

46:8D-13.1

LEGISLATIVE HISTORY CHECKLIST
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(Rental units--cooperatives)

NJSA: 46:8D-13.1

LAWS OF: 1997 CHAPTER: 366

BILL NO: S271

SPONSOR(S): Cardinale

DATE INTRODUCED: January 11, 1996

COMMITTEE: ASSEMBLY: Housing

SENATE: Community Affairs

AMENDED DURING PASSAGE: Yes Amendments during passage denoted
Fourth reprint enacted by superscript numbers

DATE OF PASSAGE: ASSEMBLY: January 12, 1998

SENATE: June 27, 1996

DATE OF APPROVAL: January 19, 1998

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes Also attached: statement,
adopted 3-18-96, 1-12-98 &
5-16-~~98~~96

COMMITTEE STATEMENT: ASSEMBLY: Yes

SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:
REPORTS: No

HEARINGS: No

KBP:pp

P.L. 1997, CHAPTER 366, *approved January 19, 1998*
Senate, No. 271 (*Fourth Reprint*)

1 AN ACT concerning the rental of certain ²[condominium] cooperative²
2 ¹[and cooperative]¹ units and supplementing chapter 8 of Title 46
3 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. a. The Legislature finds and declares that it is in the public
9 interest of the citizens of this State that the availability of rental
10 housing be encouraged. Therefore restrictions imposed by certain
11 ²[condominium association bylaws] cooperative agreements² ¹[or
12 cooperative agreements]¹ which unreasonably inhibit or prevent ²[the
13 owner of a condominium unit] the holder of a proprietary lease to a
14 cooperative unit² [or the holder of a proprietary lease to a
15 cooperative unit]¹ from making the unit available for rental shall be
16 contrary to the public policy of the State of New Jersey and shall be
17 unenforceable.

18 b. Subsection a. of this ³[act] section³ shall not apply to: ³[(1)]³
19 any ²[condominium] cooperative² ¹[or cooperative]¹ in which
20 requirements limiting occupancy to ²[unit owners] holders of
21 proprietary leases to units² ¹[or holders of proprietary leases to units]¹
22 were established at the time that the ²[condominium] cooperative² ¹[or
23 cooperative]¹ was created, and which requirements were emphasized
24 in the offering document as an absolute condition of ownership, and
25 have been consistently and strictly enforced since that time ³[, or (2)
26 any unit subject to resale controls or repurchase requirements intended
27 to preserve affordability of the unit to persons of low and moderate
28 income, as defined in the "Fair Housing Act," P.L.1985, c.222
29 (C.52:27D-301 et seq.)] or which requirements were established upon
30 the transfer of control of the association board from the developer to

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate floor amendments adopted March 18, 1996.

² Senate floor amendments adopted May 16, 1996.

³ Assembly AHO committee amendments adopted May 1, 1997.

⁴ Assembly floor amendments adopted January 12, 1998.

1 the holders of proprietary leases to units through properly amended
2 bylaws which have been consistently and strictly enforced since the
3 time of amendment³ .

4 c. Notwithstanding any provision of law to the contrary, in those
5 ²[condominiums] cooperatives² ¹[and cooperatives]¹ which meet the
6 criteria of ³[either paragraph 1 or 2 of]³ subsection b. and in which
7 more than ten units are under one roof, when a unit is offered for sale
8 at or below a sales price such that a sale will result in a return of any
9 investment only, and the unit nevertheless remains unsold for four or
10 more months, then the owner shall have the right ³. subject to the
11 conditions in subsection d. of this section.³ to rent the unit for such a
12 period of time until prevailing market conditions permit a sale which
13 will allow recoupment of the investment in the unit. For the purposes
14 of this subsection, investment shall include the purchase price, costs
15 related to the acquisition of the property, and the costs of any
16 improvements made to the property.

