

**CHAPTER 24**

**CONDOMINIUM, FEE SIMPLE AND COOPERATIVE  
CONVERSION AND MOBILE HOME PARK  
RETIREMENT**

**Authority**

N.J.S.A. 2A:18-61.12 and 2A:18-61.38

**Source and Effective Date**

R.1995 d.366, effective July 12, 1995.  
See: 27 N.J.R. 1718(a), 27 N.J.R. 2578.

**Executive Order No. 66(1978) Expiration Date**

Chapter 24, Condominium and Cooperative Conversion, expires on June 12, 2000.

**Historical Note**

Chapter 24, Condominium and Cooperative Conversion, became effective February 9, 1978 as R.1978 d.22. See: 9 N.J.R. 410(a), 10 N.J.R. 55(b). Chapter 24 was readopted as R.1985 d.529, effective September 30, 1985. Pursuant to Executive Order No. 66(1978), Chapter 24 was readopted as R.1990 d.379, eff. July 10, 1990. See: 22 N.J.R. 1455(b), 22 N.J.R. 2276(a). See: Source and Effective Date.

See subchapter and section annotations for specific rulemaking.

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**SUBCHAPTER 1. GENERAL PROVISIONS**

**Historical Note**

All provisions of this subchapter became effective February 9, 1978 as R.1978 d.22. See: 9 N.J.R. 410(a), 10 N.J.R. 55(b). Amendments became effective May 7, 1981 as R.1981 d.131. See: 13 N.J.R. 70(a), 13 N.J.R. 258(e), 13 N.J.R. 333(c). Further amendments became effective September 10, 1981 as R.1981 d.354. See: 13 N.J.R. 392(a), 13 N.J.R. 562(a). This subchapter was readopted pursuant to Executive Order 66(1978) effective September 30, 1985 with amendments effective October 21, 1985 as R.1985 d.529. See: 17 N.J.R. 1706(a), 17 N.J.R. 2536(a). See chapter and section levels for further amendments.

**5:24-1.1 Introduction**

P.L. 1975, c.311, which amended and supplemented P.L. 1974, c.49 (N.J.S.A. 2A:18-61.1 through 61.12), became effective on February 19, 1976. P.L. 1981, c.8, which amended P.L. 1974, c.49 and P.L. 1975, c.311 so as to extend certain protections to owners of mobile homes in mobile home parks being permanently retired from the rental market, became effective January 26, 1981. The rules contained in this subchapter have been adopted to enable the Department of Community Affairs (DCA) to implement these laws and to assist owners and tenants of properties affected by them in complying with, and realizing the protection provided by, their requirements.

**5:24-1.2 Procedures; definitions**

(a) When an owner seeks to convert a building from the rental market to a condominium or a cooperative or fee simple ownership of two or more dwelling units, or to convert a mobile home park from the rental market to a condominium or cooperative or fee simple ownership of two or more units or park sites, or to retire a mobile home park permanently from the rental market, there are several procedures required to be followed pursuant to N.J.S.A. 2A:18-61.6 through 61.12.

(b) The following terms used in the statutes and these rules are defined as follows:

1. "Multiple dwelling" shall mean any building or structure of one or more stories and any land appurtenant thereto, and any portion thereof, in which three or more

units of dwelling space are occupied, or are intended to be occupied, by three or more persons who live independently of each other; provided, that this definition shall not be construed to include any building or structure defined as a hotel in N.J.S.A. 55:13A-3, or registered as a hotel with the Commissioner of Community Affairs, or occupied or intended to be occupied exclusively as such, or any building under a condominium form of ownership.

2. "Condominium", as in N.J.S.A. 46:8B-1 et seq., means the form of ownership of real property under a master deed providing for ownership by one or more owners of units of improvements together with an undivided interest in common elements appurtenant to each such unit.

3. "Cooperative" means a housing corporation or association which entitles the holder of a share of membership interest thereof to possess and occupy for dwelling purposes, a house, apartment or other structure owned or leased by said corporation or association, or to lease or purchase a dwelling to be constructed by said corporation or association.

4. "Mobile home park" means any park, including, without limitation, a trailer park or camp, equipped to accommodate mobile homes on a year-round basis.

