

40:52-9 to 40:52-18

LEGISLATIVE HISTORY CHECKLIST
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(Rooming and Boarding Houses--
municipal licensing)

NJSA: 40:52-9 to 40:52-18

LAWS OF: 1993 **CHAPTER:** 290

BILL NO: A1316

SPONSOR(S) T. Smith and Corodemus

DATE INTRODUCED: April 30, 1992

COMMITTEE: **ASSEMBLY:** Local Government
SENATE: Community Affairs

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** August 3, 1992 Veto over-ridden 12-2-93
SENATE: October 15, 1992 Veto over-ridden 12-2-93

DATE OF APPROVAL: December 16, 1993 (Filed with Secretary of State)

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: Yes

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

[FIRST REPRINT]
ASSEMBLY, No. 1316

STATE OF NEW JERSEY

INTRODUCED APRIL 30, 1992

By Assemblymen T. SMITH and CORODEMUS

1 AN ACT providing for the licensure by municipal authorities of
2 premises for the location of rooming and boarding houses and
3 supplementing Title 40 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 "Licensing authority" means a municipal governing body or, in
9 a municipality which has established a rooming or boarding house
10 site licensing board pursuant to section 10 of this act, the board
11 so established.

12 "Operator" means any person including for the purposes of this
13 act any corporation or association of persons and any agency or
14 instrumentality of State or local government, which operates or
15 proposes to operate a rooming or boarding house.

16 "Owner" means the holder of title in fee simple to premises
17 and any lessor or sublessor of whom an operator is or proposes to
18 become a sublessor in connection with an application for a
19 license, or for renewal thereof, pursuant to this act.

20 "Population" means the most recent population count reported
21 by the Department of Labor.

22 "Rooming or boarding house" means a rooming or boarding
23 house licensed pursuant to P.L.1979, c.496 (C.55:15B-1 et seq.).

24 2. The governing body of a municipality may, by ordinance,
25 elect to license rooming and boarding houses located in the
26 municipality in accordance with the provisions of this act. If the
27 governing body elects to license such facilities, the governing
28 body shall so notify the Commissioner of Community Affairs or
29 his designee.

30 3. a. Except as provided in subsection b. of this section, no
31 rooming or boarding house shall hereafter be located or operated
32 in any municipality which elects to license such facilities except
33 upon premises licensed for that purpose by the licensing authority
34 of the municipality.

35 b. Any rooming or boarding house that is in lawful operation on
36 the date of enactment of this act shall be entitled to continue in
37 operation for one year from that date and, if the owner of the
38 premises applies for licensure not later than the 60th day next
39 preceding the expiration of that year, until a final determination
40 is made upon that application.

41 4. a. Application for a license under this act shall be made by
42 the owner to the appropriate licensing authority. The application

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 SCO committee amendments adopted October 1, 1992.

1 shall be in such form, and shall contain such information and
2 declarations and be accompanied by such application fee, not
3 exceeding \$200, as may be prescribed by resolution of the
4 licensing authority, and shall be filed with the municipal clerk or
5 the secretary of the licensing board, if such a board is established
6 in the municipality. The form of application prescribed by the
7 licensing authority shall require the submission of such
8 information and supporting documentation as provide a basis upon
9 which the licensing authority may conduct the investigation and
10 reach the conclusions required under this act for the issuance or
11 denial of a license. To the extent that the form of application
12 requires the furnishing of information by the operator, it shall be
13 the responsibility of the applicant owner to obtain such
14 information and to exercise due care and diligence to assure its
15 completeness and accuracy. The licensing authority may require
16 that information required from the operator be duly sworn to by
17 the operator in order to form a valid part of the application.

18 b. An application filed pursuant to subsection a. of this section
19 shall include a deposit in full of the prescribed application fee, of
20 which 90% shall be refunded if the application is denied, and 10%
21 retained and employed in defraying the expenses of the licensing
22 authority in carrying out its functions under this act.

23 c. All applications by a natural person, partnership or
24 unincorporated association of natural persons shall be duly sworn
25 to by each of the applicants. An application by a corporation
26 shall be duly sworn to by the president or vice president of the
27 corporation. All statements in an application shall be deemed
28 material, and any person who knowingly misstates any material
29 fact therein shall be guilty of a crime of the fourth degree.