17 d. Nothing in this ³[subsection] act ³shall prohibit [^{ah}] a
18 cooperative³ association from ³adopting reasonable rules necessary to
19 protect the health, safety or interest of all of the owners. ⁴including
20 rules based on lending policies of financial institutions pertaining to
21 owner-occupancy ratios⁴ or from³ requiring a ³reasonable³ minimum
22 term of leasehold ³[of not less than 180 days]³, nor shall such
23 associations be prohibited from requiring that all tenants comply with
24 the properly adopted rules of the association which are applicable to
25 other unit owners, including, but not limited to, rules relating to such
26 matters as parking, pets, noise, and the number of permitted occupants
27 per unit. ³A cooperative association which elects to screen tenants
28 shall interview prospective tenants within seven days of the date of the
29 submission of the tenant's name to the association.³

30 Nothing in this ³[subsection] act³ shall grant a tenant any additional
31 rights or protected status under the laws applicable to eviction from
32 rental premises.

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34 2. This act shall take effect immediately.

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39 Prohibits bylaws of certain cooperative associations from containing
40 clauses unreasonably prohibiting rental.

SENATE, No. 271

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Senator CARDINALE

1 AN ACT concerning the rental of certain condominium and cooperative
2 units and supplementing chapter 8 of Title 46 of the Revised
3 Statutes.

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

7
8 1. a. The Legislature finds and declares that it is in the public
9 interest of the citizens of this State that the availability of rental
10 housing be encouraged. Therefore restrictions imposed by certain
11 condominium association bylaws or cooperative agreements which
12 unreasonably inhibit or prevent the owner of a condominium unit or
13 the holder of a proprietary lease to a cooperative unit from making the
14 unit available for rental shall be contrary to the public policy of the
15 State of New Jersey and shall be unenforceable.

16 b. Subsection a. of this act shall not apply to: (1) any condominium
17 or cooperative in which requirements limiting occupancy to unit
18 owners or holders of proprietary leases to units were established at the
19 time that the condominium or cooperative was created, and which
20 requirements were emphasized in the offering document as an absolute
21 condition of ownership, and have been consistently and strictly
22 enforced since that time, or (2) any unit subject to resale controls or
23 repurchase requirements intended to preserve affordability of the unit
24 to persons of low and moderate income, as defined in the "Fair
25 Housing Act," P.L.1985, c.222 (C.52:27D-301 et seq.).

26 c. Notwithstanding any provision of law to the contrary, in those
27 condominiums and cooperatives which meet the criteria of either
28 paragraph 1 or 2 of subsection b. and in which more than ten units are
29 under one roof, when a unit is offered for sale at or below a sales price
30 such that a sale will result in a return of any investment only, and the
31 unit nevertheless remains unsold for four or more months, then the
32 owner shall have the right to rent the unit for such a period of time
33 until prevailing market conditions permit a sale which will allow
34 recoupment of the investment in the unit. For the purposes of this
35 subsection, investment shall include the purchase price, costs related

1 to the acquisition of the property, and the costs of any improvements
2 made to the property.

3 Nothing in this subsection shall prohibit an association from
4 requiring a minimum term of leasehold of not less than 180 days, nor
5 shall such associations be prohibited from requiring that all tenants
6 comply with the properly adopted rules of the association which are
7 applicable to other unit owners, including, but not limited to, rules
8 relating to such matters as parking, pets, noise, and the number of
9 permitted occupants per unit.

10 Nothing in this subsection shall grant a tenant any additional rights
11 or protected status under the laws applicable to eviction from rental
12 premises.

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14 2. This act shall take effect immediately.

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STATEMENT

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19 This bill prohibits bylaws of either condominium associations or
20 cooperative associations from containing provisions that would
21 unreasonably prohibit the rental of a unit.

22 The bill provides that any condominium or cooperative in which
23 requirements limiting occupancy of units to unit owners or holders of
24 proprietary leases were established at the time that the condominium
25 or cooperative was created and in whose offering documents such
26 requirements were emphasized would be exempt from the provisions
27 of the bill which make such requirements unenforceable. The bill also
28 exempts associations that manage units which are subject to resale
29 controls or repurchase requirements intended to preserve affordability
30 of the unit to persons of low and moderate income, as defined in the
31 "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et seq.) from the
32 provisions of the bill which make restrictions prohibiting the rental of
33 units unenforceable.

