

40:60-51.2

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2005 **CHAPTER:** 52

NJSA: 40:60-51.2 (Permits municipal governing body to waive building restrictions on sale of certain lands)

BILL NO: S2202 (Substituted for A3779)

SPONSOR(S): Kenny and others

DATE INTRODUCED: January 11, 2005

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

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** March 14, 2005

SENATE: February 14, 2005

DATE OF APPROVAL: March 23, 2005

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) 1st reprint enacted

S2202

[SPONSOR'S STATEMENT:](#) (Begins on page 2 of original bill) [Yes](#)

COMMITTEE STATEMENT: **[ASSEMBLY:](#)** [Yes](#)

[SENATE:](#) [Yes](#)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

A3779

[SPONSOR'S STATEMENT:](#) (Begins on page 4 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

IS 4/9/07

P.L. 2005, CHAPTER 52, *approved March 23, 2005*
Senate, No. 2202 (*First Reprint*)

1 AN ACT concerning the waiver of building restrictions imposed on
2 certain public or private sales and amending P.L.1943, c.33 ¹and
3 P.L.1971, c.199¹.

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

7
8 1. Section 1 of P.L.1943, c.33 (C.40:60-51.2) is amended to read
9 as follows:

10 1. Any municipality is authorized and empowered, by resolution of
11 the governing body thereof, to waive, release, modify or subordinate
12 any terms, covenants, conditions, limitations or reverters imposed in
13 sales and conveyances of lands as to the erection, alteration or
14 demolition of buildings or any other use to be made of land heretofore
15 imposed by said municipality to accomplish the purposes for which
16 such lands were sold and conveyed either at public or private sale
17 [made prior to January 1, 1990], ¹including those set forth pursuant
18 to section 21 of P.L.1971, c.199 (C.40A:12-21),¹ but only after public
19 hearing held before such governing body, of the holding of which
20 notice describing the lands in question, and the terms, covenants,
21 conditions, limitations or reverters to be waived, released, modified or
22 subordinated, and, if to be modified or subordinated, describing the
23 manner in which the same shall be modified or subordinated, shall first
24 have been given by advertisement published once each week for two
25 weeks in a newspaper published in said municipality or, if no
26 newspaper be published therein, then in a newspaper circulating in
27 such municipality, provided, however, that the power herein granted
28 shall not be exercised to impair any vested or contractual rights of
29 third parties.

30 (cf: P.L.1993, c.131, s.1)

31

32 ¹2. Section 21 of P.L.1971, c.199 (C.40A:12-21) is amended to
33 read as follows:

34 21. Private sales to certain organizations upon nominal
35 consideration. When the governing body of any county or
36 municipality shall determine that all or any part of a tract of land, with
37 or without improvements, owned by the county or municipality, is not
38 then needed for county or municipal purposes, as the case may be, said
39 governing body, by resolution or ordinance, may authorize a private
40 sale and conveyance of the same, or any part thereof without

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 SCU committee amendments adopted January 24, 2005.

1 compliance with any other law governing disposal of lands by counties
2 and municipalities, for a consideration, which may be nominal, and
3 containing a limitation that such lands or buildings shall be used only
4 for the purposes of such organization or association, and to render
5 such services or to provide such facilities as may be agreed upon, and
6 not for commercial business, trade or manufacture, and that unless
7 waived, released, modified, or subordinated pursuant to P.L.1943,
8 c.33 (C.40:60-51.2), if said lands or buildings are not used in
9 accordance with said limitation, title thereto shall revert to the county
10 or municipality without any entry or reentry made thereon on behalf
11 of such county or municipality, to

12 (a) A duly incorporated volunteer fire company or board of fire
13 commissioners or first aid and emergency or volunteer ambulance or
14 rescue squad association of a municipality within the county, in the
15 case of a county, or of the municipality, in the case of a municipality,
16 for the construction thereon of a firehouse or fire school or a first aid
17 and emergency or volunteer ambulance or rescue squad building or for
18 the use of any existing building for any or all of said purposes and any
19 such land or building sold to any duly incorporated volunteer fire
20 company may be leased by such fire company to any volunteer
21 firemen's association for the use thereof for fire school purposes for
22 the benefit of the members of such association, or

23 (b) Any nationally chartered organization or association of veterans
24 of any war, in which the United States has or shall have been engaged,
25 by a conveyance for consideration, a part of which may be an
26 agreement by the organization or association to render service or to
27 provide facilities for the general public of the county or municipality,
28 of a kind which the county or municipality may furnish to its citizens
29 and to the general public, or

