

46:8C-10

LEGISLATIVE HISTORY CHECKLIST
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(Private residential leasehold community--
right of first refusal)

NJSA: 46:8C-10

LAWS OF: 1995 CHAPTER: 365

BILL NO: A1704

SPONSOR(S): Felice

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SENATE: Commerce

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[FIRST REPRINT]
ASSEMBLY, No. 1704

STATE OF NEW JERSEY

INTRODUCED MAY 2, 1994

By Assemblymen FELICE and GARRETT

1 AN ACT concerning private residential leasehold communities
2 and the rights and obligations of the owners, operators and
3 residents of those communities, and amending P.L.1991, c.483
4 (C.46:8C-10 et seq.).
5

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

8 1. Section 1 of P.L.1991, c.483 (C.46:8C-10) is amended to
9 read as follows:

10 1. a. For the purposes of this act, ["mobile home" means a
11 "manufactured home" located in a "mobile home park," as those
12 terms are defined in section 3 of the "Manufactured Home
13 Taxation Act," P.L.1983, c.400 (C.54:4-1.4)]
14 "Private residential leasehold community" means a community on
15 a parcel of land, or two or more contiguous parcels of land,
16 containing no fewer than ten home sites where such sites are
17 under common ownership and control, other than a cooperative,
18 for the purpose of leasing such sites to the owners of certain
19 homes, including, but not limited to, mobile homes and
20 manufactured homes as those terms are defined in section 3 of
21 the "Manufactured Home Taxation Act," P.L.1983, c.400
22 (C.54:4-1.4), and specifically including homes constructed
23 entirely or partly on site, the location and use of which may or
24 may not be permanent, and where the owner or owners of the
25 land provide services to the homeowners which are provided by
26 the municipality in which the community is located for the
27 property owners outside the community, which services may
28 include but shall not be limited to:

29 (1) The construction and maintenance of streets;
30 (2) Lighting of streets and other common areas;
31 (3) Garbage removal;
32 (4) Snow removal;
33 (5) Provisions for the drainage of surface water from home
34 sites and common areas.

35 b. As used in sections 2 and 3 of this act, "notify" means to
36 place in the United States mail a notice addressed to the officers
37 of the homeowners' association. Each such notice shall be
38 deemed to have been given upon the deposit thereof in the United
39 States mail.

40 c. As used in section 2 of this act, "offer" means any
41 solicitation by the [park owner] landowner to the general public.
42 (cf: P.L.1991, c.483, s.1)

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SCM committee amendments adopted May 15, 1995.

1 2. Section 2 of P.L.1991, c.483 (C.46:8C-11) is amended to
2 read as follows:

3 2. a. If a [mobile home park owner] private residential
4 leasehold community landowner offers [a mobile home park]
5 private residential leasehold community land for sale, he shall
6 notify the board of directors of the homeowners' association
7 created pursuant to this act of his offer, stating the price and the
8 terms and conditions of sale.

9 b. The [mobile home owners] affected homeowners, by and
10 through an association duly formed in accordance with section 6
11 of this act, shall have the right to purchase [the park] such land,
12 provided two-thirds of the unit owners in the [mobile home park]
13 private residential leasehold community have approved the
14 purchase, and further provided that the [home owners]
15 homeowners meet the ¹[fair market value]¹ price and
16 ¹[reasonable]¹ terms and conditions of the [mobile home park
17 owner] private residential leasehold community landowner by
18 executing a contract with the [park owner] landowner within 45
19 days of being notified under subsection a., except as an extension
20 of time may be mutually agreed upon by the [owner] landowner
21 and the association; provided, however, that if there is no
22 homeowners' association at the time a [mobile home park owner]
23 private residential leasehold community landowner offers ¹[a]¹
24 [mobile home park owner] private residential leasehold
25 community land for sale and the [park owner] landowner notifies
26 homeowners individually as required under subsection b. of
27 section 6 of this act, the period within which the terms and
28 conditions of the [mobile home park owner] private residential
29 leasehold community landowner may be met by execution of a
30 contract between the [owner] landowner and a homeowners'
31 association shall be 60 days from the date of the notification of
32 individual homeowners and at any time after notification to the
33 [park owner] landowner that a homeowners' association has been
34 formed, in accordance with the provisions of subsection a. of
35 section 7 of this act. If a contract between the [park owner]
36 landowner and the association is not executed within that
37 extension period, then, unless the [park owner] landowner
38 thereafter elects to offer the [park] land at the same price or at
39 a lower price than specified in his notice to the directors or
40 trustees of the association, he shall have no further obligations
41 under this subsection, and his only obligation shall be as set forth
42 in section 3 of this act.

