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SYNOPSIS

Establishes procedures to prevent and eradicate bedbug infestations in certain residential property.

CURRENT VERSION OF TEXT

As reported by the Assembly Housing and Local Government Committee on December 8, 2008, with amendments.

(Sponsorship Updated As Of: 1/16/2009)

1 AN ACT concerning bedbug infestations in residential dwellings and
2 supplementing and amending Title 26 of the Revised Statutes.

3

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

6

7 1. (New section) The Legislature finds and declares that:

8 a. Populations of the common bedbug, *Cimex lectularius*, have
9 increased by 500 percent in the past few years.

10 b. A bedbug infestation is a uniquely hard to exterminate threat
11 to the health and habitability of a dwelling because tiny adult
12 bedbugs are able to hide deep in mattresses and walls, and their
13 food source is the occupants of a dwelling.

14 c. Bedbugs leave signs of their presence in bedding and in a
15 dwelling that are visible to the naked eye, making education of a
16 dwelling occupant a critical aspect of prevention.

17 d. Bedbugs feed on ¹**[human]** the¹ blood ¹of humans and
18 domestic animals¹, and present a public ¹**[health]** welfare¹ risk.

19 e. Bedbugs travel through the ventilation systems in multi-unit
20 establishments, causing ¹the presence of bedbugs in¹ exponential
21 ¹**[infestations]** numbers¹.

22 f. The owner of a multiple dwelling ¹, with the cooperation of
23 tenants,¹ is in the best position to coordinate the extermination ¹of¹
24 bedbug ¹**[infestations]** populations¹ in that multiple dwelling.

25 g. The common bedbug is a public nuisance and it is a matter
26 of public welfare to protect New Jersey citizens' health from this
27 pest.

28 ¹h. Tenants of multiple dwellings should be educated and
29 vigilant about preventing the presence of bedbugs in their homes.¹

30

31 2. (New section) For purposes of this act:

32 "Bedbug" means an insect of the species "*Cimex lectularius*,"
33 commonly referred to as a bedbug.

34 "Commissioner" means the Commissioner of Health and Senior
35 Services.

36 ¹"Common interest community" means a horizontal property
37 regime, condominium, cooperative, or mutual housing corporation
38 in which some of the property, known as common elements or
39 common areas, is owned as tenants-in-common or otherwise owned
40 by all of the property owners.¹

41 "Department" means the Department of Health and Senior
42 Services.

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:

¹Assembly AHO committee amendments adopted December 8, 2008.

1 "Dwelling" or "multiple dwelling" means a multiple dwelling as
2 defined in section 3 of the "Hotel and Multiple Dwelling Law,"
3 P.L.1967, c.76 (C.55:13A-3) ¹, except that this definition shall not
4 include any common interest community¹.

5 "Eradicate" means the process ¹**【required】** that shall be
6 undertaken by a commercial pesticide applicator, licensed pursuant
7 to the "Pesticide Control Act of 1971," P.L.1971, c.176 (C.13:1F-1
8 et seq.) and the rules and regulations promulgated by the New
9 Jersey Department of Environmental Protection to effectuate that
10 act,¹ to eliminate ¹**【an infestation】** the presence¹ of bedbugs by
11 poisoning, spraying, fumigating, trapping, or by any other
12 recognized and lawful pest-elimination methods, including repeated
13 applications of any treatment ¹, particularly to areas where bedbugs
14 are likely to congregate¹.

15 ¹**【"Infestation"】** "Presence"¹ means the presence of bedbugs in
16 numbers large enough to be noticeable, harmful, or threatening to
17 the occupants of a dwelling unit.

18 "Local board" or "local board of health" means the board of
19 health of any municipality or the boards, bodies or officers in such
20 municipality lawfully exercising any of the powers of a local board
21 of health under the laws governing such municipality.

22 "Local health officer" means any duly appointed health officer
23 employed by the local board of health as described in R.S.26:3-19.

24 "Owner" means the owner as defined in section 3 of the "Hotel
25 and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-3) ¹, except
26 that this definition shall not include any ownership interest in any
27 common interest community.

28 "Risk factors" means tenant behaviors that increase the
29 possibility of the presence of bedbugs in a unit and include, but are
30 not limited to, living with a domestic pet, furnishing with older
31 furniture that has not been properly sanitized, and travel to tropical
32 climates without proper precautions.