30 (c) A duly incorporated nonprofit hospital association for the
31 construction or maintenance thereon of a general hospital, or

32 (d) Any paraplegic veteran, that is to say, any officer, soldier,
33 sailor, marine, nurse or other person, regularly enlisted or inducted,
34 who was or shall have been in the active military or naval forces of the
35 United States in any war in which the United States was engaged,
36 including any member of the American Merchant Marine during World
37 War II who is declared by the United States Department of Defense to
38 be eligible for federal veterans' benefits, and who, at the time he was
39 commissioned, enlisted, inducted, appointed or mustered into such
40 military or naval service, was a resident of and who continues to reside
41 in this State, who is suffering from paraplegia and has permanent
42 paralysis of both legs or the lower parts of the body resulting from
43 injuries sustained through enemy action or accident while in such
44 active military or naval service, for the construction of a home to
45 domicile him, or to any organization or association of veterans, for the
46 construction of a home or homes to domicile paraplegic veterans, with

1 powers to convey said lands and premises to the paraplegic veteran or
2 veterans on whose behalf said organization or association shall acquire
3 title to said land, or

4 (e) Any duly incorporated nonprofit association or any regional
5 commission or authority composed of one or more municipalities or
6 one or more counties for the construction or maintenance thereon of
7 an animal shelter, or

8 (f) Any duly incorporated nonprofit historical society for the
9 acquisition of publicly owned historic sites for their restoration,
10 preservation, improvement and utilization for the benefit of the general
11 public, or

12 (g) Any duly incorporated nonprofit cemetery organization or
13 association serving the residents of the municipality or county, or

14 (h) Any duly incorporated nonprofit organization for the principal
15 purpose of the education or treatment of persons afflicted with
16 developmental disabilities including cerebral palsy, or

17 (i) Any county or municipal sewerage authority serving the
18 residents of the county or municipality, for the use thereof for
19 sewerage authority purposes, or

20 (j) Any duly incorporated nonprofit organization for the purpose
21 of building or rehabilitating residential property for resale. Any profits
22 from the resale of the property shall be applied by the nonprofit
23 organization to the costs of acquiring and rehabilitating other
24 residential property in need of rehabilitation owned by the county or
25 municipality, or

26 (k) Any duly incorporated nonprofit organization or association,
27 other than a political, partisan, sectarian, denominational or religious
28 organization or association, which includes among its principal
29 purposes the provision of educational, recreational, medical or social
30 services to the general public, including residents of the county or
31 municipality, or

32 (l) Any duly incorporated nonprofit housing corporation or any
33 limited-dividend housing corporation or housing association organized
34 pursuant to P.L.1949, c.184 (C.55:16-1 et seq.) for the purpose of
35 constructing housing for low or moderate income persons or families
36 or handicapped persons, or

37 (m) Any duly incorporated nonprofit hospice organization whose
38 principal purpose is to provide hospice services to the terminally ill.¹
39 (cf: P.L.1995, c.88, s.1)

40

41 ¹[2.] 3.¹ This act shall take effect immediately.

42

43

44

45 Permits municipal governing body to waive building restrictions on
46 sale of certain lands.

SENATE, No. 2202

STATE OF NEW JERSEY
211th LEGISLATURE

INTRODUCED JANUARY 11, 2005

Sponsored by:

Senator BERNARD F. KENNY, JR.

District 33 (Hudson)

SYNOPSIS

Permits municipal governing body to waive building restrictions on sale of certain lands.

CURRENT VERSION OF TEXT

As introduced.



S2202 KENNY

2

1 AN ACT concerning the waiver of building restrictions imposed on
2 certain public or private sales and amending P.L.1943, c.33.

3

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

6

7 1. Section 1 of P.L.1943, c.33 (C.40:60-51.2) is amended to read
8 as follows:

9 1. Any municipality is authorized and empowered, by resolution of
10 the governing body thereof, to waive, release, modify or subordinate
11 any terms, covenants, conditions, limitations or reverters imposed in
12 sales and conveyances of lands as to the erection, alteration or
13 demolition of buildings or any other use to be made of land heretofore
14 imposed by said municipality to accomplish the purposes for which
15 such lands were sold and conveyed either at public or private sale
16 [made prior to January 1, 1990], but only after public hearing held
17 before such governing body, of the holding of which notice describing
18 the lands in question, and the terms, covenants, conditions, limitations
19 or reverters to be waived, released, modified or subordinated, and, if
20 to be modified or subordinated, describing the manner in which the
21 same shall be modified or subordinated, shall first have been given by
22 advertisement published once each week for two weeks in a newspaper
23 published in said municipality or, if no newspaper be published therein,
24 then in a newspaper circulating in such municipality, provided,
25 however, that the power herein granted shall not be exercised to
26 impair any vested or contractual rights of third parties.