43 c. If the [park owner] landowner thereafter elects to offer the
44 [park] land at the same price or at a lower price than specified in
45 his notice to the directors or trustees of the association pursuant
46 to subsection a. of this section, the homeowners, by and through
47 the association, shall have an additional 10 days after receipt of
48 that offer to meet the price and terms of conditions of the [park
49 owner] landowner by executing a contract; provided, however,
50 that if more than three months have elapsed since the receipt by
51 the homeowners' association of the previous offer to sell the
52 [park] land under this subsection, the association shall have 30
53 days after receipt of the subsequent offer to meet the price and
54 terms of conditions of the [park owners] landowner by executing a
55 contract.

56 (cf: P.L.1991, c.483, s.2)

1 3. Section 3 of P.L.1991, c.483 (C.46:8C-12) is amended to
2 read as follows:

3 3. a. If a [mobile home park owner] private residential
4 leasehold community landowner receives a bona fide offer to
5 purchase the [park] land that he intends to consider or make a
6 counter-offer to, he shall notify the directors or trustees of the
7 homeowners' association within 10 business days of receiving the
8 offer, if such an association has been formed in accordance with
9 the provisions of sections 6 through 8 of this act, that he has
10 received the offer. If a homeowners' association has not been
11 formed, the [park owner] landowner shall, within 10 business days,
12 notify individual homeowners as required under section 6 of this
13 act. The [park owner] landowner shall not conclude any
14 agreement to sell the [park] land until after the 30 day period
15 therein specified has elapsed.

16 b. Upon receipt of such notice the board of directors or
17 trustees of the homeowners' association shall appoint from
18 among its members a committee, not exceeding three persons,
19 who may be assisted by such legal and other professional and
20 technical counsel as the board may provide, to receive from the
21 [park owner] landowner the price and terms of the offer that has
22 been made, and to negotiate the terms upon which the [park
23 owner] landowner would be willing to sell the [mobile home park]
24 private residential leasehold community land to the homeowners'
25 association. Members and assistants to the committee shall be
26 pledged to maintain in confidence any information disclosed to
27 them by the [park owner] landowner in the course of such
28 negotiations [, and shall be personally liable to the park owner
29 and any other party to the transaction for any damages resulting
30 from unauthorized disclosure thereof] . If any such member or
31 assistant fails to maintain that confidence, the landowner may
32 bring an appropriate action at law for damages or seek an
33 appropriate equitable remedy.

34 c. Not later than the 30th day next following its receipt of
35 offering terms pursuant to subsection b. of this section, or
36 following a period of extension agreed to by the committee and
37 the [park owner] landowner, the committee appointed pursuant to
38 subsection b. of this section shall report to the board of directors
39 or trustees of the homeowners' association the price and other
40 material terms upon which the [mobile home park] private
41 residential leasehold community landowner has agreed to sell the
42 [mobile home park] private residential leasehold community land
43 to the association. In the absence of any agreement between the
44 [park owner] landowner and the committee, the [park owner]
45 landowner shall be deemed to agree to such sale upon the
46 identical terms communicated by him to the committee pursuant
47 to subsection a. of this section. The report of the committee
48 shall include such supporting data and documentation as the
49 committee and the [park owner] landowner have agreed upon to
50 be so submitted and authorized to be disclosed. The price and
51 other terms so agreed upon and reported shall be binding upon the
52 [park owner] landowner for 10 days next following the submission
53 of the committee's report, and if agreed to by the board of

1 directors or trustees of the homeowners' association and
2 consented to by two-thirds of the homeowners in that [mobile
3 home park] private residential leasehold community land shall
4 constitute a contract of sale.