33 "Seasonal use" means use or rental of a unit for a term of not
34 more than 125 consecutive days for residential purposes by a person
35 having a permanent place of residence elsewhere. "Seasonal use"
36 does not mean use or rental of living quarters for seasonal,
37 temporary or migrant farm workers in connection with any work or
38 place where work is being performed. The owner shall have the
39 burden of proving that the use or rental of the residential property is
40 seasonal¹.

41
42 3. (New section) a. The department, in consultation with the
43 Department of Community Affairs, shall, as soon as practicable and
44 annually thereafter, prepare a pamphlet that describes bedbugs and
45 explains how ¹**【bedbug infestations spread】** the presence of
46 bedbugs spreads¹. This pamphlet may contain any information that
47 the commissioner deems necessary and may be revised by the

1 department whenever new information concerning bedbugs
2 becomes available. The pamphlet shall contain the following
3 information:

4 (1) Measures that may be taken to prevent and control ¹['[bedbug
5 infestations] the presence of bedbugs¹ in a residential setting,
6 including professional extermination, cleaning the dwelling space
7 and mattresses, and laundering bedclothes, and clothing;

8 (2) Specific facts about the bedbug, including its appearance and
9 breeding habits; ¹['and']¹

10 (3) The State's guidelines and regulations for disinfecting,
11 labeling, and reselling mattresses¹; and

12 (4) Tenant behaviors that are risk factors for attracting and
13 supporting the presence of bedbugs¹.

14 b. The department shall make the pamphlet available ¹['[at no
15 cost]'¹ to the public ¹['[, in a form suitable for distributing pursuant
16 to the provisions of this act. The department shall make the
17 pamphlet available]'¹ in both the English and Spanish languages.
18 The department shall post the pamphlet on the department's Internet
19 website, in an easily printable format. The pamphlet shall serve as
20 an informational document only, and nothing therein shall be
21 construed as binding on or affecting a judicial determination related
22 to this act. The pamphlet shall not be deemed to be medical advice.

23 c. Within 30 days after the department has made the pamphlet
24 available to the public, every owner of a multiple dwelling shall
25 provide each occupied dwelling unit in the multiple dwelling with a
26 copy of the pamphlet, and thereafter every owner of a multiple
27 dwelling shall provide a copy of the current pamphlet to each new
28 tenant at or prior to the time the tenant assumes occupancy of the
29 dwelling.

30 ¹['[In addition, every owner of a multiple dwelling shall keep a
31 copy of the current pamphlet conspicuously posted in one or more
32 common areas and in a manager's office, so that the pamphlet is
33 prominent and accessible to the occupants of each dwelling unit. If
34 there is no common area in the dwelling, the pamphlet shall be
35 posted in a conspicuous location in the premises, including, but not
36 limited to the walls of the front vestibule or any foyer or hallway
37 near the main entrance of the dwelling.]

38 d. The pamphlet shall contain a separate written statement as
39 follows:

40 "Upon reasonable notice, you may be required to grant the owner
41 of your apartment access to the apartment for purposes of an
42 inspection for the presence of bedbugs. This inspection may
43 include a visual inspection and manual inspection of your personal
44 belongings, limited to bedding or upholstered furniture. If bedbugs
45 are found in the unit, additional access and measures may be
46 required. If you do not grant your landlord access for purposes of
47 an inspection for the presence of bedbugs or if you obstruct access

1 for purposes of visual inspection, your landlord may not be
2 responsible for any damages relating to and arising from bedbugs in
3 your unit."

4 e. The pamphlet shall contain a separate written statement
5 notifying the tenant that,

6 (1) upon termination of the lease and move out, the owner may
7 inspect the unit for the presence of bedbugs, and

8 (2) The presence of bedbugs in the unit may constitute damages
9 to the unit beyond normal wear and tear and actual eradication costs
10 may be itemized and deducted from the tenant's security deposit
11 pursuant to section of 3 of P.L.1971, c.223 (C.46:8-21.1).¹
12

13 4. (New section) a. Every owner of a multiple dwelling shall
14 be responsible, at his own expense, for maintaining the multiple
15 dwelling free of ¹[an infestation] the presence¹ of bedbugs ¹except
16 pursuant to section 7 of P.L. , c. (C.) (pending before the
17 Legislature as this bill)¹.

18 b. ¹Any tenant who has knowledge of the presence of bedbugs
19 shall notify the owner in writing of the presence of bedbugs in the
20 dwelling unit.