30 d. Every applicant for a license shall, after filing the
31 application, cause notice of the pendency of the application to be
32 published, in a form prescribed by the licensing authority, once a
33 week for two weeks successively in a newspaper, printed in the
34 English language, published and circulated in the county in which
35 the premises for which the license, or renewal thereof, are
36 located. The notice shall include the time and place of the public
37 hearing prescribed in section 6 of this act, and the second
38 publication thereof shall be made not less than one week nor
39 more than two weeks prior to the date set by the licensing
40 authority for that hearing.

41 5. It shall be the duty of the licensing authority to receive
42 applications made pursuant to section 4 of this act and to conduct
43 such investigations as may be necessary to establish:

44 a. With respect to the premises for which a license is sought
45 (1) that they are in compliance with all applicable building,
46 housing, health and safety codes and regulations; (2) that the
47 location of the premises will not, in conjunction with the
48 proximity of other rooming and boarding houses, lead to an
49 excessive concentration of such facilities in the municipality or a
50 particular section thereof;

51 b. With respect to the owner or owners of the premises: (1) if a
52 natural person or persons, that he or they are 21 years of age or
53 older, citizens of the United States and residents of the State of
54 New Jersey, and never convicted, in this State or elsewhere, of a

1 crime involving moral turpitude, or of any crime under any law of
2 this State licensing or regulating a rooming or boarding house,
3 and have never had a license required pursuant to P.L.1979, c.496
4 (C.55:13B-1 et seq.) revoked; (2) if a corporation, that all officers
5 and members of the board of directors, and every stockholder
6 holding 10% or more of the stock of the corporation, directly or
7 indirectly having a beneficial interest therein, have the same
8 qualifications as set forth in this subsection for an applicant who
9 is a natural person;

10 c. With respect to the operator or proposed operator, that he
11 meets the requirements for licensure by the Department of
12 Community Affairs; and

13 d. That the owner and operator, either individually or jointly,
14 have established sufficient guarantee of financial and other
15 responsibility to assure appropriate relocation of the residents of
16 the rooming or boarding house to suitable facilities in the event
17 that the license is subsequently revoked or its renewal denied.
18 The Department of Community Affairs shall determine, in the
19 case of each type of rooming and boarding house under its
20 jurisdiction, what constitutes suitable facilities for this purpose.

21 6. a. In conducting its investigations pursuant to section 5 of
22 this act, a licensing authority shall hold a public hearing, at which
23 the applicant, the operator or proposed operator and all other
24 parties in interest including members of the general public, shall
25 be entitled to be heard upon the merits of the application and the
26 suitability of the premises proposed for licensing. The time and
27 place of the public hearing shall be determined within 30 days of
28 receipt of the application, and shall be communicated to the
29 applicant in sufficient time to enable compliance with the
30 publication requirement under section 4 of this act.

31 b. No license shall be issued which would result in increasing
32 the total number of persons authorized to be residents in rooming
33 or boarding houses within the municipality to (1) more than 100 in
34 a municipality having a population of 20,000 or fewer, or (2) to
35 more than one-half of one percent of the population in any other
36 municipality; but nothing in this subsection shall warrant refusal
37 of a license or license renewal for premises where a rooming or
38 boarding house has been in lawful operation prior to the
39 enactment of this act.

40 c. No license shall be issued for premises when any part of the
41 boundary line of the premises is within 1,000 feet of the boundary
42 line of any other premises for which a license is in force; ¹in the
43 case of a municipality with a population greater than 100,000,
44 according to the latest federal decennial census, this standard
45 may be increased to 2,000 feet, at the discretion of the licensing
46 authority;¹ but nothing in this subsection shall warrant refusal of
47 a license or license renewal for premises where a rooming or
48 boarding house has been in lawful operation prior to the
49 enactment of this act.

50 ¹d. Any municipality with a population greater than 100,000
51 according to the latest federal decennial census may refuse to
52 grant a license for any rooming and boarding house to be situated
53 in a neighborhood zoned as single family residential.¹

54 7. a. After the public hearing pursuant to section 6 of this

1 act, the licensing authority shall determine, in accordance with
2 the requirements under section 5 and, when appropriate, section 6
3 of this act, whether to grant the license. A license when issued
4 shall be valid for one year from the date of issuance and until
5 such time as the licensing authority has acted upon an application
6 for renewal, unless sooner terminated by revocation pursuant to
7 the terms of this act.