5 d. During the period provided for negotiations and for
6 consideration by the association's board of directors or trustees
7 under subsection c. of this section the [park owner] landowner
8 shall not conclude any agreement for sale of the [mobile home
9 park] private residential leasehold community land to any other
10 party, but may negotiate with any other party as to terms and
11 conditions of such an agreement, contingent upon the failure or
12 refusal of the homeowners to exercise their prior right of
13 purchase under this act.

14 (cf: P.L.1991, c.483, s.3)

15 4. Section 4 of P.L.1991, c.493 (C.46:8C-13) is amended to
16 read as follows:

17 4. The provisions of sections 2 and 3 of this act shall not apply
18 to:

19 a. Any sale or transfer of the property of a [mobile home park]
20 private residential leasehold community which is not made in
21 contemplation of changing that property to a use or uses other
22 than as a [mobile home park] private residential leasehold
23 community.

24 b. Any sale or transfer to a person who would be included
25 within the table of descent and distribution if the [park owner]
26 landowner were to die intestate.

27 c. Any transfer by gift, devise, or operation of law.

28 d. Any transfer by a corporation to an affiliate. As used
29 herein, "affiliate" means (1) any shareholder exercising control,
30 or control through attribution as defined under section 318 of the
31 Internal Revenue Code, of the transferring corporation; (2) any
32 corporation or entity owned or controlled, directly or indirectly,
33 by the transferring corporation; or (3) any other corporation or
34 entity owned or controlled, directly or indirectly, by any
35 shareholder of the transferring corporation. For the purposes of
36 this subsection, control shall mean control as defined in section
37 304 of the Internal Revenue Code.

38 e. Any transfer by a partnership to any of its partners,
39 whether general partners or limited partners, or partners or
40 individuals to a corporation where the control of the corporation
41 is substantially the same.

42 f. Any conveyance of an interest in a [mobile home park]
43 private residential leasehold community incidental to the
44 financing of that [park] community.

45 g. Any conveyance resulting from the foreclosure of a
46 mortgage, deed of trust, or other instrument encumbering a
47 [mobile home park] private residential leasehold community, or
48 any deed given in lieu of such foreclosure.

49 h. Any sale or transfer between or among joint tenants or
50 tenants in common owning a [mobile home park] private
51 residential leasehold community.

52 i. The purchase of land of a [mobile home park] private
53 residential leasehold community by a governmental entity under
54 its powers of eminent domain.

1 j. Any sale which occurs as a result of a condominium or
2 cooperative conversion.

3 k. Any sale of real estate owned by the [mobile home park
4 owner] private residential leasehold community landowner which
5 is adjacent to the [mobile home park] private residential
6 leasehold community land, but does not have appurtenant to it
7 [mobile home] private residential leasehold sites or spaces or
8 related recreational facilities.

9 (cf: P.L.1991, c.483, s.4)

10 5. Section 5 of P.L.1991, c.483 (C.46:8C-14) is amended to
11 read as follows:

12 5. In addition to other prerequisites for recording, no deed
13 evidencing transfer of title to a [mobile home park] private
14 residential leasehold community land shall be recorded in the
15 office of any county recording officer unless, accompanying the
16 application to transfer the title is an affidavit annexed thereto in
17 which the owner of the [mobile home park] private residential
18 leasehold community certifies:

19 a. with reference to an offer by him for the sale of the [park]
20 land, he has complied with the provisions of section 2 of this act;
21 or

22 b. with reference to an offer received by him for the purchase
23 of the [park] land, or with reference to a counter-offer which he
24 has made or intends to make to such an offer, he has complied
25 with the provisions of section 3 of this act; or

26 c. notwithstanding his compliance with section 2 or 3 of this
27 act, as applicable, no contract has been executed for the sale of
28 the [park] land between himself and the homeowners' association;
29 or

30 d. the provisions of sections 2 and 3 of this act are not
31 applicable to a particular sale or transfer of the [park] land by
32 him, and compliance therewith is not required; or

33 e. a particular sale or transfer of the [park] land is exempted
34 from the provisions of sections 2 through 5 of this act.