27 (cf: P.L.1993, c.131)

28

29 2. This act shall take effect immediately.

30

31

32 STATEMENT

33

34 This bill would amend section 1 of P.L.1943, c.33 (C.40:60-51.2)
35 to permit the governing body of a municipality, by resolution, to
36 waive, release, modify or subordinate building restrictions imposed at
37 the time of the public or private sale of lands made after January 1,
38 1990. Municipalities may already waive, release, modify or
39 subordinate building restrictions imposed at the time of the public or
40 private sale of lands made prior to that date.

41 The bill would retain the safeguards contained in current law that
42 a municipality must satisfy prior to waiving a restriction. The
43 governing body must hold a public hearing upon due notice advertised

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.

S2202 KENNY

3

1 in a newspaper published or circulating in the municipality. A
2 municipality may not exercise the power herein granted if it would
3 impair any vested or contractual rights of third parties.

4 This statute was last amended in 1993, when the date for the
5 modification of restrictions was changed from January 1, 1979 to
6 January 1, 1990.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 2202

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 24, 2005

The Senate Community and Urban Affairs Committee reports favorably and with committee amendments Senate, No. 2202.

This bill, as amended by the committee, would amend section 1 of P.L.1943, c.33 (C.40:60-51.2) to permit the governing body of a municipality, by resolution, to waive, release, modify or subordinate building restrictions imposed at the time of the public or private sale of lands made after January 1, 1990. Municipalities may already waive, release, modify or subordinate building restrictions imposed at the time of the public or private sale of lands made prior to that date.

The bill would retain the safeguards contained in current law that a municipality must satisfy prior to waiving a restriction. The governing body must hold a public hearing upon due notice advertised in a newspaper published or circulating in the municipality. A municipality may not exercise the power herein granted if it would impair any vested or contractual rights of third parties.

This statute was last amended in 1993, when the date for the modification of restrictions was changed from January 1, 1979 to January 1, 1990.

The committee amended the bill to place internal cross-references into the operative bodies of law.

ASSEMBLY HOUSING AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 2202

STATE OF NEW JERSEY

DATED: MARCH 10, 2005

The Assembly Housing and Local Government Committee reports favorably Senate Bill No. 2202 (1R).

This bill, would amend section 1 of P.L.1943, c.33 (C.40:60-51.2) to permit the governing body of a municipality, by resolution, to waive, release, modify or subordinate building restrictions imposed at the time of the public or private sale of lands made after January 1, 1990. Municipalities may already waive, release, modify or subordinate building restrictions imposed at the time of the public or private sale of lands made prior to that date.

The bill would retain the safeguards contained in current law that a municipality must satisfy prior to waiving a restriction. The governing body must hold a public hearing upon due notice advertised in a newspaper published or circulating in the municipality. A municipality may not exercise the power herein granted if it would impair any vested or contractual rights of third parties.

This statute was last amended in 1993, when the date for the modification of restrictions was changed from January 1, 1979 to January 1, 1990.

ASSEMBLY, No. 3779

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED FEBRUARY 14, 2005

Sponsored by:

Assemblyman BRIAN P. STACK

District 33 (Hudson)

Assemblyman LOUIS MANZO

District 31 (Hudson)

Co-Sponsored by:

