

26:4A-4

LEGISLATIVE HISTORY CHECKLIST
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NJSA: 26:4A-4

(Recreational
bathing
regulations--exempt
some)

LAWS OF: 1991

CHAPTER: 135

Bill No: S2593/S3275

Sponsor(s): Salmon & others

Date Introduced: April 26, 1990

Committee: Assembly: -----

Senate: Institutions, Health & Welfare

Amended during passage: No Senate Committee Substitute
enacted

Date of Passage: Assembly: April 15, 1991

Senate: March 25, 1991

Date of Approval: May 10, 1991

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: No

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: No

Following were printed:

Reports: No

Hearings: No

(over)

Report, mentioned in statements: not available as of 9-1-91

See newspaper clipping--attached:

KBG/SLJ

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, Nos. 2593, 3275 and
ASSEMBLY, Nos. 3436 and 3955 ACS

STATE OF NEW JERSEY

ADOPTED MARCH 11, 1991

Sponsored by Senators CONNORS, LITTELL, CAFIERO, HAINES,
Assemblymen CONNORS, SALMON, Moran, Doyle,
Villapiano and Scerni

1 AN ACT concerning the regulation of swimming, supplementing
2 Title 26 of the Revised Statutes and repealing P.L.1946, c.172,
3 P.L.1981, c.216, P.L.1989, c.61 and P.L.1989, c.140.

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

7 1. As used in this act:

8 "Campground" means a plot of ground upon which two or more
9 campsites are located, established or maintained for occupancy
10 by camping units of the general public as temporary living
11 quarters for children or adults, or both, for a total of 15 days or
12 more in any calendar year, for recreation, education, or vacation
13 purposes.

14 "Common interest community" means:

15 a. property subject to the "Condominium Act," P.L.1969,
16 c.257 (C.46:8B-1 et seq.) or the "Horizontal Property Act,"
17 P.L.1963, c.168 (C.46:8A-1 et seq.);

18 b. a housing corporation or association, commonly known as a
19 cooperative, which entitles the holder of a share or membership
20 interest thereof to possess and occupy for dwelling purposes a
21 house, apartment, manufactured or mobile home or other unit of
22 housing owned or leased by the corporation or association, or to
23 lease or purchase a unit of housing constructed or to be
24 constructed by the corporation or association; or

25 c. real estate with respect to which a person, by virtue of his
26 ownership of a unit, is obligated to pay for real estate taxes,
27 insurance premiums, maintenance or improvement of other real
28 estate described in the instrument, however denominated, which
29 creates the common interest community. Ownership of a unit
30 does not include holding a leasehold interest of less than 20 years
31 in a unit, including renewal options;

32 "Hotel" or "motel" means a commercial establishment with a
33 building of four or more dwelling units or rooms used for rental
34 and lodging by guests.

35 "Mobile home park" means a parcel of land, or two or more
36 contiguous parcels of land, containing at least 10 sites equipped
37 for the installation of mobile or manufactured homes, where
38 these sites are under common ownership and control, other than
39 as a cooperative, for the purpose of leasing each site to the

1 owner of a mobile or manufactured home for the installation
2 thereof, and where the owner provides services, which are
3 provided by the municipality in which the park is located for
4 property owners outside the park, which services may include, but
5 shall not be limited to:

- 6 a. Construction and maintenance of streets;
- 7 b. Lighting of streets and other common areas;
- 8 c. Garbage removal;
- 9 d. Snow removal; and
- 10 e. Provision for the drainage of surface water from home sites
11 and common areas.

12 "Private lake, river or bay or private community lake, river or
13 bay association" means an organization of property owners within
14 a fixed or defined geographical area with deeded or other rights
15 to utilize, with similarly situated owners, various lakefront,
16 riverfront or bayfront properties, which properties are not open
17 to the general public, other than bona fide guests of a member of
18 the private lake, river or bay or private community lake, river or
19 bay association;

20 "Retirement community" means a retirement community
21 which is registered with the Division of Housing and Development
22 in the Department of Community Affairs pursuant to "The
23 Planned Real Estate Development Full Disclosure Act," P.L.1977,
24 c.419 (C.45:22A-21 et seq.).