35 (cf: P.L.1991, c.483, s.5)

36 6. Section 6 of P.L.1991, c.483 (C.46:8C-15) is amended to
37 read as follows:

38 6. a. In order to exercise the rights provided in sections 2 and
39 3 of this act, the owners of [mobile] homes in a [mobile home
40 park] private residential leasehold community shall form an
41 association in compliance with this section and sections 7 and 8
42 of this act. Such an association shall be organized as a
43 corporation or association either for profit or not for profit, upon
44 the consent, in writing, of two-thirds of the owners of [mobile]
45 homes in the [park] community to become members or
46 shareholders therein. For the purposes of this act, whenever the
47 consent of homeowners is required on any question, there shall be
48 counted only one vote for each [mobile home] dwelling unit.
49 Upon consent by two-thirds of the homeowners, all consenting
50 homeowners shall become members of the association and shall
51 be bound by the provisions of the articles of incorporation, the
52 bylaws of the association, and such restrictions as may be
53 properly promulgated pursuant thereto. Upon incorporation and
54 service of the notice described in section 7 of this act, the

1 association shall become the representative of the [mobile home
2 owners] homeowners in all matters relating to the provisions of
3 this act.

4 b. If at the time when a [park owner] landowner determines to
5 offer [a mobile home park] private residential leasehold
6 community land for sale, or receives a bona fide offer from a
7 prospective purchaser, there is no homeowners' association then
8 in being in the [mobile home park] private residential leasehold
9 community, the [park owner] landowner shall, at least 15 days
10 before proceeding to make such offer of sale, or within 10
11 business days of receiving such a bona fide offer, as the case may
12 be, notify in writing each owner of a [mobile] home within the
13 [mobile home park] private residential leasehold community that
14 he intends doing so. If, after receipt of such individual notices
15 and within the period fixed by subsection b. of section 2 of this
16 act for execution of a contract, a homeowners' association is
17 formed pursuant to this act, the association so formed shall
18 exercise and perform all the rights, duties and functions provided
19 in this act on and from the day on which notification is made to
20 the [mobile home park owner] private residential leasehold
21 community landowner pursuant to section 7 of this act.

22 (cf: P.L.1991, c.483, s.6)

23 7. Section 7 of P.L.1991, c.483 (C.46:8C-16) is amended to
24 read as follows:

25 7. a. Upon receipt of its certificate of incorporation, or, if
26 the homeowners' association does not incorporate, upon its
27 establishment, the homeowners' association shall notify the [park
28 owner] landowner in writing of such incorporation, or
29 establishment, as appropriate, and shall advise the [park owner]
30 landowner of the names and addresses of the officers of the
31 homeowners' association by personal delivery upon the [park
32 owner] landowner or by certified mail, return receipt requested.

33 b. The homeowners' association shall file with the clerk of the
34 county in which the [mobile home park] private residential
35 leasehold community is located a notice of its rights under
36 sections 2 and 3 of this act. The notice shall contain the name of
37 the association, the name of the [park owner] landowner, and the
38 address or legal description of the [park] land. Within 10 days of
39 the recording of the notice, the association shall provide a copy
40 of the recorded notice to the [park owner] landowner, at the
41 address provided by the [park owner] landowner, by certified
42 mail, return receipt requested.

43 (cf: P.L.1991, c.483, s.7)

44 8. Section 8 of P.L.1991, c.483 (C.46:8C-17) is amended to
45 read as follows:

46 8. a. The articles of incorporation of a homeowners'
47 association or the by-laws of any unincorporated homeowners'
48 association formed under this act shall provide:

49 (1) that the association has the power to negotiate for,
50 acquire, and operate the [mobile home park] private residential
51 leasehold community on behalf of the [mobile home owners]
52 homeowners; and

53 (2) that the association [shall] has the power to convert the
54 [mobile home park] private residential leasehold community, once

1 acquired by the homeowners, to a condominium, a cooperative, or
2 other type of ownership.