21 c.¹ Upon ¹written notice ¹[, either oral or written,]¹ from a
22 tenant, or from the local board pursuant to R.S.26:3-49, of ¹[an
23 infestation] the presence¹ of bedbugs in any dwelling unit, an
24 owner shall ¹[immediately]¹, ¹within 10 days following written
25 notice to all affected tenants,¹ at his own expense,

26 (1) eradicate the ¹[infestation] presence¹ of bedbugs in the
27 dwelling unit;

28 (2) ascertain ¹[whether] the presence of bedbugs in¹ other
29 dwelling units or common areas ¹[are infested with bedbugs]¹; and

30 (3) ¹following written notice to the tenants of those units where
31 bedbugs are present,¹ eradicate any remaining ¹[infestation]
32 presence of bedbugs¹ in other dwelling units or common areas

33 ¹[c. When an infestation of bedbugs is found to exist in two or
34 more dwelling units, or in a common area, the owner of the multiple
35 dwelling shall provide notice that there is a risk of an infestation of
36 multiple units to each occupant of the multiple dwelling by causing
37 written notice to be delivered to each dwelling unit in the multiple
38 dwelling.]

39 The provisions of this subsection to the contrary
40 notwithstanding, an owner shall, within seven days following
41 written notice to all affected tenants, at his own expense, eradicate
42 the presence of bedbugs in a dwelling unit leased, occupied, or
43 rented for seasonal use.

44 d. (1) When the owner of a multiple dwelling requires access to
45 a unit for purposes of ascertaining the presence of bedbugs or
46 eradicating the presence of bedbugs, the owner shall provide at least

1 48 hours' notice to the tenants, in writing, that the owner requires
2 access for purposes of ascertaining the presence of bedbugs.

3 (2) If the tenant, after receiving reasonable notice of an
4 inspection or eradication pursuant to this subsection, interferes
5 with, obstructs, or actively inhibits access to the unit for purposes of
6 a visual inspection for, or eradication of, the presence of bedbugs,
7 the owner shall not be liable to the tenant of the unit for any
8 damages relating to and arising from the presence of bedbugs.'

9
10 5. (New section) a. '[The tenant] If the owner does not act,
11 within 10 days, pursuant to section 4 of P.L. , c. (C.) (pending
12 before the Legislature as this bill), the tenant' may notify', in
13 writing,' the local board '[and the owner of a multiple dwelling] or
14 local health officer' of any failure of the multiple dwelling to be
15 kept in a condition free of '[an infestation] the presence' of
16 bedbugs.

17 b. If, following 'written' notice '[, either oral or written,]'
18 from a tenant, or from the local board pursuant to R.S.26:3-49, 'or
19 from the Department of Community Affairs, pursuant to an
20 inspection conducted pursuant to section 7 of P.L.1967, c.76
21 (C.55:13A-7)' the owner of a multiple dwelling does not eradicate
22 '[an infestation] the presence' of bedbugs pursuant to section 4 of
23 P.L. , c. (C.) (pending before the Legislature as this bill),
24 the local health officer shall act as an agent for the owner of a
25 multiple dwelling to 'immediately inspect for the presence of
26 bedbugs and, if required, to' engage a '[qualified insect
27 exterminator or insect management professional] commercial
28 pesticide applicator' at a usual and customary price in the area to
29 eradicate the '[infestation] presence' of bedbugs.

30 c. Any '[exterminator or insect management professional]
31 commercial pesticide applicator' who provides services to eradicate
32 '[an infestation] the presence of bedbugs' in accordance with
33 subsection a. of this section may bill the owner of a multiple
34 dwelling directly. The 'municipality or a' local board may adopt an
35 ordinance, similar to an ordinance adopted pursuant to section 6 of
36 P.L.1962, c.66 (C.40:48-2.12f), providing that the municipality
37 shall pay the costs of eradication of '[an infestation] the presence'
38 of bedbugs, and that the costs shall be charged against the multiple
39 dwelling premises, and shall be a lien against the premises. The
40 owner of the multiple dwelling shall reimburse the local health
41 officer or local board for the actual costs incurred for any
42 eradication of '[an infestation] the presence' of bedbugs.