5. "Rooming or boarding house" means a building or structure having at least two dwelling units which do not have separate cooking and sanitary facilities for the unit and which are occupied by persons living independently of each other, and having at least 15 percent of such units occupied by persons who either have no other residence or who reside there for more than 90 days.

6. "Comparable housing or park site" means housing that is:

i. Decent, safe, sanitary, and in compliance with all local and State housing codes;

ii. Open to all persons regardless of race, creed, national origin, ancestry, marital status or sex; and

iii. Provided with facilities equivalent to that provided by the landlord in the dwelling unit or park site in which the tenant or mobile home owner then resides in regard to each of the following:

(1) Apartment size, including number of rooms, or park site size;

(2) Rent range;

(3) Apartment's major kitchen and bathroom facilities; and

(4) Special facilities necessary for the handicapped or infirm;

iv. Located in an area not less desirable than the area in which the tenant or mobile home owner then resides in regard to each of the following:

(1) Accessibility to the tenant or mobile home owner's place of employment;

(2) Accessibility of community and commercial facilities; and

(3) Environmental quality and conditions; and

v. In accordance with additional reasonable criteria that the tenant or mobile home owner has requested in writing at the time of making any request under P.L. 1975, c.311, as amended.

Amended by R.1985 d.529, effective October 21, 1985.

See: 17 N.J.R. 1706(a), 17 N.J.R. 2536(a).

Substantially amended.

Amended by R.1990 d.507, effective October 15, 1990.

See: 22 N.J.R. 2208(a), 22 N.J.R. 3218(a).

Definition of comparable housing or park site added.

### 5:24-1.3 Documents required; conversion

(a) Any owner who intends to convert a multiple dwelling, a rooming or boarding house or a mobile home park into a condominium or cooperative, or to fee simple ownership of units or park sites, must first provide tenants with a "notice of intent" and a "full plan of conversion."

(b) These two items must include all the items described below and must be provided to all affected tenants 60 days before serving the three year notice of intent to institute proceedings to evict.

(c) Both the notice of intent and the full plan of conversion shall be sent by certified mail, and if not claimed they shall be sent by regular mail.

(d) A duplicate of the 60-day notice and full plan shall be transmitted to the clerk of the municipality.

(e) Any material change in the full plan of conversion or amendment to the Public Offering Statement (POS) under N.J.S.A. 45:22A-21 et seq. and N.J.A.C. 5:26 shall require such extension of the 90-day exclusive right to purchase as may be necessary to allow tenants who have not yet purchased their units at least 30 days remaining in which to exercise such exclusive right.

1. If the purchase contract offered by the developer does not include a contingency provision allowing a purchaser at least 60 days in which to secure financing for the purchase, then, unless the developer is providing such financing upon terms found by the Division of Codes and Standards to be reasonable, the exclusive right to purchase period shall be extended as long as may be necessary to allow such tenants at least 60 days in which to exercise such exclusive right.

2. A change shall be deemed "material" for the purpose of (e) of this section if so deemed by the Division of Housing and Development pursuant to N.J.A.C. 5:25-3.3(a).

**5:24-1.11 Copies of this subchapter required to be furnished to certain tenants**

(a) Copies of this subchapter shall be provided to all tenants of buildings, and all mobile home owners in mobile home parks, either about to be, or being, converted to a condominium or cooperative or fee simple ownership of two

or more units or park sites as part of the 60-day notice of intent to convert and the full plan of conversion. The mobile home owner or tenant's receipt of a copy of these rules shall be interpreted as being an integral and procedurally necessary part of the "full plan of conversion" described in N.J.A.C. 5:24-1.5.

(b) Copies of this subchapter shall be provided to all mobile home owners in mobile home parks being permanently retired from the rental market at or prior to the time at which eviction notices are served.

Amended by R.1990 d.507, effective October 15, 1990.  
See: 22 N.J.R. 2208(a), 22 N.J.R. 3218(a).

Provision for mobile home owners added; copies of N.J.A.C. 5:24 to be distributed with all eviction notices.