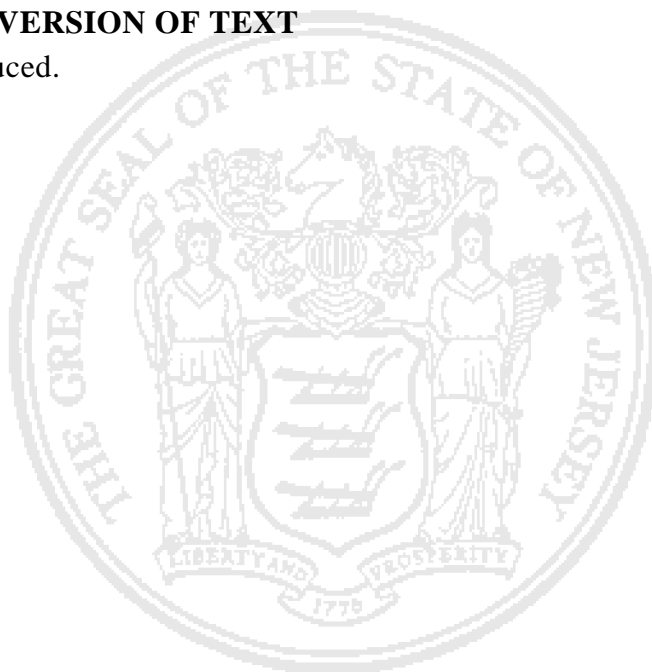
Assemblyman Chiappone

SYNOPSIS

Permits municipal governing body to waive building restrictions on sale of certain lands.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the waiver of building restrictions imposed on
2 certain public or private sales and amending P.L.1943, c.33 and
3 P.L.1971, c.199.

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5 **BE IT ENACTED** by the Senate and General Assembly of the State
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9 as follows:

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13 sales and conveyances of lands as to the erection, alteration or
14 demolition of buildings or any other use to be made of land heretofore
15 imposed by said municipality to accomplish the purposes for which
16 such lands were sold and conveyed either at public or private sale
17 [made prior to January 1, 1990], including those set forth pursuant to
18 section 21 of P.L.1971, c.199 (C.40A:12-21), but only after public
19 hearing held before such governing body, of the holding of which
20 notice describing the lands in question, and the terms, covenants,
21 conditions, limitations or reverters to be waived, released, modified or
22 subordinated, and, if to be modified or subordinated, describing the
23 manner in which the same shall be modified or subordinated, shall first
24 have been given by advertisement published once each week for two
25 weeks in a newspaper published in said municipality or, if no
26 newspaper be published therein, then in a newspaper circulating in
27 such municipality, provided, however, that the power herein granted
28 shall not be exercised to impair any vested or contractual rights of
29 third parties.

30 (cf: P.L.1993, c.131)

31

32 2. Section 21 of P.L.1971, c.199 (C.40A:12-21) is amended to
33 read as follows:

34 21. Private sales to certain organizations upon nominal
35 consideration. When the governing body of any county or
36 municipality shall determine that all or any part of a tract of land, with
37 or without improvements, owned by the county or municipality, is not
38 then needed for county or municipal purposes, as the case may be, said
39 governing body, by resolution or ordinance, may authorize a private
40 sale and conveyance of the same, or any part thereof without
41 compliance with any other law governing disposal of lands by counties
42 and municipalities, for a consideration, which may be nominal, and
43 containing a limitation that such lands or buildings shall be used only

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.

1 for the purposes of such organization or association, and to render
2 such services or to provide such facilities as may be agreed upon, and
3 not for commercial business, trade or manufacture, and that, unless
4 waived, released, modified, or subordinated pursuant to P.L.1943,
5 c.33 (C.40:60-51.2), if said lands or buildings are not used in
6 accordance with said limitation, title thereto shall revert to the county
7 or municipality without any entry or reentry made thereon on behalf
8 of such county or municipality, to

9 (a) A duly incorporated volunteer fire company or board of fire
10 commissioners or first aid and emergency or volunteer ambulance or
11 rescue squad association of a municipality within the county, in the
12 case of a county, or of the municipality, in the case of a municipality,
13 for the construction thereon of a firehouse or fire school or a first aid
14 and emergency or volunteer ambulance or rescue squad building or for
15 the use of any existing building for any or all of said purposes and any
16 such land or building sold to any duly incorporated volunteer fire
17 company may be leased by such fire company to any volunteer
18 firemen's association for the use thereof for fire school purposes for
19 the benefit of the members of such association, or

20 (b) Any nationally chartered organization or association of veterans
21 of any war, in which the United States has or shall have been engaged,
22 by a conveyance for consideration, a part of which may be an
23 agreement by the organization or association to render service or to
24 provide facilities for the general public of the county or municipality,
25 of a kind which the county or municipality may furnish to its citizens
26 and to the general public, or

27 (c) A duly incorporated nonprofit hospital association for the
28 construction or maintenance thereon of a general hospital, or

