

**State of New Jersey
Department of Community Affairs
Bureau of Homeowner Protection
Planned Real Estate Development**

Exemption Application Instructions

A developer **MUST** apply for an exemption from the registration requirement for certain projects as described below. They are routinely granted for projects which consist entirely of fewer than 10 condominium, cooperative or age-restricted units once the application is properly completed. Single family developments of fewer than 100 homes are statutorily exempt and no application need be filed. If the agency does not grant an exemption and the project is a planned real estate development or a retirement community, the developer **MUST** register the project. Registration and Exemptions apply to residential developments only. If any part of the development or project is residential planned real estate requirements apply. For guidance refer to N.J.S.A. 46:22A-21 et seq. and N.J.A.C. 5:26-1.1 et seq.*

Unless the method of disposition is adopted for purposes of evasion, neither registration nor a granted exemption is required for offers or dispositions:

- 1) By an owner for his or her own account in a single or isolated transaction;
- 2) Wholly for industrial, commercial, or other non-residential purposes;
- 3) Pursuant to court order;
- 4) By the United States, by this State, or any of its agencies or political subdivisions;
- 5) Of real property not in New Jersey;
- 6) Of cemetery lots or interests;
- 7) Of less than 100 lots, parcels, units or interests; provided, however, that with respect to condominiums*, cooperatives* or retirement communities* this exemption shall not apply, irrespective of the number of lots, parcels, units or interests offered or disposed of;
- 8) Of developments where the common elements or interests, which would otherwise subject the offering to this Act, are limited to the provision of unimproved, unencumbered open space;
- 9) In a development composed wholly of rental units, where the relationship created is one of landlord and tenant;
- 10) Of any form of timesharing.

**New Jersey Statutes are available on line through various sites including the State legislative site, njleg.org and at law libraries. The New Jersey Administrative Code is available at law libraries or online at www.lexisnexis.com/njoal.*

For developments that are not exempt by statute (see 1 through 10 above) the agency will grant a **Conditional Exemption** from the registration requirement;

- *If an offering referenced in No. 7 above is **NOT** part of a larger offering **AND** consists of fewer than 10 lots, parcels, units or interests (except for single family homes for which the statutory 99 unit exemption controls); or,
- If the offering consists **ENTIRELY** of units affordable and legally restricted to persons of low or moderate income as determined in accordance with the Fair Housing Act and legally restricted to assure continued affordability as provided in State Regulations; or,
- If the agency finds that the enforcement of the Act is not necessary in the public interest or for the protection of purchasers by reason of the small amount of the purchase price or the limited character of the offering or the limited nature of the common or shared elements.

In addition to providing prospective purchasers with the fully completed agency **Disclosure Notice** form with the Exemption number included, the agency may require additional disclosures depending on the facts of the offering as a condition of issuing the Exemption. In cases where an Exemption is applicable but the developer has entered into a sales contract, a Buyer's Affidavit must be completed and submitted with the application. Title cannot be transferred prior to Agency approval.



EXEMPTION APPLICATION MUST INCLUDE: (Please send only an original)

- I. **Application Fee** in the amount of \$157.00 payable by check to the "Treasurer, State of New Jersey." The fee is non-refundable. There is **NO** fee for developments that are documented to be entirely for low/moderate purchasers.
- II. **Cover Letter** with a brief narrative description of the project specifically including any special conditions that should be considered by the agency or disclosed to purchasers. A basis on which the request is sought may, but need not, be included.
- III. **Disclosure Notice** completely and properly filled out (take special note of the builder registration instructions VI below.) Do not select the reason for the Exemption.
 - A. Not all sponsors have agents. If there is one, include the information requested. Note: Unless the attorney filing the application is also serving as the offering agent, do not include the attorney's name as an agent.
 - B. Tenancies: Owner occupancy and seasonal rentals are not included as tenancies.

- IV. **Sponsor Affidavit** using the agency's form unless it is necessary to modify for special circumstances. Any modification must address all the items on the agency form. The appropriate choices must be clearly marked or indicated and it must be executed by the title owner(s) and notarized. Multiple owners can sign on one Affidavit or submit individual ones as is convenient.
 - A. In the event there is a signed contract of sale, the application must include a **BUYER'S AFFIDAVIT** either on the agency's form or one with all the information. **NOTE:** It is permissible for Exempt properties to enter a contract prior to obtaining Exemption approval but **NOT** to close title.