43
44 '6. (New section) a. An owner shall visually inspect the unit no
45 more than 30 days prior to the date a new lease term commences or
46 a new tenant commences occupancy of a dwelling unit, except for a

1 dwelling unit rented, occupied, or leased for seasonal use. The
2 owner shall visually inspect any dwelling unit rented, occupied, or
3 leased for seasonal use that has been unoccupied for 30 days or
4 more prior to the date a new lease term commences or a new tenant
5 commences occupancy of a dwelling unit. The owner shall include
6 a provision in the lease certifying that the owner has visually
7 inspected the dwelling unit for the presence of bedbugs.

8 b. An owner may visually inspect a dwelling unit for evidence
9 of the presence of bedbugs when an tenant terminates occupancy of
10 the unit. If the owner ascertains the presence of bedbugs, of which
11 the owner has not received notice pursuant to section 4 of P.L. ,
12 c. (C.) (pending before the Legislature as this bill), the
13 presence of bedbugs may constitute damages to the unit beyond
14 normal wear and tear, and the owner may itemize and deduct from
15 the tenant's security deposit pursuant to section of 3 of P.L.1971,
16 c.223 (C.46:8-21.1).

17 c. The owner may also deduct from the security deposit any
18 costs for eradication services for which the tenant is responsible
19 pursuant to section 7 of P.L. , c. (C.) (pending before the
20 Legislature as this bill) and that are due and owing to the landlord.¹

21
22 ¹7. (New section) If repeated eradications are necessary due to
23 the tenant's failure to properly maintain the dwelling, the costs of
24 eradication may be charged to the tenant.¹

25
26 ¹[6.] 8.¹ (New section) a. Any owner of a multiple dwelling
27 whose negligence or failure to act results in action by the local
28 health officer pursuant to section 5 of P.L. , c. (C.)
29 (pending before the Legislature as this bill) shall be liable for a civil
30 penalty of not more than \$300 for each affected dwelling unit and
31 not more than \$1000 for each affected common area in the multiple
32 dwelling. Such penalty shall be ¹["recoverable"] recovered¹ by and
33 in the name of the local board of health¹, if one exists. If no local
34 board exists, the penalty shall be paid into the treasury of the
35 municipality in which the violation occurred for the general uses of
36 the municipality. If the violation is of a continuing nature, each day
37 during which it continues constitutes an additional, separate, and
38 distinct offense¹.

39 b. The local board or local health officer may bring an action in
40 ¹["any court of competent jurisdiction to enforce"] a summary
41 manner pursuant to the "Penalty Enforcement Law of 1999,"
42 P.L.1999, c.274 (C.2A:58-10 et seq.), and the Rules Governing the
43 Courts of the State of New Jersey governing actions for the
44 collection of civil penalties, in the municipal court or the Superior
45 Court to recover¹ a penalty imposed pursuant to subsection a. of
46 this section. The court is empowered to issue any appropriate

1 injunctive orders, and to authorize immediate collection of
2 reimbursable costs due the local board.

3

4 '【7.】 9.' (New section) The commissioner, in consultation with
5 the Department of Community Affairs, pursuant to the
6 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
7 seq.), shall adopt rules and regulations to effectuate the purposes of
8 this act.

9

10 '【8.】 10.' R.S.26:3-46 is amended to read as follows:

11 26:3-46. The local board, within its jurisdiction, shall examine
12 into and prohibit any nuisance, offensive matter, foul or noxious
13 odors, gases or vapors, water in which mosquito larvae breed, and
14 all causes of ill health or disease, including bedbugs, which may be
15 known to the board or brought to its attention, which, in its
16 opinion, are injurious to the health of the inhabitants therein, and
17 shall cause the same to be removed and abated at the expense of
18 the owner.

19 (cf: R.S.26:3-46)

20

21 '【9.】 11.' R.S.26:3-49 is amended to read as follows:

22 26:3-49. Whenever any nuisance, noxious gases or vapors, water
23 in which mosquito larvae breed, or cause of ill health or disease is
24 found on private property, the local board shall notify the owner to
25 remove and abate the same, at his own expense, within such time
26 as the board may specify. A duplicate of the notice shall be left
27 with one or more of the tenants or occupants. Whenever any
28 infestation of bedbugs is found in a multiple dwelling, the local
29 board shall notify the owner to eradicate the infestation, at his own
30 expense, immediately.

31 If the owner resides out of the state or cannot be so notified
32 speedily, a notice left at the house or premises with the tenant or
33 occupant, or posted on the premises, shall suffice.