**Case Notes**

Apartment owner failed to fulfill his obligation of full compliance with anti-eviction statute where owner did not prove that up-to-date copy of administrative code provisions relating to condominium conversion were served on tenant. *Amato v. Pelligrini*, 246 N.J.Super. 34, 586 A.2d 856 (L.1990).

Landlord's obligation to notify tenant of rights upon conversion of apartment to condominium ownership was not complete upon landlord's offer to provide tenant with copies of notice of intent to convert and full plan of conversion. *Riotto v. Van Houten*, 235 N.J.Super. 162, 561 A.2d 691 (L.1988), affirmed 235 N.J.Super. 177, 561 A.2d 1168.

Landlord's failure to properly notify tenant of rights upon conversion of apartment building to condominium ownership prevented landlord from bringing action to summarily dispossess tenant from unit. *Riotto v. Van Houten*, 235 N.J.Super. 162, 561 A.2d 691 (L.1988), affirmed 235 N.J.Super. 177, 561 A.2d 1168.

**5:24-1.12 Standards of fair dealing**

(a) Any discount or reduction in sales price offered to a tenant in occupancy in order to induce such tenant to agree to purchase his unit during the exclusive right to purchase period shall be available, without any change that would have the effect of raising the price to such tenant, for the entire exclusive right to purchase period. Any subsequent discount or reduction in sales price, offered at any time during the exclusive right to purchase period, must be continued through the end of that period.

(b) No owner of a building or of a unit or of a proprietary lease to a unit, or person acting on behalf of or with the consent of such owner, shall engage in any course of conduct which unreasonably disturbs any tenant in the lawful use and occupancy of any unit. The conduct hereby prohibited shall include, but not be limited to, willful interruption or discontinuance of services or failure to correct violations of applicable housing, health and safety codes and the issuance of false or otherwise illegal notices.

(c) No owner of a building or of a unit or of a proprietary lease to a unit shall impose an unreasonable rent increase on a tenant lawfully occupying any unit. An increase shall be presumed to be unreasonable if it is in excess of the increase that would be allowed under any municipal rent control ordinance applicable to the building immediately prior to conversion or if it reflects increased costs attributable directly or indirectly to the conversion which do not add services or amenities not previously provided. For the purposes of (c) of this section, repairs required by applicable codes shall not be deemed to be amenities.

R.1981 d.354, eff. September 10, 1981.

See: 13 N.J.R. 392(a), 13 N.J.R. 562(a).  
Amended by R.1987 d.292, effective July 20, 1987.  
See: 19 N.J.R. 797(a), 19 N.J.R. 1291(c).  
Added text in (a) "Any subsequent discount ..."

**Case Notes**

Preconversion tenant rent cannot be increased above amount allowed under rent control ordinance; rent control ordinances cannot discriminate against condominium owners; standard for rent increases without control ordinance is reasonableness. *AMN, Inc. of New Jersey v. South Brunswick Twp. Rent Leveling Board*, 93 N.J. 518, 461 A.2d 1138 (1983).

Property tax increase after conversion, due solely to conversion, cannot be passed on to tenants as rent increase without provision of additional services or amenities. *B.H. Associates v. Brudner*, 185 N.J.Super. 403, 449 A.2d 23 (Cty.Ct.1982) appeal dismissed 190 N.J.Super., 461 A.2d 753.

Rent increase for preconversion tenant in condominium unit subject to rent control ordinance (statutory decision); regulation declarative of legislative intent. *G.D. Management Co. v. Negri*, 182 N.J.Super. 409, 442 A.2d 611 (App.Div.1982).

Tax increases resulting from conversion are considered conversion costs and cannot be passed on to tenants despite rent control ordinance permitting pass through; anticipated use theory applied in tax valuation; income method of valuation using maximum rents permitted. *Borough of Little Ferry v. Vecchiotti*, 7 N.J.Tax 389 (Tax Ct.1985).

Only rent increases permitted by ordinance may be charged to tenants protected under Senior Citizens and Disabled Protection Act; increased costs due to conversion cannot be recovered through rent increases without provision of additional services and amenities; increased taxes resulting from conversion are increased costs. *Berkley Arms Apartment Corp. v. Hackensack*, 6 N.J.Tax 260 (Tax Ct.1983).

