper sales or transfers of properties which are located in retirement communities to persons who are not age-qualified to reside in such communities. Federal law permits the existence of age-restricted communities as an exception, known as "housing for older persons," to the anti-discrimination provisions of the "Fair Housing Amendments Act of 1988," provided that certain quotas are maintained of age-appropriate persons occupying the premises. For communities which were organized by a developer to restrict occupancy to persons aged 62 or older, 100 percent of the occupants must be aged 62 or older. For communities which were organized by a developer to house persons aged 55 and over, at least 80 percent of the residents (and one per each household) must be aged 55 or older.

The bill requires the purchaser or grantee, by operation of law, of a dwelling unit in an age-restricted community to certify, prior to resale or transfer of the unit, that the unit will be occupied by a person whose age complies with federal law. The certification, which may not exceed one page in length, would be recorded as an addendum to the deed, in the appropriate county recording office. A person purchasing a dwelling unit in an age-restricted community, other than from the developer, or a person taking ownership in any other manner could not record a deed without the certification required by the bill.

This bill was pre-filed for introduction in the 2008-2009 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

ASSEMBLY, No. 305

STATE OF NEW JERSEY

213th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

Sponsored by:

Assemblyman BRIAN E. RUMPF

District 9 (Atlantic, Burlington and Ocean)

Assemblyman DANIEL M. VAN PELT

District 9 (Atlantic, Burlington and Ocean)

SYNOPSIS

Requires certification by homeowners' association that federal law will not be violated by sale in age-restricted community.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 1/25/2008)

1 AN ACT concerning housing for older persons and homeowners'
2 associations, and supplementing P.L.1993, c. 30 (C.45:22A-41 et
3 seq.) and Title 46 of the Revised Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. The Legislature finds and declares:

9 a. Age-restricted communities are one of the fastest growing
10 types of developments in the nation and in the State;

11 b. Age-restrictions violate federal laws against discrimination in
12 housing, unless certain exceptions are met for age-restricted
13 communities as authorized by federal law;

14 c. Homeowners' associations which manage the property in age-
15 restricted communities currently have no methods by which to
16 ensure that the exceptions to federal anti-discrimination provisions
17 will be maintained upon the resales of units in such communities;
18 and

19 d. It is necessary and in the public interest for the Legislature to
20 create a method of ensuring compliance by age-restricted
21 communities with federal law.

22
23 2. Notwithstanding any law or governing document to the
24 contrary, a homeowners' association of an age-restricted
25 community shall be required to certify, prior to the resale or transfer
26 by operation of law of a dwelling unit within the community, that
27 the dwelling unit will be occupied by a person of an age that
28 ensures compliance with the "housing for older persons" exception
29 from the federal "Fair Housing Amendments Act of 1988," Pub.L.
30 100-430 (42 U.S.C. ss.3601 et seq.) for that community as set forth
31 in section 100.301 of Title 24, Code of Federal Regulations. The
32 certification shall be on such form as may be prescribed by the
33 Commissioner of Community Affairs, but shall not exceed one page
34 in length. A copy of the certification shall be provided to the
35 purchaser for recording. For the purpose of P.L. , c. (C.)
36 (pending before the Legislature as this bill), "resale" shall mean any
37 sale of a dwelling unit within an age-restricted community, other
38 than the initial sale of the unit made by the developer to a
39 purchaser.

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41 3. No deed shall be recorded with a county recording office for a
42 property to which an age restriction applies unless the certification
43 required pursuant to P.L. , c. (C.) (pending before the
44 Legislature as this bill) accompanies such filing and is recorded
45 with the deed as an addendum thereto.

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47 4. This act shall take effect immediately.

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STATEMENT

This bill would inhibit improper sales or transfers of properties which are located in retirement communities to persons who are not age-qualified to reside in such communities. Federal law permits the existence of age-restricted communities as an exception known as “housing for older persons” to the anti-discrimination provisions of the “Fair Housing Amendments Act of 1988,” provided that certain quotas are maintained of age-appropriate persons occupying the premises. For communities which were organized by a developer to restrict occupancy to persons aged 62 or older, 100 percent of the occupants must be aged 62 or older. For communities which were organized by a developer to house persons age 55 and over, at least 80 percent of the residents (and one per each household) must be aged 55 or older.

The bill would require an association to certify compliance with federal law upon the transfer or re-sale of a unit or house within an age-restricted community. The certification, which may not exceed one page in length, is to be recorded as an addendum to the deed, in the appropriate county recording office. A person purchasing a dwelling unit in an age-restricted community, other than from the developer, or a person transfer ownership in any other manner, such as an executor or administrator of an estate, may not record a deed without the certification required by the bill.

ASSEMBLY HOUSING AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 305

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 5, 2008

The Assembly Housing and Local Government Committee reports favorably and with committee amendments Assembly Bill No. 305.

The intent of this bill is to ensure better compliance with provisions of federal law by inhibiting improper sales or transfers of properties which are located in retirement communities to persons who are not age-qualified to reside in such communities. Federal law permits the existence of age-restricted communities as an exception known as "housing for older persons" to the anti-discrimination provisions of the "Fair Housing Amendments Act of 1988," provided that certain quotas are maintained of age-appropriate persons occupying the premises. For communities which were organized by a developer to restrict occupancy to persons aged 62 or older, 100 percent of the occupants must be aged 62 or older. For communities which were organized by a developer to house persons age 55 and over, at least 80 percent of the residents (and one per each household) must be aged 55 or older.

As amended by the committee, this bill would require the purchaser or grantee, by operation of law, of a dwelling unit in an age-restricted community to certify, prior to resale or transfer of the unit, that the unit will be occupied by a person whose age complies with federal law. The certification, which may not exceed one page in length, would be recorded as an addendum to the deed, in the appropriate county recording office. A person purchasing a dwelling unit in an age-restricted community, other than from the developer, or a person taking ownership in any other manner could not record a deed without the certification required by the bill.

The committee amended the bill to transfer from the community's homeowners' association to the purchaser or grantee of a unit the burden of certifying that a dwelling unit will be occupied by a person of an age that ensures compliance with the federal law. The committee also corrected a technical error in the title of the bill, in which the compilation number of a statute was cited incorrectly. The

committee's amendments make the bill identical to Senate Bill No.88 of 2008, which was also reported by the committee at this meeting.

This bill was prefiled for introduction in the 2008-2009 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.