



**New Jersey Department of Community Affairs
Division of Codes and Standards
Landlord-Tenant Information Service**



NEWLY CONSTRUCTED MULTIPLE DWELLINGS
N.J.S.A. 2A:42-84.1 THROUGH 84.6

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2A:42-84.1. Definitions

As used in this act:

- a. "Completion of construction" means issuance of a certificate of occupancy pursuant to section 15 of the "State Uniform Construction Code Act," P.L. 1975, c. 217 (C. 52:27D-133);
- b. "Constructed" means constructed, erected or converted but excludes rehabilitation of premises rented previously for residential purposes without an intervening use for other purposes for a period of at least two years prior to conversion. Mere vacancy shall not be considered an intervening use for the purposes of this subsection;
- c. "Constructed after the effective date of this act" means constructed pursuant to a construction permit issued on or after the effective date of this act;
- d. "Constructed for senior citizens" means constructed under a governmental program restricting occupancy of at least 90% of the dwelling units to senior citizens and any members of their immediate households or their occupant surviving spouses, or constructed as a retirement subdivision or retirement community as defined in the "Retirement Community Full Disclosure Act," P.L. 1969, c. 215 (C. 45:22A-1 et seq.);
- e. "Multiple dwelling" means any building or structure and land appurtenant thereto containing four or more dwelling units, other than dwelling units constructed for occupation by senior citizens, rented or offered for rent to four or more tenants or family units;
- f. "Period of amortization" means the time during which the principal amount of the mortgage loan and interest thereon would be paid entirely through periodic payments, whether or not the term of the mortgage loan is for a shorter period concluding with a balloon payment; and
- g. "Senior citizens" means persons 62 years of age or older.

2A:42-84.2. Applicability of municipal rent control ordinances

a. In any municipality which has enacted or which hereafter enacts a rent control or rent leveling ordinance, other than under the authority of P.L.1966, c.168 (C.2A:42-74 et seq.), those provisions of the ordinance which limit the periodic or regular increases in base rentals of dwelling units shall not apply to multiple dwellings constructed after the effective date of this act, for a period of time not to exceed the period of amortization of any initial mortgage loan obtained for the multiple dwelling, or for 30 years following completion of construction, whichever is less.

b. In the event that there is no initial mortgage financing, the period of exemption from a rent control or rent leveling ordinance shall be 30 years from the completion of construction.

Amended 1999, c. 291, § 1.

2A:42-84.3. Notice of exemption to tenants

The owner of any multiple dwelling exempted from a rent control or rent leveling ordinance pursuant to this act, shall, prior to entering into any lease with a person for tenancy of any premises located in the multiple dwelling, furnish the prospective tenant with a written statement that the multiple dwelling in which the premises is located is exempt from rent control or rent leveling for such time as may remain in the exemption period. Each lease offered to a prospective tenant for any dwelling unit therein during the period the multiple dwelling is so exempted shall contain a provision notifying the tenant of the exemption.

2A:42-84.4. Filing of owner's claim of exemption

The owner of any multiple dwelling claiming an exemption from a rent control or rent leveling ordinance pursuant to this act shall file with the municipal construction official, at least 30 days prior to the issuance of a certificate of occupancy for the newly constructed multiple dwelling, a written statement of the owner's claim of exemption from an ordinance under this act, including therein a statement of the date upon which the exemption period so claimed shall commence, such information as may be necessary to effectively locate and identify the multiple dwelling for which the exemption is claimed, and a statement of the number of rental dwelling units in the multiple dwelling for which the exemption is claimed. The owner shall, at least 30 days prior to the date of the termination of the exemption period afforded pursuant to this act, file with the municipal construction official a notice of the date of termination of the exemption period for the affected multiple dwelling.

2A:42-84.5. Exemptions from rent control, leveling, stabilization; legislative intent

a. It is the intent of P.L.1987, c.153 (C.2A:42-84.1 et seq.), that the exemption from rent control or rent leveling ordinances afforded under P.L.1987, c.153 (C.2A:42-84.1 et seq.) shall apply to any form of rent control, rent leveling or rent stabilization, whether adopted now or in the future, and by whatever name or title adopted, which would limit in any manner the periodic or regular increases in base rentals of dwelling units of multiple dwellings constructed after the effective date of P.L.1987, c.153 (C.2A:42-84.1 et seq.). No municipality, county or other political subdivision of the State, or agency or instrumentality thereof, shall adopt any ordinance, resolution, or rule or regulation, or take any other action, to limit, diminish, alter or impair any exemption afforded pursuant to P.L.1987, c.153 (C.2A:42-84.1 et seq.).

b. The Legislature deems it to be necessary for the public welfare to increase the supply of newly constructed rental housing to meet the need for such housing in New Jersey. In an effort to promote this new construction, the Legislature enacted P.L.1987, c.153 (C.2A:42-84.1 et seq.), the purpose of which was to exempt new construction of rental multiple dwelling units from municipal rent control so that the municipal rent control or rent leveling ordinances would not deter the new construction. Although this legislation was initially made effective only for a temporary five-year period, it was expanded for a second five-year period by P.L.1992, c.206 until 1997, and then in that year made permanent by P.L.1997, c.56. At the time P.L.1987, c.153 (C.2A:42-84.1 et seq.) was introduced, the uniform method of financing construction of new apartments was through project-based mortgage loans. There was little, if any, new construction financed in any other way. Recently, however, there has been increased utilization of Real Estate Investment Trusts (REITs) and other public companies which could potentially be an important new source of construction of rental housing in New Jersey. These entities generally do not utilize project-based mortgages but instead obtain comprehensive financing not secured by individual mortgages as a more efficient and lower cost means of financing new construction. There has been confusion as to whether new construction undertaken by REITs and other such entities would be exempted from municipal rent control under the terms of section 2 of P.L.1987, c.153 (C.2A:42-84.2) when there is no initial mortgage financing. To eliminate any confusion and to facilitate the construction of new rental units for which there is no initial mortgage financing, section 1 of P.L.1999, c.291 amends section 2 of P.L.1987, c.153 (C.2A:42-84.2) to add a subsection b. to that section in order to clarify the Legislature's intent of providing an exemption from municipal rent control ordinances, except those adopted under the authority of P.L.1966, c.168 (C.2A:42-74 et seq.), by specifying that the period of time for exemption from rent control in such instances shall be 30 years following completion of construction.

Amended 1999, c. 291, § 2.

2A:42-84.6. Construction of multiple dwellings encouraged

It is the intent of this act to establish an experimental program whereby the construction of multiple dwellings in this State shall be encouraged, and the marketability of those multiple dwellings shall be maintained, to the greatest extent economically possible, through the exemption by law of newly constructed multiple dwellings from rent control, rent leveling and rent stabilization ordinances. The Legislature, therefore, declares it to be public policy of this State that, within the limitations imposed by this act, the exemptions granted under this act shall not be limited, diminished, altered, or impaired during the period of exemption afforded, in order to maintain in this respect a predictable environment within which the financing, construction and marketing of new multiple dwellings can occur, and to permit the Legislature to evaluate the results of the experimental program after a specified period of time during which the program shall have been given a fair opportunity for success, and during which the coherence of the statutory scheme establishing the program has been preserved.