**SUBCHAPTER 2. SENIOR CITIZENS AND DISABLED PROTECTED TENANCY**

**Subchapter Historical Note**

All provisions of this subchapter became effective February 1, 1982 as R.1982 d.9. See: 13 N.J.R. 802(a), 14 N.J.R. 144(a). This subchapter was readopted pursuant to Executive Order 66(1978) effective September 30, 1985 with amendments effective October 21, 1985. See: 17 N.J.R. 1706(a), 17 N.J.R. 2536(a). See chapter and section levels for further amendments.

**5:24-2.1 Introduction**

(a) This subchapter is adopted pursuant to P.L. 1981, c.226 (N.J.S.A. 2A:18-61.22 et seq.), hereinafter referred to as "the Act".

(b) All terms defined in the Act shall have the same definitions as in the Act when used in this subchapter.

**5:24-2.2 Application forms**

(a) A tenant seeking protected tenancy status pursuant to the Act shall apply to the appropriate administrative agency or officer on a form prescribed by the Division of Codes and Standards of the Department of Community Affairs.

(b) The prescribed form shall require at least the following information:

1. Name of applicant;
2. Name of spouse, if residing in the same household;
3. Address, including apartment number;
4. Municipality;
5. County;
6. Name of building or project, if any;
7. Whether or not the dwelling unit is the applicant's principal place of residence;
8. The date on which the applicant began occupying a dwelling unit in the building as his or her principal place of residence;
9. The total combined income for the last full calendar year, of all members of the household residing in the dwelling unit at the time of application for protected tenancy status, regardless of whether or not such income is taxable;
10. Date of birth of applicant;
11. Date of birth of spouse, if residing in the same household;
12. Whether or not disability is claimed and, if so, the nature of the disability;
13. Current monthly rental and any surcharges.

Amended by R.1985 d.529, effective October 21, 1985.

See: 17 N.J.R. 1706(a), 17 N.J.R. 2536(a).

Added text "and development".

Amended by R.1995 d.366, effective July 3, 1995.

See: 27 N.J.R. 1718(a), 27 N.J.R. 2578(a).

Substituted: "Division of Codes and Standards" for "Division of Housing and Development".

### 5:24-2.3 Application procedure

(a) A tenant seeking protected tenancy status shall file a completed application form with the administrative agency or officer within 60 days of receipt of a notice and application form from the administrative agency or officer provided, however that a completed application form may be submitted at any time prior to the date of conversion recording if the administrative agency or officer is satisfied that there was reasonable cause for the delay in filing. Such reasonable cause shall include, but not be limited to, disability incurred at any time subsequent to receipt by the tenant of the notice and application form.

(b) Upon request of the administrative agency or officer, a tenant seeking protected tenancy status shall supplement the form with such documentation as the administrative agency or officer shall deem necessary in order to make a determination as to eligibility.

1. An application may be deemed incomplete, and may be rejected, if supplementary documentation is not provided to the administrative agency or officer within 10 days of request therefor; provided however, that this provision shall not be construed as precluding timely reapplication.

i. With respect to income, such documentation may include, but shall not be limited to, copies of income tax returns and certification of the amount received in Social Security payments or in payments from other sources of non-taxable income.

ii. Proof of age shall be in the form of a copy of a birth record or such documentation evidenced by a public record as the administrative agency or officer shall deem to be equivalent.

iii. Proof of disability shall be in the form of certification of entitlement to Social Security or SSI disability benefits, or of proof that the applicant has been honorably discharged, or released under honorable circumstances, from active service in any branch of the United States Armed Forces and is rated as having a 60 percent disability or higher as a result of that service by the Veterans' Administration, or, if the applicant does not receive such disability benefits or have such rated disability, of such evidence as the administrative agency or officer shall deem to be equivalent.

2. If the administrative agency or officer does not request supplementary documentation, the application shall be deemed to have been complete upon submission.

