

ASSEMBLY, No. 2271

STATE OF NEW JERSEY 221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

Sponsored by:

Assemblywoman YVONNE LOPEZ

District 19 (Middlesex)

SYNOPSIS

Requires association of age-restricted common interest community to permit dwelling owner to transfer property without regard to age of buyer.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning age-restriction of common interest community
2 dwelling ownership, and amending P.L.2008, c.71.

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

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7 1. Section 2 of P.L.2008, c.71 (C.45:22A-46.2) is amended to
8 read as follows:

9 2. a. Notwithstanding any law or governing document to the
10 contrary, the purchaser or grantee by operation of law of a dwelling
11 unit in an age-restricted community shall be required to certify,
12 prior to the resale or transfer by operation of law of a dwelling unit
13 within the community, that the dwelling unit will be occupied by a
14 person of an age that ensures compliance with the "housing for
15 older persons" exception from the federal "Fair Housing
16 Amendments Act of 1988," Pub.L.100-430 (42 U.S.C. ss.3601 et
17 seq.) for that community as set forth in section 100.301 of Title 24,
18 Code of Federal Regulations. The certification shall be on such
19 form as may be prescribed by the Commissioner of Community
20 Affairs, but shall not exceed one page in length. A copy of the
21 certification shall be provided to the purchaser for recording. For
22 the purpose of P.L.2008, c.71 (C.45:22A-46.1 et al.), "resale" shall
23 mean any sale of a dwelling unit within an age-restricted
24 community, other than the initial sale of the unit made by the
25 developer to a purchaser.

26 b. (1) Provided that a purchaser or grantee complies with the
27 certification requirement established by subsection a. of this
28 section, an association shall permit the owner of a dwelling unit in
29 an age-restricted community to sell or grant the owner's unit to a
30 person of an age that would not ensure compliance with the
31 "housing for older persons" exception from the federal "Fair
32 Housing Amendments Act of 1988," Pub.L.100-430 (42 U.S.C.
33 ss.3601 et seq.) were the purchaser or grantee to reside in the unit.

34 (2) The commissioner, through the agency, shall enforce the
35 requirements of this subsection, and in accordance with the
36 penalties provided for pursuant to section 18 of P.L.1977, c.419
37 (C.45:22A-38), may assess:

38 (a) an association for restricting a property transfer in violation
39 of this subsection; and

40 (b) a purchaser or grantee that allows a dwelling unit in an age-
41 restricted community to be occupied by a person who does not
42 ensure compliance with the "housing for older persons" exception
43 from the federal "Fair Housing Amendments Act of 1988,"
44 Pub.L.100-430 (42 U.S.C. ss.3601 et seq.).

45 (cf: P.L.2008, c.71, s.2)

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 2. This act shall take effect immediately.

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STATEMENT

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6 This bill would expressly require the association of an age-
7 restricted common interest community to permit an owner of a
8 dwelling unit in the community to sell or grant the unit to a
9 purchaser or grantee regardless of whether the purchaser's or
10 grantee's age does not comply with the applicable age restrictions,
11 were the new owner to reside there. The bill is intended to prevent
12 age-restricted common interest community associations from
13 unnecessarily restricting who owners may sell their homes to, as
14 long as enforceable commitments are established to ensure that the
15 unit occupants continue to meet the required age restrictions.

16 Federal law permits the existence of age-restricted communities
17 as an exception, known as "housing for older persons," to the anti-
18 discrimination provisions of the "Fair Housing Amendments Act of
19 1988," provided that certain quotas are maintained of age-
20 appropriate persons occupying the premises. For communities that
21 were organized by a developer to restrict occupancy to persons aged
22 62 or older, 100 percent of the occupants have to be aged 62 or
23 older. For communities which were organized by a developer to
24 house persons aged 55 and over, at least 80 percent of the residents,
25 and one resident per each household, must be aged 55 or older.

26 Existing State law requires a purchaser or grantee of a dwelling
27 unit in an age-restricted community to certify that the unit will be
28 occupied by a person whose age allows the community to comply
29 with the federal law, even if the owner would be under the age
30 limit. The bill would expressly authorize the Commissioner of
31 Community Affairs, through existing enforcement authority
32 established by "The Planned Real Estate Development Full
33 Disclosure Act," N.J.S.A.45:22A-21 et seq., to assess penalties on
34 associations that restrict sales in violation of the requirements of the
35 bill. The commissioner would also be authorized to assess penalties
36 on purchasers or grantees who, after taking ownership, allow a
37 dwelling unit to be occupied by a person whose age does not allow
38 the community to comply with federal law.