3 b. Upon acquisition of the property, the association shall be
4 the entity that creates a condominium, or offers condominium
5 parcels for sale or lease in the ordinary course of business, or, if
6 the homeowners choose a different form of ownership, the entity
7 that owns the record interest in the property and is responsible
8 for the operation of property; provided, however, that if the
9 association converts the [mobile home park] private residential
10 leasehold community to a cooperative, an election shall be held
11 within 30 days following the establishment of the cooperative to
12 elect a board of directors of the cooperative.

13 (cf: P.L.1991, c.483, s.8)

14 9. Section 9 of P.L.1991, c.483 (C.46:8C-18) is amended to
15 read as follows:

16 9. In order for a homeowners' association to exercise the
17 rights provided in section 2 or 3 of this act, the bylaws of the
18 association shall provide for the following:

19 a. The directors or trustees of the association and the
20 operation of the association shall be governed by the bylaws.

21 b. The bylaws shall include, and, if they do not, shall be
22 deemed to include, the following provisions:

23 (1) The form of administration of the association shall be
24 described, providing for the titles of the officers and for a board
25 of directors or trustees, specifying the powers, duties, manner of
26 selection and removal, and compensation, if any, of the officers
27 [and] directors or trustees. Unless otherwise provided in the
28 bylaws, the board of directors or trustees shall consist of five
29 members. The board of directors or trustees shall elect from
30 among its members a president, secretary, and treasurer, who
31 shall perform the duties of those offices customarily performed
32 by officers of corporations, and these officers shall serve without
33 compensation and at the pleasure of the board of directors or
34 trustees. The board of directors or trustees may appoint and
35 designate other officers and assign them such duties as it deems
36 appropriate.

37 (2) Meetings of the board of directors or trustees shall be open
38 to all members of the homeowners' association, and notice of
39 meetings shall be posted in a conspicuous place upon the [park]
40 property at least 48 hours in advance, except in an emergency.
41 Notice of any meeting in which assessments against members are
42 to be considered for any reason shall specifically contain a
43 statement that assessments will be considered, and of the nature
44 of those assessments.

45 (3) Members of the association shall meet at least once each
46 calendar year, and the meeting shall be the annual meeting. All
47 members of the board of directors or trustees shall be elected at
48 the annual meeting unless the bylaws provide for staggered
49 election terms or for their election at another meeting. The
50 bylaws shall not restrict any member desiring to be a candidate
51 for board membership from being nominated from the floor. The
52 bylaws shall provide the method for calling the meetings of the
53 members, including annual meetings. The method shall provide at
54 least 14 days' written notice to each member in advance of

1 the meeting and require the posting in a conspicuous place on the
2 [park] property of a notice at least 14 days prior to the meeting.
3 Unless a member waives in writing the right to receive notice of
4 the annual meeting by mail, the notice of the annual meeting and
5 of any meeting other than the annual meeting in which
6 acquisition or conversion of the [mobile home park] private
7 residential leasehold community as provided under section 8 of
8 this act is to be voted on, shall be sent by mail to each member,
9 and the mailing shall constitute notice. An officer of the
10 association shall provide an affidavit affirming that the notices
11 were mailed or hand delivered in accordance with the provisions
12 of this section to each member at the address last furnished to
13 the association. These meeting requirements shall not prevent
14 members from waiving notice of meetings or from acting by
15 written agreement without meetings, if allowed by the bylaws.

16 (4) A majority of the members shall constitute a quorum.
17 Decisions shall be made by a majority of members represented at
18 a meeting at which a quorum is present; provided, however, that
19 any decision to acquire the [mobile home park] private residential
20 leasehold community shall only be made by not less than
21 two-thirds of all the homeowners and any decision to convert the
22 [mobile home park] private residential leasehold community to a
23 condominium or cooperative or other form of ownership following
24 its acquisition by the homeowners' association shall only be made
25 by not less than a majority vote of all of the members of the
26 homeowners' association. In addition, provision shall be made in
27 the bylaws for definition and use of proxy. Any proxy given shall
28 be effective only for the specific meeting for which originally
29 given and any lawfully adjourned meetings thereof. In no event
30 shall any proxy be valid for a period longer than 90 days after the
31 date of the first meeting for which it was given. Every proxy
32 shall be revocable at any time at the pleasure of the member
33 executing it.