34 The bill specifies that units in condominiums and cooperatives
35 managed by associations that are exempted from the provisions of the
36 bill which make restrictions prohibiting the rental of units
37 unenforceable can be rented if: (1) the unit is part of a complex which
38 has more than 10 units under one roof, and (2) the owner has
39 attempted to sell the unit for at least four months, but is unable to
40 obtain an offer which would permit the owner to recoup his or her
41 investment in the property. Investment is defined in the bill to mean
42 the purchase price, costs related to the acquisition of the property, and
43 the costs of any improvements made to the property. In this situation,
44 the owner will be permitted to rent out the unit until prevailing market
45 conditions permit a sale which will allow recoupment of his or her
46 investment.

1 The bill allows associations, under these circumstances, to require
2 a minimum term of leasehold of not less than 180 days, and to require
3 that all tenants comply with the properly adopted rules of the
4 association which are applicable to other unit owners, including, but
5 not limited to, rules relating to such matters as parking, pets, noise,
6 and the number of permitted occupants per unit.

7 A tenant leasing under these circumstances shall not gain any
8 additional rights or protected status under the laws applicable to
9 eviction from rental premises.

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14 Prohibits bylaws of certain condominium or cooperative associations
15 from containing clauses unreasonably prohibiting rental.

[Passed Both Houses]

[Fourth Reprint]

SENATE, No. 271

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Senator CARDINALE

1 AN ACT concerning the rental of certain ²[condominium]
2 cooperative² ¹[and cooperative]¹ units and supplementing chapter
3 8 of 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. a. The Legislature finds and declares that it is in the public
9 interest of the citizens of this State that the availability of rental
10 housing be encouraged. Therefore restrictions imposed by certain
11 ²[condominium association bylaws] cooperative agreements² ¹[or
12 cooperative agreements]¹ which unreasonably inhibit or prevent ²[the
13 owner of a condominium unit] the holder of a proprietary lease to a
14 cooperative unit² ¹[or the holder of a proprietary lease to a
15 cooperative unit]¹ from making the unit available for rental shall be
16 contrary to the public policy of the State of New Jersey and shall be
17 unenforceable.

18 b. Subsection a. of this ³[act] section³ shall not apply to: ³[(1)]³
19 any ²[condominium] cooperative² ¹[or cooperative]¹ in which
20 requirements limiting occupancy to ²[unit owners] holders of
21 proprietary leases to units² ¹[or holders of proprietary leases to
22 units]¹ were established at the time that the ²[condominium]
23 cooperative² ¹[or cooperative]¹ was created, and which requirements
24 were emphasized in the offering document as an absolute condition of
25 ownership, and have been consistently and strictly enforced since that
26 time ³[, or (2) any unit subject to resale controls or repurchase

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

Matter underlined **thus** is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate floor amendments adopted March 18, 1996.

² Senate floor amendments adopted May 16, 1996.

³ Assembly AHO committee amendments adopted May 1, 1997.

⁴ Assembly floor amendments adopted January 12, 1998.

1 requirements intended to preserve affordability of the unit to persons
2 of low and moderate income, as defined in the "Fair Housing Act,"
3 P.L.1985, c.222 (C.52:27D-301 et seq.)¹ or which requirements were
4 established upon the transfer of control of the association board from
5 the developer to the holders of proprietary leases to units through
6 properly amended bylaws which have been consistently and strictly
7 enforced since the time of amendment³ .

8 c. Notwithstanding any provision of law to the contrary, in those
9 ²[condominiums] cooperatives² ¹[and cooperatives]¹ which meet the
10 criteria of ³[either paragraph 1 or 2 of]³ subsection b. and in which
11 more than ten units are under one roof, when a unit is offered for sale
12 at or below a sales price such that a sale will result in a return of any
13 investment only, and the unit nevertheless remains unsold for four or
14 more months, then the owner shall have the right ³ subject to the
15 conditions in subsection d. of this section.³ to rent the unit for such a
16 period of time until prevailing market conditions permit a sale which
17 will allow recoupment of the investment in the unit. For the purposes
18 of this subsection, investment shall include the purchase price, costs
19 related to the acquisition of the property, and the costs of any
20 improvements made to the property.