25 "Specially exempt facility" means a private lake, river or bay
26 or private community lake, river or bay association, or private
27 nonprofit common interest community which restricts the use of
28 its lake, river, bay or pool, as appropriate, to the owners of units
29 thereof and their invited guests. Specially exempt facility also
30 includes a campground, hotel, motel, mobile home park, or
31 retirement community which restricts the use of its pool to
32 renters of the lodging units or owners of the dwelling units, as
33 appropriate, and their invited guests.

34 2. Notwithstanding the provisions of section 7 of P.L.1947,
35 c.177 (C.26:1A-7) or any rules or regulations promulgated
36 pursuant thereto to the contrary, a specially exempt facility shall
37 be exempt from mandatory compliance with the first aid
38 personnel and lifeguard requirements of N.J.A.C.8:26-5 et seq.,
39 except that a campground, hotel, motel, mobile home park or
40 retirement community which does not voluntarily comply with
41 these requirements shall have a manager or owner on the
42 premises when its swimming area is open for use.

43 3. A specially exempt facility which does not voluntarily
44 comply with the first aid and lifeguard requirements of
45 N.J.A.C.8:26-5 et seq., shall post a sign not less than three feet
46 by four feet which shall be prominently displayed at the entrance
47 to each swimming area stating: "No lifeguard on duty. Persons
48 under the age of 16 must be accompanied by an adult. No
49 swimming alone." In the case of a campground, hotel, motel,

1 mobile home park or retirement community, the sign shall also
2 state: "This pool (or swimming area) shall be closed when the
3 owner or manager is not on the premises." The notice shall also
4 be posted on a sign not less than eight inches by 10 inches at the
5 registration desk of the campground, hotel or motel, and in each
6 room or suite of the campground, hotel or motel used for
7 occupancy by guests.

8 4. Notwithstanding any provisions of this act to the contrary,
9 the Department of Health may adopt rules and regulations
10 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
11 (C.52:14B-1 et seq.), requiring that first aid personnel or a
12 lifeguard, or both, be on the premises of a specially exempt
13 facility in those cases in which the facility has a functional diving
14 board, water slide or other recreational appurtenance that may
15 present an increased safety risk or hazard.

16 5. P.L.1946, c.172 (26:4A-1 et seq.), P.L.1981, c.216
17 (C.26:4A-1.1), P.L.1989, c.61 and P.L.1989, c.140 are repealed.

18 6. This act shall take effect immediately.

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HEALTH

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Exempts certain bathing facilities from lifeguard requirements of
Public Recreational Bathing regulations.

SENATE, No. 2593

STATE OF NEW JERSEY

INTRODUCED APRIL 26, 1990

By Senators CONNORS and CAFIERO

1 AN ACT concerning the regulation of certain swimming and
2 amending P.L.1989, c.61, P.L.1989, c.138 and P.L.1989, c.140.

3

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

6 1. Section 6 of P.L.1989, c.61 is amended to read as follows:

7 6. This act shall take effect on May 1, 1989 [and shall expire
8 two years thereafter].

9 (cf: P.L.1989, c.61, s.6)

10 2. Section 4 of P.L.1989, c.138 is amended to read as follows:

11 4. This act shall take effect immediately [and shall expire on
12 October 1, 1990].

13 (cf: P.L.1989, c.138, s.4)

14 3. Section 6 of P.L.1989, c.140 is amended to read as follows:

15 6. This act shall take effect immediately [and shall expire two
16 years after the effective date].

17 (cf: P.L.1989, c.140, s.6)

18 4. This act shall take effect immediately.

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STATEMENT

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23 This bill amends P.L.1989, c.61, P.L.1989, c.138 and P.L.1989,
24 c.140 to change the expiration dates of these laws. As enacted,
25 these three laws were designed to be in existence for only a
26 temporary period. Pursuant to this bill, however, these laws
27 would become permanent in nature.