- V. **Survey or Plot Plan** with original affixed **LOT** and **BLOCK** designations for the property for which the application is submitted. It is necessary that the designations on this document match those on the Affidavit and Disclosure Form. Note that the Condominium Act requires a detailed, correct and certified survey be filed with the Master Deed.

- VI. **Builder Registration:** On **ALL** new construction (which requires a new foundation – including a slab), the Disclosure Notice must contain the Registration Number of the person (entity) who is conveying property's title to the purchaser. In many cases, except as discussed below, this will require property owners to register as builders. The builder's registration number should be obtained before the application is submitted; and no Exemption for new construction will be processed without the required number.
 - A. When owners will occupy one unit in a two unit development it is permissible to use the Builder Registration of the actual builder. This is **NOT** applicable when more than two units exist.

 - B. Often one owner has a registration number but other owners are not listed as builder firm members (such as when one spouse has the registration but the other spouse is not listed – this cannot be done in the case of a sole proprietorship). In such cases, check with the Builder Registration Unit (609-984-7910) to determine if the other party can be listed or whether a new registration must be filed.

SINGLE- FAMILY HOME EXEMPTION APPLICATIONS – MUST BE ON INDIVIDUAL PHYSICAL LOTS

- I. A **STATUTORY EXEMPTION** is issued upon application for projects that are **UNDER 100 units AND are NOT** age-restricted. (Registration is required when there are 10 or more units age-restricted units.)

The application must include documentation from the municipality regarding the size of the project – (Normally the Planning Board Approval) and an affidavit from the developer or representation from the attorney that the project is under 100 units and is not and will not be part of a larger offering.

***NOTE:** No Disclosure Notice, Declaration of Covenants and Restrictions or a Survey need to be provided for this type of Exemption Application.*

- II. For projects **OVER 100** units, the Application must include, in addition to standard exemption application items listed above, the following:
- Municipal documentation (such as the planning board decision) addressing roadways, drainage and common elements as well as disclosing any easements
 - A copy of the Association's proposed budget covering all association expenses such as insurance, maintenance, reserves, etc.
 - A copy of the Declaration of Covenants and Restrictions – Note: extensive owner obligations, such as through rules or architectural controls may require Registration.
- III. For projects which are entirely low or moderate, you must provide proof of the status in the form of a government approval (e.g., a municipal or planning board resolution and a copy of the master deed or declaration).

Submit the Completed Application and Fee to:

*State of New Jersey
Planned Real Estate Development
P.O. Box 805
Trenton, N.J. 08625*

Telephone inquiries can be made to (609) 984-7574.

AFFIDAVIT OF SPONSOR

Exemption Application to Department of Community Affairs

STATE OF NEW JERSEY :
COUNTY OF _____ : **SS.**

Re: _____
Development

Street Address (if different than name)

City Lot: _____ Block: _____ (as shown on survey)

1. I/We _____ am/are the sponsor of the above referenced development and submit this affidavit in support of my application for an Exemption from the registration requirements of N.J.S.A. 45:22A-26.
2. The facts contained in documents and correspondence filed with the Department of Community Affairs in support of this application are true to the best of sponsor’s knowledge and the planned disposition is not for purposes of evading obligations under the Planned Real Estate Development Full Disclosure Act (N.J.S.A. 45:22A-21 et seq.).
3. I/We understand that any closing on any units in this development prior to the approval of this application subjects me/us to penalties in accordance with the PREDFA referenced above.
4. I/We understand that if any contracts of sale have been entered into prior to the approval of the Exemption, the buyer has been provided with a properly completed copy of the current Disclosure Notice, which accompanies sponsor’s application and sponsor has submitted the Affidavit(s) signed by the buyers.
5. The development is:
 - (a) _____ New Construction and sponsor has a current DCA builder’s registration number which is contained in the Disclosure Form, or
_____ I/We am/are retaining at least one unit of this two-unit offering for my/our own use and occupancy; the contractor will be providing the warranties and has a current DCA builder’s registration number which is contained in the Disclosure Form.
 - (b) _____ A vacant conversion in which I/we either purchased the property vacant in an arms length transaction or terminated the tenancy in accordance with law.
 - (c) _____ An occupied conversion and I/we understand that tenants cannot be evicted until sponsor complies with all applicable tenant protection laws which provide for 3 and 5 year minimum periods before evictions can occur, or
 - (d) _____ I/We assert that this will be a “Non-eviction” conversion in which no purchasers who are not existing residents of the unit will occupy the unit until the tenants have either voluntarily terminated the tenancy of been evicted in accordance with law unrelated to this conversion.