21 d. Nothing in this ³[subsection] act³ shall prohibit ³[an] a
22 cooperative³ association from ³adopting reasonable rules necessary to
23 protect the health, safety or interest of all of the owners.⁴ ⁴including
24 rules based on lending policies of financial institutions pertaining to
25 owner-occupancy ratios⁴ ⁴or from³ requiring a ³reasonable³ minimum
26 term of leasehold ³[of not less than 180 days]³, nor shall such
27 associations be prohibited from requiring that all tenants comply with
28 the properly adopted rules of the association which are applicable to
29 other unit owners, including, but not limited to, rules relating to such
30 matters as parking, pets, noise, and the number of permitted occupants
31 per unit. ³A cooperative association which elects to screen tenants
32 shall interview prospective tenants within seven days of the date of the
33 submission of the tenant's name to the association.³

34 Nothing in this ³[subsection] act³ shall grant a tenant any
35 additional rights or protected status under the laws applicable to
36 eviction from rental premises.

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38 2. This act shall take effect immediately.
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43 Prohibits bylaws of certain cooperative associations from containing
44 clauses unreasonably prohibiting rental.

ASSEMBLY HOUSING COMMITTEE

STATEMENT TO

[Second Reprint]

SENATE, No. 271

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 1, 1997

The Assembly Housing Committee reports favorably and with committee amendments Senate Bill No. 271 (2R).

This bill, as amended, would prohibit, with certain exemptions, cooperative agreements from containing provisions that would unreasonably prohibit the rental of unit.

As amended, the bill's prohibition against bylaws which inhibit rental of a unit in a cooperative would not apply in those cooperatives in which the bylaws have contained provisions restricting rental from the time of the transfer of control of the association to the holders of proprietary leases, and such provisions have been consistently and strictly enforced since that time.

Under the bill's provisions, even for those cooperatives which have bylaws prohibiting rental, if the building contains more than ten units under one roof, a holder of a proprietary lease must be permitted to rent his unit for such a period of time until prevailing market conditions permit a sale which will allow recoupment of his investment in the unit. Associations may require a reasonable minimum lease term in such a situation, and other reasonable rules to protect the health safety and interest of all shareholders. A cooperative association which elects to screen prospective tenants must do so within seven days of the submission of the tenant's name to the association. In addition, any tenants renting pursuant to the bill's provisions must comply with the properly adopted rules of the association which are applicable to other unit owners, including, but not limited to, rules relating to such matters as parking, pets, noise, and the number of permitted occupants per unit.

The committee amended the bill to provide that the bylaws exempted from the general provision of the bill that renting of a unit may not be prohibited need only have to be in existence from the time the cooperative association is controlled by holders of proprietary leases, and not from the time of the offering statement. In addition, the amendments specify that rules adopted related to rental must be reasonable, and a board must interview prospective tenants within

seven days of the date of submission of the tenant's name. The requirement of a 180 day minimum lease term was replaced with the requirement of a reasonable lease term.

SENATE COMMUNITY AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 271

STATE OF NEW JERSEY

DATED: MARCH 7, 1996

The Senate Community Affairs Committee reports without recommendation Senate Bill No. 271.

This bill would prohibit bylaws of either condominium associations or cooperative associations from containing provisions that would unreasonably prohibit the rental of a unit. However, the bill would exempt from its provisions any condominium or cooperative which established requirements limiting occupancy of units to unit owners or holders of proprietary leases at the time that the condominium or cooperative was created and which emphasized such requirements in its offering documents.

The bill also exempts associations that manage units which are subject to resale controls or repurchase requirements intended to preserve affordability of the unit to individuals of low and moderate income, as defined in the State "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et seq.), from the provisions of the bill which make restrictions prohibiting the rental of units unenforceable.