28 P.L.1989, c.61 exempts hotels, motels and campgrounds in
29 Cape May county, with swimming pools of 2,000 square feet or
30 less, from the lifeguard requirements of the Public Recreational
31 Bathing regulations during the months of May through
32 September. P.L.1989, c.140 also deals with an exemption to the
33 lifeguard requirements, but pertains to hotels, motels,
34 campgrounds, mobile home parks, and retirement communities in
35 Atlantic, Monmouth and Ocean counties, with swimming pools of
36 2,000 square feet or less. P.L.1989, c.138 does not limit the
37 exemption to the lifeguard requirement alone. This law exempts
38 private bathing places, regardless of their size or the county in
39 which they are located, from mandatory compliance with all of
40 the Public Recreational Bathing regulations which pertain to
41 waterfront safety. A private bathing place is defined in this law
42 as a private lake or private community lake association, or a
43 private nonprofit common interest community which restricts

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.

1 the use of its lake or pool (as appropriate) to the owners of units
2 thereof and their invited guests.

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HEALTH

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7 Exempts on a permanent basis certain facilities from certain
8 public recreational bathing regulations.

SENATE, No. 3275

STATE OF NEW JERSEY

INTRODUCED JANUARY 31, 1991

By Senators LITTELL and HAINES

1 AN ACT concerning the exemption of private bathing places from
2 certain public recreational bathing safety regulations and
3 supplementing Title 26 of the Revised Statutes.

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

7 1. As used in this act:

8 "Common interest community" means:

9 a. property subject to the "Condominium Act," P.L.1969,
10 c.257 (C.46:8B-1 et seq.) or the "Horizontal Property Act,"
11 P.L.1963, c.168 (C.46:8A-1 et seq.);

12 b. a housing corporation or association, commonly known as a
13 cooperative, which entitles the holder of a share or membership
14 interest thereof to possess and occupy for dwelling purposes a
15 house, apartment, manufactured or mobile home or other unit of
16 housing owned or leased by the corporation or association, or to
17 lease or purchase a unit of housing constructed or to be
18 constructed by the corporation or association; or

19 c. real estate with respect to which a person, by virtue of his
20 ownership of a unit, is obligated to pay for real estate taxes,
21 insurance premiums, maintenance or improvement of other real
22 estate described in the instrument, however denominated, which
23 creates the common interest community. Ownership of a unit
24 does not include holding a leasehold interest of less than 20 years
25 in a unit, including renewal options;

26 "Private bathing place" means a private lake or private
27 community lake association, or a private nonprofit common
28 interest community which restricts the use of its lake or pool, as
29 appropriate, to the owners of units thereof and their invited
30 guests.

31 "Private lake or private community lake association" means an
32 organization of property owners within a fixed or defined
33 geographical area with deeded or other rights to utilize, with
34 similarly situated owners, various lakefront properties, which
35 lakefront properties are not open to the general public, other
36 than bona fide guests of a member of the private lake or private
37 community lake association;

38 2. Notwithstanding the provisions of P.L.1946, c.172
39 (C.26:4A-1 et seq.) or section 7 of P.L.1947, c.177 (C.26:1A-7),
40 or any rules or regulations promulgated pursuant thereto to the
41 contrary, a private bathing place shall be exempt from mandatory
42 compliance with the public recreational bathing regulations

1 pertaining to waterfront safety.

2 3. A private bathing place which does not voluntarily comply
3 with the public recreational bathing regulations pertaining to
4 waterfront safety shall post a sign which shall be prominently
5 displayed stating: "This bathing place is not subject to the State
6 waterfront safety regulations requiring the presence of lifesaving
7 personnel or equipment. Swim at your own risk."

8 4. This act shall take effect immediately and shall expire on
9 October 1, 1991.

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STATEMENT

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14 This bill exempts a private bathing place from mandatory
15 compliance with the Public Recreational Bathing regulations
16 which pertain to waterfront safety. A private bathing place is
17 defined as a private lake or private community lake association,
18 or a private nonprofit common interest community which
19 restricts the use of its lake or pool, as appropriate, to the owners
20 of units thereof and their invited guests. Private lakes and
21 private community lake associations include organizations of
22 property owners with deeded or other rights to utilize lakefront
23 properties which are not open to the general public. Common
24 interest communities include, but are not limited to,
25 condominiums and cooperatives.