The statements and responses made by me above are true. I am aware if any of the above statements or responses are willfully false sponsor is subject to punishment.

Sworn and subscribed to this

_____ day of _____, 20_____

By: _____
(Sponsor: Print name & title)

(Notary Public)

By: _____
(Sponsor: Print name & title)

AFFIDAVIT OF BUYER

Buyer's Affirmation Relative to Purchase of Exempt Property

STATE OF NEW JERSEY :
COUNTY OF _____ : SS.

Re: _____
Development

Street Address (if different than name)

City Lot: _____ Block: _____
(as shown on survey)

The undersigned affirm as follows:

- I/We _____ am/are the contract purchaser(s) of Unit _____ in the development referenced above under a contract of sale dated _____, 20____.
- Although I/we did not receive an approved Disclosure Notice containing the State assigned Exemption Number mandated prior to signing the contract, I/we subsequently have received an unapproved copy of said notice and understand that because we did not receive it prior to signing the contract, we have the right to withdraw from the contract and receive a return of our deposit money. I/We also understand that the seller will provide a finalized copy of the Disclosure Notice containing the State assigned Exemption Number to me/us prior to the closing of title.
- I/We confirm that, after reading the Disclosure Notice and any additional documents which were requested as referenced in said Notice, I/We understand the terms and nature of this transaction and desire to proceed with the purchase.

The above statements are true to the best of my/our knowledge, information and belief. I/We understand that it is a violation of law for the seller to close title to this property prior to receiving an exemption number from the State.

Purchaser Date: _____

Purchaser Date: _____

Signed to and sworn to before me this _____ day of _____, 20____

Notary Public

**STATE OF NEW JERSEY – DEPARTMENT OF COMMUNITY AFFAIRS
 PLANNED RESIDENTIAL DEVELOPMENT
 EXEMPTION DISCLOSURE NOTICE**

E-

NAME OF DEVELOPMENT	STREET ADDRESS	MUNICIPALITY
SPONSOR AGENT	LOCATION OF SALES OFFICE	LOT & BLOCK
BUILDER REGISTRATION NO	<i>(Name of Builder if different from sponsor – permissible only, in 2-unit development, where sponsor is either 1) retaining one unit for own use or occupancy or 2) deeding one unit to builder.)</i>	

The Owner or Sponsor is obligated to obtain an Exemption from the Department of Community Affairs as evidenced by the Exemption number above, prior to the sale of any units or interests and to provide purchaser with a copy of this Disclosure prior to the sale. (See important notices on page 2.)

THE STATE DEPARTMENT OF COMMUNITY AFFAIRS HAS CONDITIONALLY EXEMPTED THIS DEVELOPMENT FROM REGISTRATION UNDER THE PLANNED REAL ESTATE DEVELOPMENT FULL DISCLOSURE ACT BECAUSE IT:

For Dept. Use Only

CONSISTS OF FEWER THAN 10 UNITS, PARCELS OR INTERESTS, OR

CONSISTS ENTIRELY OF UNITS OR PARCELS AFFORDABLE TO PERSONS OF LOW AND MODERATE INCOMES AS DEFINED BY N.J.S.A.52:27D-301 ET SEQ., OR

CONSISTS OF SINGLE FAMILY HOMES LIMITED IN THE CHARACTER OF THE OFFERING OR WITH A LIMITED NATURE OF COMMON OR SHARED ELEMENTS; OR

AS PROVIDED FOR IN N.J.A.C.5:26-2.2 (a) 10

1. SPONSOR NAME: _____
2. SPONSOR ADDRESS: _____
 CITY: _____ STATE _____ ZIP _____
3. NATURE OF DEVELOPMENT: CONDO S/F CO-OP
4. DESCRIPTION OF THE OFFERING: TOTAL # OF UNITS: _____
 New Construction Vacant Conversion Occupied Conversion
 IF OCCUPIED, INDICATE: Tenant Rights to be served Non-Eviction
5. FLOOD HAZARD ZONE ON OR ADJACENT TO THE SITE: YES NO