8 b. Not later than the 60th day preceding the anniversary date
9 of issuance, the holder of a license shall make application to the
10 licensing authority for its renewal. Application for a renewal
11 shall follow the same procedure and requirements as prescribed
12 for a new application and shall necessitate de novo consideration
13 and determination by the licensing authority in the same manner
14 as a new application.

15 8. a. A licensing authority may revoke a license granted under
16 this act for any of the following reasons:

17 (1) A finding that there was any misstatement of material fact
18 in the application upon which the license was issued.

19 (2) The occurrence of any fact which, had it occurred and been
20 known to the licensing authority before issuance of the license,
21 would have resulted in the denial of the application.

22 (3) Repeated violations, or prolonged failure to correct any
23 violation, of any applicable building, housing, health or safety
24 code or regulations.

25 (4) Refusal to allow access to any portion of the licensed
26 premises at all reasonable times, with or without advance notice,
27 in order that officers or agents of the licensing authority, or any
28 official charged with enforcement within the municipality of any
29 building, housing, health or safety code or regulations applicable
30 to the premises may determine compliance with such codes or
31 regulations.

32 (5) Revocation by the Department of Community Affairs of
33 the operator's license or other authorization to operate a
34 rooming or boarding house on the premises.

35 (6) Notification by the Department of Community Affairs that
36 the premises are not, or are no longer suitable for operation of a
37 rooming or boarding house on the premises.

38 (7) Failure or refusal to comply with any lawful regulation or
39 order of the licensing authority.

40 b. A license shall not be revoked until five days' prior notice
41 of the grounds therefor has been served upon the licensee, either
42 personally or by certified mail addressed to the licensee at the
43 licensed premises, and a reasonable opportunity given to the
44 licensee to be heard thereon.

45 9. Upon determination by a licensing authority to refuse the
46 granting or renewal of a license, or to revoke a license, the
47 licensee affected shall be entitled to appeal to the Commissioner
48 of Community Affairs for a review of that determination; and the
49 commissioner shall have authority to reverse the licensing
50 authority's determination if it concludes that the application was
51 improperly denied or the revocation improperly imposed. Such
52 review by the commissioner shall be in conformity with the
53 provisions of the "Administrative Procedure Act," P.L.1968,
54 c.410 (C.52:14B-1 et seq.). The decision of the commissioner in

1 such cases shall be subject to appeal to the Appellate Division of
2 the Superior Court. If an applicant for license renewal has made
3 timely and sufficient application for a renewal in accordance
4 with the provisions of this act and the rules of the licensing
5 pursuant thereto, his license shall not expire until any appeals
6 under this section have been finally determined and disposed of.

7 10. a. In a municipality of less than 20,000 population, the
8 licensing authority shall be the governing body of the
9 municipality.

10 b. In a municipality of more than 20,000 population, the
11 municipal governing body may, by ordinance, establish a rooming
12 and boarding house site licensing board, which shall be the
13 licensing authority in and for that municipality. The board shall
14 consist of three persons, no more than two of whom may be of
15 the same political party, to be appointed by resolution of the
16 municipal governing body. Members shall serve for terms of
17 three years and until their successors are appointed and qualified
18 into office; except that of the initial three appointments, one
19 shall be for a term of one year and one for a term of two years.
20 Members of the municipal governing body shall be eligible for
21 appointment to the board. Members of the board shall receive no
22 salaries, but shall be entitled to reimbursement for actual
23 expenses necessarily incurred in the performance of their duties
24 as such members. They may be removed by the appointing
25 authority for cause. They shall not be subject to the provisions of
26 Title 11A, Civil Service, of the New Jersey Statutes.

27 (1) A licensing authority established pursuant to this
28 subsection may, with the approval of the municipal governing
29 body, employ a secretary, who shall receive such annual salary as
30 shall be fixed by municipal ordinance.