(c) Taxable income shall include all income subject to the New Jersey Gross Income Tax, without allowance for any deductions or exemptions. Non-taxable income shall include, without limitation, any excluded pension payments (exclusive of moneys designated as refunded employee contributions), any Social Security, SSI or Railroad Retirement payments, any payments from any public assistance program and any interest on tax exempt securities or accounts. Any lump-sum, non-repeated distribution shall be considered as income only to the extent of the amount of annuity actuarially available to a person of the recipient's age and sex, at the prevailing interest rate, during the year in question, out of the lump-sum payment after there has been subtracted from such lump-sum payment any contributions made by the recipient or by a person who designated the recipient as his or her beneficiary.

Amended by R.1988 d.191, effective May 2, 1988.

See: 20 N.J.R. 349(a), 20 N.J.R. 978(a).

Added text "Any lump-sum, . . ."

Amended by R.1991 d.252, effective May 20, 1991.

See: 23 N.J.R. 645(a), 23 N.J.R. 1662(a).

Honorable discharge with 60 percent or more disability included in definition of disabled tenant.

(b) Within two business days of the mailing of such notices, the administrative agency or officer shall provide to the owner an affidavit or certification of mailing by the person who mailed the notices. A duplicate of such affidavit or certification shall be included in the application for registration submitted by the owner to the Division of Codes and Standards, submission of such affidavit or certification with respect to all applications filed within the statutory 60 day period being a precondition to the issuance by the Division of Codes and Standards of a notice of filing for registration.

(c) Within two business days of having mailed notices of determination of eligibility to all applicants who filed during the statutory 60 day period, such determinations being required by the Act to be made in each case within 30 days of application, the administrative agency or officer shall provide to the owner a list of such determinations and an affidavit or certification by the person who mailed notices of such determination to the applicants. A duplicate of such list of determinations and affidavit or certification shall be forwarded by the administrative agency or officer to the Division of Codes and Standards at CN 805, Trenton, New Jersey 08625, receipt thereof being a precondition of registration.

(d) In the event that any determination is made after the statutory 60 day period upon application of any disabled person pursuant to N.J.A.C. 5:24-2.3(a)1, the administrative agency or officer shall make a determination as to eligibility and provide notice of such determination to the applicant and the owner not later than 30 days after receipt of a completed application.

Amended by R.1985 d.529, effective October 21, 1985.  
See: 17 N.J.R. 1706(a), 17 N.J.R. 2536(a).

Added text "and development".

Amended by R.1995 d.366, effective July 3, 1995.  
See: 27 N.J.R. 1718(a), 27 N.J.R. 2578(a).

Substituted "Division of Codes and Standards" for "Division of Housing and Development" throughout; and corrected an address.

**5:24-2.11 Administrative agency fees**

(a) The municipality or county having responsibility for the administrative agency or officer may establish a fee schedule, which may vary according to the size of the building or project to be converted, to be paid by the owners upon submission of tenant lists, forms and stamped envelopes to the administrative agency or officer.

(b) Any fee schedule established pursuant to this section, shall be designed to fully or partially cover the cost of discharging the responsibilities imposed by the Act upon the administrative agency or officer and not to provide revenue in excess of such cost. A separate administrative hearing fee may be established.

(c) The failure of a municipality or county to establish a fee schedule shall in no way relieve the administrative agency or officer of any obligation imposed by the Act.

**SUBCHAPTER 3. PROTECTED TENANCY IN QUALIFIED COUNTIES**

**Subchapter Historical Note**

Subchapter 3 was adopted as R.1992 d.287, effective July 6, 1992.  
See: 24 N.J.R. 1453(a), 24 N.J.R. 2429(a).

**5:24-3.1 Introduction**

(a) This subchapter is adopted pursuant to the Tenant Protection Act of 1992, P.L. 1991, c.509 (N.J.S.A. 2A:18-61.40 et seq.), hereinafter referred to as "the Act."

(b) All terms defined in the Act shall have the same definitions as in the Act when used in this subchapter.

**5:24-3.2 Applicability**

(a) This subchapter is applicable to persons domiciled in a "qualified county," which means any county with a population in excess of 500,000 and a population density in excess of 8,500 per square mile, according to the most recent Federal decennial census, or any other county for which the Commissioner of Community Affairs finds that there has occurred a significant decline in the availability of rental dwelling units due to conversions and that, during the immediate preceding 10 year period, the aggregate number of rental units subject to registration of conversion exceeded 10,000 during any three consecutive years and exceeded 5,000 during at least one of those years.