PLEASE CHECK ALL THAT APPLY:

DETACHED	_____	APARTMENT CONVERSION	_____
TOWNHOME	_____	CONVERSION FROM NON-RESIDENTIAL	_____
NON-RESIDENTIAL	_____	DUPLEX OR TWIN	_____

*Take Note: This exemption is from the registration requirement under the Planned Real Estate Development Full Disclosure Act and not from the other requirements under the PREDFDA, the Condominium Act or the Cooperative Recording Act**

Issuance of an Exemption does not constitute an approval of the merits of this offering by the Department of Community Affairs.

IN ADDITION TO PROVIDING YOU WITH THIS DISCLOSURE FORM, THE EXEMPTION IS CONDITIONED UPON THE SPONSOR'S OBLIGATION TO PROVIDE YOU WITH A COPY OF THE INFORMATION REFERENCED ON PAGE 3 OF THIS DISCLOSURE NOTICE IN ORDER TO ASSIST YOU IN MAKING AN INFORMED DECISION REGARDING YOUR INVESTMENT. IN THE EVENT A STATEMENT OF CONDITIONS DOES NOT FIT ON PAGE 3, A SEPARATE SHEET SHOULD BE ATTACHED. BE AWARE THAT LARGE INVESTMENTS SUCH AS YOUR HOME MAY INVOLVE COMPLEX AND INTRICATE ISSUES AND CONCERNS THAT MAY REQUIRE THE ADVICE OF QUALIFIED ATTORNEY OR TAX CONSULTANT. BE SURE TO READ AND UNDERSTAND ALL DOCUMENTS CAREFULLY BEFORE SIGNING THEM.

**In the event the sponsor/developer fails to comply with statutory or regulatory requirements purchaser may wish to consult legal counsel to consider legal action.*

UNDER THE TERMS OF THIS EXEMPTION THE SPONSOR OF THIS DEVELOPMENT IS OBLIGATED TO FORM AN ASSOCIATION AND PROVIDE YOU WITH THE FOLLOWING INFORMATION, WHICH MUST BE MADE READILY AVAILABLE FOR YOUR INSPECTION IN THE DEVELOPMENT SALES OFFICE PRIOR TO YOUR PURCHASE.

1. THE MASTER DEED OR DECLARATION, BY-LAWS OF THE ASSOCIATION, AND RULES AND REGULATIONS, IF ANY, GOVERNING THE OPERATION OF THE DEVELOPMENT.
2. THE PROPOSED MANAGEMENT PLAN FOR THE OPERATION OF THE COMMON FACILITIES OF THE DEVELOPMENT, INCLUDING:
 - A. WHO WILL CONTROL THE ASSOCIATION
 - B. ANY CURRENT MANAGEMENT CONTRACT
 - C. ANY PROPOSED MAINTENANCE AGREEMENT
3. A STATEMENT OF THE RELATIONSHIP OF THE DEVELOPER TO THE SERVICE PROVIDER, IF ANY.
4. THE PROPOSED BUDGET FOR THE OPERATION AND MAINTENANCE OF THE COMMON FACILITIES WITH THE PROPOSED ANNUAL ASSESSMENT, INCLUDING THE ANNUAL AMOUNT SET ASIDE FOR RESERVES FOR REPLACEMENT OF THE COMMON FACILITIES.
5. THE FINAL PLAT PLAN, IF APPLICABLE, APPROVED BY THE LOCAL PLANNING BOARD SHOWING APPROPRIATE SIGNATURES OF APPROVAL. THIS PLAN SHOWS AMENITIES FACILITIES AND IMPROVEMENTS.
6. ARE COMMON FACILITIES OPEN ONLY TO THE HOMEOWNERS AND THEIR INVITED GUESTS?

YES NO
7. ADDITIONAL EXEMPTION CONDITIONS, AS FOLLOWS:

IF BOX IS CHECKED, CONDITIONS CONTINUE ON ATTACHED SHEET