29 (d) Any paraplegic veteran, that is to say, any officer, soldier,
30 sailor, marine, nurse or other person, regularly enlisted or inducted,
31 who was or shall have been in the active military or naval forces of the
32 United States in any war in which the United States was engaged,
33 including any member of the American Merchant Marine during World
34 War II who is declared by the United States Department of Defense to
35 be eligible for federal veterans' benefits, and who, at the time he was
36 commissioned, enlisted, inducted, appointed or mustered into such
37 military or naval service, was a resident of and who continues to reside
38 in this State, who is suffering from paraplegia and has permanent
39 paralysis of both legs or the lower parts of the body resulting from
40 injuries sustained through enemy action or accident while in such
41 active military or naval service, for the construction of a home to
42 domicile him, or to any organization or association of veterans, for the
43 construction of a home or homes to domicile paraplegic veterans, with
44 powers to convey said lands and premises to the paraplegic veteran or
45 veterans on whose behalf said organization or association shall acquire
46 title to said land, or

1 (e) Any duly incorporated nonprofit association or any regional
2 commission or authority composed of one or more municipalities or
3 one or more counties for the construction or maintenance thereon of
4 an animal shelter, or

5 (f) Any duly incorporated nonprofit historical society for the
6 acquisition of publicly owned historic sites for their restoration,
7 preservation, improvement and utilization for the benefit of the general
8 public, or

9 (g) Any duly incorporated nonprofit cemetery organization or
10 association serving the residents of the municipality or county, or

11 (h) Any duly incorporated nonprofit organization for the principal
12 purpose of the education or treatment of persons afflicted with
13 developmental disabilities including cerebral palsy, or

14 (i) Any county or municipal sewerage authority serving the
15 residents of the county or municipality, for the use thereof for
16 sewerage authority purposes, or

17 (j) Any duly incorporated nonprofit organization for the purpose
18 of building or rehabilitating residential property for resale. Any profits
19 from the resale of the property shall be applied by the nonprofit
20 organization to the costs of acquiring and rehabilitating other
21 residential property in need of rehabilitation owned by the county or
22 municipality, or

23 (k) Any duly incorporated nonprofit organization or association,
24 other than a political, partisan, sectarian, denominational or religious
25 organization or association, which includes among its principal
26 purposes the provision of educational, recreational, medical or social
27 services to the general public, including residents of the county or
28 municipality, or

29 (l) Any duly incorporated nonprofit housing corporation or any
30 limited-dividend housing corporation or housing association organized
31 pursuant to P.L.1949, c.184 (C.55:16-1 et seq.) for the purpose of
32 constructing housing for low or moderate income persons or families
33 or handicapped persons, or

34 (m) Any duly incorporated nonprofit hospice organization whose
35 principal purpose is to provide hospice services to the terminally ill.
36 (cf: P.L.1995, c.88, s.1)

37
38 3. This act shall take effect immediately.
39
40

41 STATEMENT
42

43 This bill would amend section 1 of P.L.1943, c.33 (C.40:60-51.2)
44 to permit the governing body of a municipality, by resolution, to
45 waive, release, modify or subordinate building restrictions imposed at
46 the time of the public or private sale of lands made after January 1,

1 1990. Municipalities may already waive, release, modify or
2 subordinate building restrictions imposed at the time of the public or
3 private sale of lands made prior to that date.

4 The bill would retain the safeguards contained in current law that
5 a municipality must satisfy prior to waiving a restriction. The
6 governing body must hold a public hearing upon due notice advertised
7 in a newspaper published or circulating in the municipality. A
8 municipality may not exercise the power herein granted if it would
9 impair any vested or contractual rights of third parties.

10 This statute was last amended in 1993, when the date for the
11 modification of restrictions was changed from January 1, 1979 to
12 January 1, 1990.

13 The bill also places interenal cross-references into the operative
14 sections of law.

ASSEMBLY HOUSING AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3779

STATE OF NEW JERSEY

DATED: MARCH 10, 2005

The Assembly Housing and Local Government Committee reports favorably Assembly Bill No. 3779.

This bill would amend section 1 of P.L.1943, c.33 (C.40:60-51.2) to permit the governing body of a municipality, by resolution, to waive, release, modify or subordinate building restrictions imposed at the time of the public or private sale of lands made after January 1, 1990. Municipalities may already waive, release, modify or subordinate building restrictions imposed at the time of the public or private sale of lands made prior to that date.

The bill would retain the safeguards contained in current law that a municipality must satisfy prior to waiving a restriction. The governing body must hold a public hearing upon due notice advertised in a newspaper published or circulating in the municipality. A municipality may not exercise the power herein granted if it would impair any vested or contractual rights of third parties.

This statute was last amended in 1993, when the date for the modification of restrictions was changed from January 1, 1979 to January 1, 1990.

The bill also places internal cross-references into the operative sections of law.