26 The waterfront safety regulations are contained in subchapter
27 5 of the Public Recreational Bathing regulations
28 (N.J.A.C.8:26-5.1 et seq.) and specify such items as supervision
29 and emergency equipment requirements for swimming pools and
30 bathing beaches, and the demarcation of swimming areas at
31 bathing beaches.

32 A private bathing place which does not voluntarily comply with
33 the public recreational bathing regulations pertaining to
34 waterfront safety shall post a sign which shall be prominently
35 displayed stating: "This bathing place is not subject to the State
36 waterfront safety regulations requiring the presence of lifesaving
37 personnel or equipment. Swim at your own risk."

38 The bill provides that the act shall take effect immediately,
39 and shall expire on October 1, 1991.

40 This bill reenacts the provisions of P.L.1989, c.138 which
41 expired on October 1, 1990.

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HEALTH

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46 Exempts private bathing places from certain public recreational
47 bathing regulations.

ASSEMBLY, No. 3436

STATE OF NEW JERSEY

INTRODUCED APRIL 26, 1990

By Assemblymen MORAN and CONNORS

1 AN ACT concerning the regulation of certain swimming and
2 amending P.L.1989, c.61, P.L.1989, c.138 and P.L.1989, c.140.

3
4 BE IT ENACTED *by the Senate and General Assembly of the*
5 *State of New Jersey:*

6 1. Section 6 of P.L.1989, c.61 is amended to read as follows:

7 6. This act shall take effect on May 1, 1989 [and shall expire
8 two years thereafter].

9 (cf: P.L.1989, c.61, s.6)

10 2. Section 4 of P.L.1989, c.138 is amended to read as follows:

11 4. This act shall take effect immediately [and shall expire on
12 October 1, 1990].

13 (cf: P.L.1989, c.138, s.4)

14 3. Section 6 of P.L.1989, c.140 is amended to read as follows:

15 6. This act shall take effect immediately [and shall expire two
16 years after the effective date].

17 (cf: P.L.1989, c.140, s.6)

18 4. This act shall take effect immediately.

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21 STATEMENT

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23 This bill amends P.L.1989, c.61, P.L.1989, c.138 and P.L.1989,
24 c.140 to change the expiration dates of these laws. As enacted,
25 these three laws were designed to be in existence for only a
26 temporary period. Pursuant to this bill, however, these laws
27 would become permanent in nature.

28 P.L.1989, c.61 exempts hotels, motels and campgrounds in
29 Cape May county, with swimming pools of 2,000 square feet or
30 less, from the lifeguard requirements of the Public Recreational
31 Bathing regulations during the months of May through
32 September. P.L.1989, c.140 also deals with an exemption to the
33 lifeguard requirements, but pertains to hotels, motels,
34 campgrounds, mobile home parks, and retirement communities in
35 Atlantic, Monmouth and Ocean counties, with swimming pools of
36 2,000 square feet or less. P.L.1989, c.138 does not limit the
37 exemption to the lifeguard requirement alone. This law exempts
38 private bathing places, regardless of their size or 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.

Matter underlined thus is new matter.

1 county in which they are located, from mandatory compliance
2 with all of the Public Recreational Bathing regulations which
3 pertain to waterfront safety. A private bathing place is defined
4 in this law as a private lake or private community lake
5 association, or a private nonprofit common interest community
6 which restricts the use of its lake or pool (as appropriate) to the
7 owners of units thereof and their invited guests.

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10 HEALTH

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Exempts on a permanent basis certain facilities from certain
public recreational bathing regulations.

ASSEMBLY, No. 3955

STATE OF NEW JERSEY

INTRODUCED OCTOBER 4, 1990

By Assemblymen SALMON and DOYLE

1 AN ACT concerning the regulation of certain swimming facilities
2 and amending P.L.1989, c.61, P.L.1989, c.138 and P.L.1989,
3 c.140.

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

7 1. Section 6 of P.L.1989, c.61 is amended to read as follows:

8 6. This act shall take effect on May 1, 1989 [and shall expire
9 two years thereafter].