The bill would also specify that units in condominiums and cooperatives managed by associations that are exempted from the provisions of the bill which make restrictions prohibiting the rental of units unenforceable can be rented if: (1) the unit is part of a complex which has more than ten units under one roof, and (2) the owner has attempted to sell the unit for at least four months, but is unable to obtain an offer which would permit the owner to recoup his or her investment in the property. In this situation, the owner would be permitted to rent out the unit until prevailing market conditions permit a sale which would allow the owner to recoup his investment. Investment is defined in the bill to mean the purchase price, costs related to the acquisition of the property, and the costs of any improvements made to the property.

The bill would allow associations under these circumstances to require a minimum term of leasehold of at least 180 days, and to require that all tenants comply with the properly adopted rules of the association which are applicable to other unit owners, including, but not limited to, rules relating to such matters as parking, pets, noise, and the number of permitted occupants per unit.

The bill would provide that a tenant leasing under these circumstances shall not gain any additional rights or protected status

under the laws applicable to eviction from rental premises.

This bill was prefiled for introduction in the 1996 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

STATEMENT TO

SENATE, No. 271

with Senate Floor Amendments
(Proposed By Senator CARDINALE)

ADOPTED: MARCH 18, 1996

These amendments would remove cooperative associations from the provisions of this bill.

With these amendments, the bill would prohibit, with certain exemptions, bylaws of only condominium associations from containing provisions that would unreasonably prohibit the rental of an unit.

Without these amendments, this bill would prohibit bylaws of either condominium associations or cooperative associations from containing provisions that would unreasonably prohibit the rental of a unit. However, the bill would exempt from its provisions any condominium or cooperative which established requirements limiting occupancy of units to unit owners or holders of proprietary leases at the time that the condominium or cooperative was created and which emphasized such requirements in its offering documents.

The bill also exempts associations that manage units which are subject to resale controls or repurchase requirements intended to preserve affordability of the unit to individuals of low and moderate income, as defined in the State "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et seq.), from the provisions of the bill which make restrictions prohibiting the rental of units unenforceable.

The bill would also specify that units in condominiums and cooperatives managed by associations that are exempted from the provisions of the bill which make restrictions prohibiting the rental of units unenforceable can be rented if: (1) the unit is part of a complex which has more than ten units under one roof, and (2) the owner has attempted to sell the unit for at least four months, but is unable to obtain an offer which would permit the owner to recoup his or her investment in the property. In this situation, the owner would be permitted to rent out the unit until prevailing market conditions permit a sale which would allow the owner to recoup his investment. Investment is defined in the bill to mean the purchase price, costs related to the acquisition of the property, and the costs of any improvements made to the property.

The bill would allow associations under these circumstances to require a minimum term of leasehold of at least 180 days, and to require that all tenants comply with the properly adopted rules of the association which are applicable to other unit owners, including, but not limited to, rules relating to such matters as parking, pets, noise, and the number of permitted occupants per unit.

The bill would provide that a tenant leasing under these

circumstances shall not gain any additional rights or protected status under the laws applicable to eviction from rental premises.

STATEMENT TO

[Third Reprint]

SENATE, No. 271

with Assembly Floor Amendments
(Proposed By Assemblyman Romano)

ADOPTED: JANUARY 12, 1998

These amendments clarify that a cooperative association may adopt reasonable rules based on the lending policies of banking institutions relating to owner-occupancy ratios.

STATEMENT TO

[First Reprint]

SENATE, No. 271

with Senate Floor Amendments
(Proposed By Senator CARDINALE)

ADOPTED: MAY 16, 1996

These amendments would remove condominium associations from, and would restore cooperative associations to, the provisions of this bill.

With these amendments, the bill would prohibit, with certain exemptions, cooperative agreements from containing provisions that would unreasonably prohibit the rental of a unit. Without these amendments, this bill would prohibit only the bylaws of condominium associations from containing provisions that would unreasonably prohibit the rental of a unit.