34 In the event that an owner does not eradicate an infestation of
35 bedbugs immediately following notice pursuant to this section, the
36 local board of health is authorized to act as an agent for the
37 landlord, pursuant to section 5 of P.L. , c. (C.), for purposes
38 of eradicating the infestation.

39 (cf: R.S.26:3-49)

40

41 '【10.】 12.' R.S.26:3-54 is amended to read as follows:

42 26:3-54. The local board may recover, by a civil action, the
43 expenses incurred in such removal and abatement from any person
44 who shall have caused or allowed such nuisance, source of foulness,
45 water in which mosquito larvae breed, or cause of sickness,
46 hazardous to the public health to exist, or from any owner, tenant,
47 or occupant of premises who, after notice as herein provided, shall
48 fail to remove and abate the same within the time specified in the

1 notice. The local board may recover, by a civil action, the
2 expenses incurred in eradication of an infestation of bedbugs,
3 pursuant to section 5 of P.L. , c. (C.), from the owner of a
4 multiple dwelling who, after notice, failed to eradicate the
5 infestation of bedbugs.

6 (cf: P.L.1953, c.26, s.14)

7

8 ¹13. Section 7 of P.L.1967, c.76 (C.55:13A-7) is amended to
9 read as follows:

10 7. The commissioner shall issue and promulgate, in the manner
11 specified in section 8 of P.L.1967, c.76 (C.55:13A-8), such
12 regulations as the commissioner may deem necessary to assure that
13 any hotel or multiple dwelling will be maintained in such manner as
14 is consistent with, and will protect, the health, safety and welfare of
15 the occupants or intended occupants thereof, or of the public
16 generally.

17 Any such regulations issued and promulgated by the
18 commissioner pursuant to this section shall provide standards and
19 specifications for such maintenance materials, methods and
20 techniques, fire warning and extinguisher systems, elevator
21 systems, emergency egresses, and such other protective equipment
22 as the commissioner shall deem reasonably necessary to the health,
23 safety and welfare of the occupants or intended occupants of any
24 units of dwelling space in any hotel or multiple dwelling, including
25 but not limited to:

26 (a) Structural adequacy ratings;

27 (b) Methods of egress, including fire escapes, outside fireproof
28 stairways, independent stairways, and handrails, railings, brackets,
29 braces and landing platforms thereon, additional stairways, and
30 treads, winders, and risers thereof, entrances and ramps;

31 (c) Bulkheads and scuttles, partitions, walls, ceilings and floors;

32 (d) Garbage and refuse collection and disposal, cleaning and
33 janitorial services, repairs, and extermination services;

34 (e) Electrical wiring and outlets, and paints and the composition
35 thereof;

36 (f) Doors, and the manner of opening thereof;

37 (g) Transoms, windows, shafts and beams;

38 (h) Chimneys, flues and central heating units;

39 (i) Roofing and siding materials;

40 (j) Lots, yards, courts and garages, including the size and
41 location thereof;

42 (k) Intakes, open ducts, offsets and recesses;

43 (l) Windows, including the size and height thereof;

44 (m) Rooms, including the area and height thereof, and the
45 permissible number of occupants thereof;

46 (n) Stairwells, skylights and alcoves;

47 (o) Public halls, including the lighting and ventilation thereof;

48 (p) Accessory passages to rooms;

- 1 (q) Cellars, drainage and air space;
2 (r) Water-closets, bathrooms and sinks;
3 (s) Water connections, including the provision of drinking and
4 hot and cold running water;
5 (t) Sewer connections, privies, cesspools, and private sewers;
6 (u) Rain water and drainage conductors;
7 (v) Entrances and ramps; **[and]**
8 (w) Presence of lead-based paint hazards in multiple dwellings
9 and in single-family and two-family dwellings, exclusive of owner-
10 occupied dwelling units, subject to P.L.2003, c.311 (C.52:27D-
11 437.1 et al.). In a common interest community, any inspection fee
12 for and violation found within a unit which is solely related to this
13 subsection shall be the responsibility of the unit owner and not the
14 homeowners' association, unless the association is the owner of the
15 unit; and
16 (x) Presence of bedbugs, as defined in section 2 of P.L. _____,
17 c. (C. _____) (pending before the Legislature as this bill), or the
18 presence of other vermin and pests in multiple dwellings.¹
19 (cf: P.L.2007, c.251, s.5)

20

21 ¹**[11.] 14.** This act shall take effect immediately.