(b) The following county is a qualified county:

1. Hudson.

**5:24-3.3 Application forms and procedure**

(a) Application for protected tenancy under this subchapter shall be made on the form prescribed in N.J.A.C. 5:24-2.2 for applications for Senior Citizens and Disabled Protected Tenancy. A single form shall be sufficient for both applications.

1. Forms used in municipalities in a qualified county shall be entitled "Application for Protected Tenancy" and shall include a question as to whether the applicant is seeking to qualify for Senior Citizens and Disabled Protected Tenancy.

(b) The application procedure for protected tenancy under this subchapter shall be as set forth in N.J.A.C. 5:24-2.3, except that a person who is applying for protected tenancy only under this subchapter shall not be required to furnish proof of age.

1. If the applicant furnishes proof of being either at least 75 years of age or disabled, in the manner set forth in N.J.A.C. 5:24-2.3(b)1, proof of income shall not be required.

(c) Application forms used in qualified counties shall indicate that applications for protection under the Act must be filed on or before:

1. The date of registration of conversion by the Department, or
2. June 1, 1993, whichever is later.

(d) Notice of the date by which applications for protected tenancy under the Act must be filed shall be in addition to notice of the time requirements for filing applications for Senior Citizens and Disabled Protected Tenancy set forth in N.J.A.C. 5:24-2.3(a).

#### 5:24-3.4 Administration

(a) Unless the municipality provides otherwise by ordinance, the agency or officer administering the "Senior Citizens and Disabled Protected Tenancy Act," P.L. 1981, c.226, and the implementing rules set forth in subchapter 2, of this chapter, shall administer this subchapter.

(b) Principal residence shall be determined in accordance with N.J.A.C. 5:24-2.4.

(c) Eligibility shall be determined in accordance with N.J.A.C. 5:24-2.5, except that all references to conditional eligibility shall be inapplicable.

(d) Subsequent ineligibility shall be determined in accordance with N.J.A.C. 5:24-2.6.

(e) Administrative hearings shall be provided and conducted in accordance with N.J.A.C. 5:24-2.7.

(f) Procedural requirements for owners shall be as set forth in N.J.A.C. 5:24-2.9.

1. No separate filing or issuance of notices under both N.J.A.C. 5:24-2.9 and under this section shall be required if the forms and information provided to tenants make appropriate references both to Senior Citizens and Disabled Protected Tenancy and to protected tenancy under this subchapter and the Act.

2. An owner of a building in a qualified county who has previously complied with N.J.A.C. 5:24-2.9 shall comply with the procedural requirements of N.J.A.C. 5:24-2.9(a)-(c) again, in order to provide appropriate notice to persons who have not received Senior Citizens and Disabled Protected Tenancy.

(g) The administrative agency shall comply with subsections (a)-(c) of N.J.A.C. 5:24-2.10 and shall, additionally, inform each tenant who is denied protected tenancy under the Act and this subchapter of his right to remain in his dwelling unit until the owner shall have complied with the requirements of P.L. 1975, c.311 and of N.J.A.C. 5:24-1.6. The notice to the tenant shall include an explanation of the meaning of "comparable housing," as defined in P.L. 1975, c.311 and in N.J.A.C. 5:24-1.2(b)6.

1. Separate certifications or lists for purposes of the Act and for purposes of the Senior Citizens and Disabled Protected Tenancy Act shall not be required, except that, in a municipality in a qualified county, the list of determinations shall indicate the statute under which an applicant has qualified for protected tenancy.

(h) The fee schedule established in accordance with N.J.A.C. 5:24-2.11 shall apply to submissions of tenant lists and to hearings under the Act and this subchapter.

(i) In the event that any person in a qualified county who has applied for, or has previously been determined to be eligible for, protected tenancy as a senior citizen or disabled person, is found to be ineligible or no longer eligible for such protected tenancy, the person's application, as modified by the facts set forth in any determination, shall be treated as an application for protected tenancy under the Act and this subchapter.