31 (2) In carrying out its functions and duties under this act, a
32 licensing authority established pursuant to this subsection shall be
33 entitled to call to its assistance and avail itself of personnel and
34 facilities of the municipal government as it may require and as
35 may be made available to it for that purpose.

36 11. This act shall take effect on the 90th day next following
37 the date of enactment.

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42 _____
43 Permits municipal licensing of premises for rooming and boarding
houses.

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26 the date of enactment.

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29 STATEMENT

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31 This bill would provide for the licensing by municipal
32 authorities of rooming and boarding houses.

33 The bill authorizes any municipality to license rooming and
34 boarding homes. The licensing authority of the municipality is
35 defined as the municipal governing body or a rooming and
36 boarding house site licensing board in a municipality that has
37 established such a board.

38 The bill provides (1) that the owner of premises where a
39 rooming or boarding house is, or is to be, located, must apply for
40 a license, and for annual renewals thereof; (2) that the applicant
41 must give sufficient evidence of character and responsibility, and
42 the premises must be found in compliance with applicable
43 building, housing, health and safety regulations; (3) that the
44 operator meets the requirements for licensure by the Department
45 of Community Affairs; and (4) that adequate guarantees be given
46 for relocation of the residents in the event that the license is
47 subsequently revoked or its renewal refused.

48 Licenses could be revoked if the premises, the owner thereof,
49 or the operator of the residence ceases to meet licensing
50 requirements.

51 Revocations, or refusals of license or renewal, could be
52 appealed in the first instance to the Department of Community
53 Affairs. The department may overrule any revocation or refusal
54 it deemed improper. Appeal from the administrative decision

1 would be to the Appellate Division of the Superior Court.

2 No license shall be issued which would result in authorizing
3 rooming and boarding houses with a total capacity (including
4 those in operation prior to the issuance) to accommodate a
5 number of residents exceeding 100 in a municipality with a
6 population of 20,000 or fewer residents, or one-half of one
7 percent of the total municipal population in any other
8 municipality; nor shall any license be issued for a rooming or
9 boarding house within 1,000 feet of an existing rooming or
10 boarding house. Neither of these limitations, however, would bar
11 the continued operation of a rooming or boarding house already
12 in lawful operation at the time when this bill becomes law.

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18 Permits municipal licensing of premises for rooming and boarding
houses.

ASSEMBLY LOCAL GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1316

STATE OF NEW JERSEY

DATED: JUNE 22, 1992

The Assembly Local Government Committee reports favorably Assembly Bill No. 1316.

Assembly Bill No. 1316 would provide for the licensing by municipal authorities of rooming and boarding houses.

The bill authorizes any municipality to license rooming and boarding homes. The licensing authority of the municipality is defined as the municipal governing body or a rooming and boarding house site licensing board in a municipality that has established such a board.

The bill provides (1) that the owner of premises where a rooming or boarding house is, or is to be, located, must apply for a license, and for annual renewals thereof; (2) that the applicant must give sufficient evidence of character and responsibility, and the premises must be found in compliance with applicable building, housing, health and safety regulations; (3) that the operator must meet the requirements for licensure by the Department of Community Affairs; and (4) that adequate guarantees must be given for relocation of the residents in the event that the license is subsequently revoked or its renewal refused.

Licenses could be revoked if the premises, the owner thereof, or the operator of the residence ceased to meet licensing requirements.

Revocations, or refusals of license or renewal, could be appealed in the first instance to the Department of Community Affairs. The department could overrule any revocation or refusal it deemed improper. Appeal from the administrative decision would be to the Appellate Division of the Superior Court.

Under the bill, no license could be issued which would result in authorizing rooming and boarding houses with a total capacity (including those in operation prior to the issuance) to accommodate a number of residents exceeding 100 in a municipality with a population of 20,000 or fewer residents, or one-half of one percent of the total municipal population in any other municipality; nor could any license be issued for a rooming or boarding house within 1,000 feet of an existing rooming or boarding house. Neither of these limitations, however, would bar the continued operation of a rooming or boarding house already in lawful operation at the time when this bill becomes law.

SENATE COMMUNITY AFFAIRS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1316

with Senate committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 1, 1992

The Senate Community Affairs Committee favorably reports Assembly Bill No. 1316, with Senate committee amendments.