10 (cf: P.L.1989, c.61, s.6)

11 2. Section 4 of P.L.1989, c.138 is amended to read as follows:

12 4. This act shall take effect immediately [and shall expire on
13 October 1, 1990].

14 (cf: P.L.1989, c.138, s.4)

15 3. Section 6 of P.L.1989, c.140 is amended to read as follows:

16 6. This act shall take effect immediately [and shall expire two
17 years after the effective date].

18 (cf: P.L.1989, c.140, s.6)

19 4. This act shall take effect immediately.

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22 STATEMENT

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24 This bill amends P.L.1989, c.61, P.L.1989, c.138 and P.L.1989,
25 c.140 to change the expiration dates of these laws. As enacted,
26 these three laws were designed to be in existence for only a
27 temporary period. Pursuant to this bill, however, these laws
28 would become permanent in nature.

29 P.L.1989, c.61 exempts hotels, motels and campgrounds in
30 Cape May county, with swimming pools of 2,000 square feet or
31 less, from the lifeguard requirements of the Public Recreational
32 Bathing regulations during the months of May through
33 September. P.L.1989, c.140 also deals with an exemption to the
34 lifeguard requirements, but pertains to hotels, motels,
35 campgrounds, mobile home parks, and retirement communities in
36 Atlantic, Monmouth and Ocean counties, with swimming pools of
37 2,000 square feet or less. Both of these laws were enacted with a
38 two year sunset provision in order to assess whether such an

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.

1 exemption would jeopardized public safety. However, the
2 swimming pool owners' commitment to educating and promoting
3 safety in and around the pool area since these exemptions from
4 the lifeguard requirements were enacted, has demonstrated that
5 these laws should be made permanent.

6 P.L.1989, c.138, which expires on October 1, 1990, exempts
7 private bathing places, regardless of their size or the county in
8 which they are located, from mandatory compliance with all of
9 the Public Recreational Bathing regulations which pertain to
10 waterfront safety. A private bathing place is defined in this law
11 as a private lake or private community lake association, or a
12 private nonprofit common interest community which restricts the
13 use of its lake or pool (as appropriate) to the owners of units
14 thereof and their invited guests.

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HEALTH

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19 Exempts on a permanent basis certain facilities from certain
20 public recreational bathing regulations.

SENATE INSTITUTIONS, HEALTH AND WELFARE COMMITTEE

STATEMENT TO

SENATE, No. 2593

STATE OF NEW JERSEY

DATED: SEPTEMBER 24, 1990

The Senate Institutions, Health and Welfare Committee favorably reports Senate Bill No. 2593.

This bill amends P.L.1989, c.61, P.L.1989, c.138 and P.L.1989, c.140, concerning exemptions to certain State bathing regulations, to change the expiration dates of these laws. As enacted, these three laws were designed to be in existence for only a temporary period. Pursuant to this bill, however, these laws would become permanent in nature.

P.L.1989, c.61, which expires on May 1, 1991, exempts hotels, motels and campgrounds in Cape May county, with swimming pools of 2,000 square feet or less, from the lifeguard requirements of the Public Recreational Bathing regulations during the months of May through September.

P.L.1989, c.140, which expires on August 2, 1991, also deals with an exemption to the lifeguard requirements, but pertains to hotels, motels, campgrounds, mobile home parks, and retirement communities in Atlantic, Monmouth and Ocean counties, with swimming pools of 2,000 square feet or less.

Both of the laws concerning swimming pools require the Department of Health to monitor and evaluate the impact of the law on public safety and report its findings to the Legislature on or before January 1, 1991.

P.L.1989, c.138, which expires on October 1, 1990, exempts private bathing places, regardless of their size or the county in which they are located, from mandatory compliance with all of the Public Recreational Bathing regulations which pertain to waterfront safety. A private bathing place is defined in this law as a private lake or private community lake association, or a private nonprofit common interest community which restricts the use of its lake or pool, as appropriate, to the owners of units thereof and their invited guests.

This bill is identical to Assembly Bill No. 3436 (Moran/Connors) which is currently pending before the Assembly Health and Human Services Committee.