34 (5) The board of directors shall mail a meeting notice and
35 copies of the proposed annual budget of expenses to the members
36 not less than 30 days prior to the meeting at which the budget
37 will be considered. If the bylaws provide that the budget may be
38 adopted by the board of directors or trustees, the members shall
39 be given written notice of the time and place at which the
40 meeting of the board of directors or trustees to consider the
41 budget will be held. The meeting shall be open to all members.

42 (6) The board of directors or trustees may, in any event,
43 propose a budget to the members of the association at a general
44 membership meeting or in writing, and, if the budget or proposed
45 budget is approved by the members at the meeting, or by a
46 majority of their whole number in writing, that budget shall be
47 adopted.

48 (7) Minutes of all meetings of members and of the board of
49 directors or trustees shall be kept in a businesslike manner and
50 shall be available for inspection by members, or their authorized
51 representatives, and board members at reasonable times. The
52 association shall retain these minutes for a period of not less than
53 seven years.

1 (8) The share or percentage of, and manner of sharing,
2 expenses for each member shall be stated.

3 (9) The manner of collecting from the members their shares of
4 the expenses for the maintenance of the [park] private residential
5 leasehold community property shall be stated. Assessments shall
6 be made against members not less frequently than quarterly, in
7 amounts not less than are required to provide funds in advance
8 for payments of all of the anticipated current operating expenses
9 and for all of the unpaid operating expenses previously incurred.

10 (10) The method by which the bylaws may be amended
11 consistent with the provisions of this act shall be stated. If the
12 bylaws fail to provide a method of amendment, the bylaws may
13 be amended if the amendment is approved by no less than
14 two-thirds of the members. No bylaw shall be revised or
15 amended by reference to its title only.

16 (11) The officers and directors or trustees of the association
17 have fiduciary relationship to the members.

18 (12) Any member of the board of directors or trustees may be
19 recalled and removed from office, with or without cause, by the
20 vote of, or agreement in writing by, a majority of all members.
21 A special meeting of the association membership to recall a
22 member or members of the board of directors or trustees may be
23 called by 10 per cent of the members giving notice of the
24 meeting as required for a meeting of members, and the notice
25 shall state the purpose of the meeting.

26 c. The bylaws may provide the following:

27 (1) A method of adopting and of amending administrative rules
28 and regulations governing the details of the operation and use of
29 the [park] private residential leasehold community property.

30 (2) Restrictions on, and requirements respecting, the use and
31 maintenance of [mobile] homes located within the park, and the
32 use of the [park] private residential leasehold community
33 property, so long as such restrictions and requirements are not
34 inconsistent with the articles of incorporation of the association.

35 (3) Other provisions not inconsistent with the provisions of this
36 act or with other documents governing the [park] private
37 residential leasehold community property or [mobile] homes
38 located therein.

39 d. No amendment to the bylaws may change the proportion or
40 percentage by which members share in the expenses as initially
41 established, unless [all] two-thirds of the members [affected by
42 such change] approve the amendment.

43 (cf: P.L.1991, c.483, s.9)

44 10. Section 10 of P.L.1991, c.483 (C.46:8C-19) is amended to
45 read as follows:

46 10. a. An association may contract, sue, or be sued, with
47 respect to the exercise or non-exercise of its powers. For these
48 purposes, the powers of the association include, but are not
49 limited to, the maintenance, management, and operation of the
50 [park] property. The association may institute, maintain, settle or
51 appeal actions or hearings in its name on behalf of all
52 homeowners concerning matters of common interest, including,
53 but not limited to: the common property; structural components
54 of a building or other improvements; mechanical, electrical and

1 plumbing elements serving the [park] property; and protests of
2 ad-valorem taxes on commonly used facilities. If the association
3 has the authority to maintain a class action, the association may
4 be joined in an action as representative of that class with
5 reference to litigation and disputes involving the matters for
6 which the association could bring a class action. Nothing herein
7 limits any statutory or common-law right of any individual
8 homeowner or class of homeowners to bring any action which may
9 otherwise be available.