Assembly Bill No. 1316, as amended by the committee, would provide for the licensing by municipal authorities of rooming and boarding houses.

The bill authorizes any municipality to license rooming and boarding homes. The licensing authority of the municipality is defined as the municipal governing body or a rooming and boarding house site licensing board in a municipality that has established such a board.

The bill provides (1) that the owner of premises where a rooming or boarding house is, or is to be, located, must apply for a license, and for annual renewals thereof; (2) that the applicant must give sufficient evidence of character and responsibility, and the premises must be found in compliance with applicable building, housing, health and safety regulations; (3) that the operator must meet the requirements for licensure by the Department of Community Affairs; and (4) that adequate guarantees must be given for relocation of the residents in the event that the license is subsequently revoked or its renewal refused.

Licenses could be revoked if the premises, the owner thereof, or the operator of the residence ceases to meet licensing requirements.

Revocations, or refusals of license or renewal, could be appealed in the first instance to the Department of Community Affairs. The department would have the power to overrule any revocation or refusal it deemed improper. Appeal from the administrative decision would be to the Appellate Division of the Superior Court.

Under the bill, no license could be issued which would result in authorizing rooming and boarding houses with a total capacity (including those in operation prior to the issuance) to accommodate a number of residents exceeding 100 in a municipality with a population of 20,000 or fewer residents, or one-half of one percent of the total municipal population in any other municipality; nor could any license be issued for a rooming or boarding house within 1,000 feet of an existing rooming or boarding house. A municipality with a population of over 100,000, according to the latest federal decennial census, could increase this margin to 2,000 feet and, in addition, could refuse to grant a license for any rooming and boarding house to be situated in a neighborhood zoned as single family residential. These limitations, however, would not bar the continued operation of a rooming or boarding house already in lawful operation at the time when this bill becomes law.

The committee amended the bill to authorize the additional locational discretion to municipalities with a population of over 100,000.

This bill is identical to Senate Bill No. 726 of 1992, as amended by this committee today.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

December 14, 1992

ASSEMBLY BILL NO. 1316

(First Reprint)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14, of the Constitution, I herewith return Assembly Bill No. 1316 (First Reprint) without my approval.

This bill would authorize municipalities to license rooming and boarding houses. The stated intent of this bill is to protect the safety, health and welfare of boarding home residents by empowering local officials to conduct regular inspections of these facilities and enforce compliance with State and local law. However, the owners and operators of these boarding homes are currently licensed and regulated by the Department of Community Affairs through the Rooming and Boarding House Act.

Under that Act and the regulations promulgated thereunder, local governments are authorized to conduct inspections on behalf of the Bureau of Rooming and Boarding House Standards, through their appropriate housing, health or social services agencies, for physical safety, structure and mechanical deficiencies, security and cleanliness. Department regulations further provide that those municipal fire departments, fire districts or county marshalls, which are authorized to enforce the Uniform Fire Code in each municipality, are designated as the Bureau's agents for the purpose of conducting inspections of existing boarding and rooming houses and enforcing all provisions of the Uniform Fire Safety Act and the Uniform Fire Code.

On a local level, municipalities have the power to conduct additional inspections of these premises and to enforce all local housing, health and fire safety codes. Finally, municipalities have the authority to control the establishment and operation of rooming and boarding houses through zoning ordinances.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

Clearly, local governments already possess sufficient broad based powers to conduct regular inspections of rooming and boarding houses and to enforce compliance with State and local law.

We cannot ignore that the residents of rooming and boarding homes represent the most vulnerable segment of our population -- the elderly, the disabled and the poor. As such, I will be calling upon the Bureau of Rooming and Boarding House Standards to file quarterly reports with the Commissioner detailing each notice of violation and its disposition in order to ensure that each complaint is acted upon in a timely manner. I also encourage the local entities to utilize the powers provided under current law to protect the safety, health and welfare of these residents and promote a homelike atmosphere appropriate to these facilities.

Accordingly, I herewith return Assembly Bill No. 1316 (First Reprint) without my approval.

Respectfully

/s/ Jim Florio

GOVERNOR

[seal]

Attest:

/s/ M. Robert DeCotiis

Chief Counsel to the Governor