10 b. The powers and duties of an association include those set
11 forth in this section, in sections 6 and 9 of this act, and in the
12 articles of incorporation and bylaws and any recorded
13 declarations or restrictions encumbering the [park] property, if
14 not inconsistent with the provisions of this act.

15 c. An association has the power to make and collect
16 assessments and to lease, maintain, repair and replace the
17 common areas upon purchase of the [mobile home park] private
18 residential leasehold community.

19 d. An association shall maintain financial records in
20 accordance with generally accepted accounting standards and
21 principles. The records shall be open to inspection by association
22 members or their authorized representatives at reasonable times,
23 and written summaries of such records shall be supplied at least
24 annually to the members or their authorized representatives. The
25 failure of the association to permit inspection of its accounting
26 records by members or their authorized representatives entitles
27 any persons prevailing in an enforcement action to recover
28 reasonable attorney's fees from the person in control of the
29 books and records who, directly or indirectly, knowingly denied
30 access to the books and records for inspection. The records shall
31 include, but not be limited to:

32 (1) A record of all receipts and expenditures.

33 (2) An account for each member, designating the name and
34 current mailing address of the member, the amount of each
35 assessment, the dates on which and amounts in which the
36 assessments come due, the amount paid on the account, and the
37 balance due.

38 e. An association has the power to purchase [lots in the park
39 and to] , acquire, hold, lease, mortgage and convey [them] any
40 proprietary interest in or affecting the land of the private
41 residential leasehold community.

42 f. An association shall use its best efforts to obtain and
43 maintain adequate insurance to protect the association and the
44 [park] property upon purchase of the [mobile home park] private
45 residential leasehold community. A copy of each policy of
46 insurance in effect shall be made available for inspection by
47 members at reasonable times.

48 g. An association has the authority, without the joinder of any
49 homeowner, to modify, move, or create any easement for ingress
50 and egress, or for the purpose of utilities, if the easement
51 constitutes part of or crosses the [park] property upon purchase
52 of the [mobile home park] property. This subsection does not
53 authorize the association to modify or move any easement
54 created in whole or part for the use or benefit of anyone other

1 than the members, or crossing the property of anyone other than
2 the members, without the consent or approval of such person as
3 required by law or the instrument creating the easement.
4 Nothing in this subsection affects the rights of ingress or egress
5 of any member of the association.

6 (cf: P.L.1991, c.483, s.10)

7 11. Section 11 of P.L.1991, c.483 (C.46:8C-20) is amended to
8 read as follows:

9 11. The owner of [a mobile home park] the private residential
10 leasehold community land shall notify in writing each owner of a
11 [mobile] home therein or, if a homeowners' association has been
12 established under the provisions of this act, the directors or
13 trustees of the association, of any application by the owner of the
14 [mobile home park] private residential leasehold community land
15 for a variance within 10 days after the filing for such variance
16 with the approving authority, if the granting of such variance
17 would result in the removal of the homes or relocation of the
18 [mobile home owners] homeowners residing in that [mobile home
19 park] private residential leasehold community.

20 (cf: P.L.1991, c.483, s.11)

21 12. Section 12 of P.L.1991, c.483 (C.46:8C-21) is amended to
22 read as follows:

23 12. No agency of municipal, county or State government, or of
24 any agency or instrumentality thereof, shall approve or take any
25 other final action upon any application for a variance which
26 would result in the removal of homes or relocation of [mobile
27 home owners] homeowners residing in a [mobile home park]
28 private residential leasehold community, without first
29 determining that adequate [mobile home parks or other suitable]
30 private residential facilities and circumstances exist for the
31 relocation of those [mobile home owners] homeowners.

32 (cf: P.L.1991, c.483, s.12)

33 13. This act shall take effect on the first day of the fourth
34 month following enactment.

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39 Extends right of first refusal to homeowners in private leasehold
40 communities.

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31 relocation of those [mobile home owners] homeowners.

32 (cf: P.L.1991, c.483, s.12)

33 13. This act shall take effect on the first day of the fourth
34 month following enactment.

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STATEMENT

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39 This bill extends the rights and obligations afforded mobile
40 home park owners, operators and residents under P.L. 1991, c.483
41 (C.46:8C-10 et seq.) to the owners, operators and residents of
42 private residential leasehold communities.

43 The provisions of P.L. 1991, c.483 (C.46:8C-10 et seq.) granted
44 the residents of mobile home parks the right of first refusal
45 whenever the owner of their park offered it for sale. To exercise
46 this right, the statute authorized the establishment of mobile
47 home park homeowner associations and outlined the procedural
48 requirements.

49 Under this bill, those rights and obligations would be extended
50 to the owners, operators and residents of private residential
51 leasehold communities. Private residential leasehold
52 communities and mobile home parks have many similar
53 characteristics. There is, however, one major difference. While
54 the residents of mobile home parks live in units that are "mobile"

1 and which can be moved, homeowners in private residential
2 leasehold communities live in homes that are permanent,
3 immobile structures. Consequently, the residents of private
4 residential leasehold communities are at greater risk than mobile
5 home owners if the property owner decides to sell the land on
6 which the community is located. For this reason, it is essential
7 that these homeowners be afforded the rights mobile home
8 owners are granted under P.L. 1991, c.483.

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13 Extends right of first refusal to homeowners in private leasehold
14 communities.

ASSEMBLY HOUSING COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1704

STATE OF NEW JERSEY

DATED: JUNE 9, 1994

The Assembly Housing Committee favorably reports Assembly Bill No. 1704.

This bill extends the rights and obligations afforded mobile home park owners, operators and residents under P.L.1991, c.483 (C.46:8C-10 et seq.) to the owners, operators and residents of private residential leasehold communities.

The provisions of P.L.1991, c.483 (C.46:8C-10 et seq.) granted the residents of mobile home parks the right of first refusal whenever the owner of their park offered it for sale. The statute provided the procedure for establishing mobile home park homeowner associations, which could then exercise the first right to purchase the property.

Under this bill, these same rights and obligations would be extended to the owners, operators and residents of private residential leasehold communities. Private residential leasehold communities contain permanent, immobile structures, and such owners are therefore under the same or greater risk than mobile home owners if the property owner sells the land on which the community is located. The bill, therefore, would provide these homeowners the same rights as mobile home owners in leasehold communities.

SENATE COMMERCE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1704

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 15, 1995

The Senate Commerce Committee reports favorably and with committee amendments Assembly, No. 1704.

This bill extends the rights and obligations afforded mobile home park owners, operators and residents under P.L.1991, c.483 (C.46:8C-10 et seq.) to the owners, operators and residents of private residential leasehold communities.

The provisions of P.L.1991, c.483 (C.46:8C-10 et seq.) grant the residents of mobile home parks the right of first refusal whenever the owner of their park offers it for sale. The statute provides the procedure for establishing mobile home park homeowner associations, which could then exercise the first right to purchase the property.

Under this bill, these same rights and obligations would be extended to the owners, operators and residents of private residential leasehold communities. Private residential leasehold communities contain permanent, immobile structures, and such homeowners are therefore at risk when the property owner sells the land on which the community is located. The bill provides that when the owner offers the land for sale, he must notify the board of directors of the homeowners' association stating the price and the terms and conditions of the sale. The homeowners, through the association (with approval of two-thirds of the unit owners), would have the right to purchase the land if they meet the price and terms and conditions of the proposed sale.

The committee deleted the requirement that the price be at the fair market value and that the terms and conditions be reasonable because the process for a sale provided under the current law results in the fair market value and reasonable terms and conditions and to use those words in the law may indicate another meaning.
