

ASSEMBLY, No. 2072

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED FEBRUARY 8, 2010

Sponsored by:

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District 32 (Bergen and Hudson)

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District 29 (Essex and Union)

Assemblyman RUBEN J. RAMOS, JR.

District 33 (Hudson)

SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/26/2010)

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 the blood of humans and domestic animals,
18 and present a public welfare risk.

19 e. Bedbugs travel through the ventilation systems in multi-unit
20 establishments, causing the presence of bedbugs in exponential
21 numbers.

22 f. The owner of a multiple dwelling , with the cooperation of
23 tenants, is in the best position to coordinate the extermination of
24 bedbug populations 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 h. Tenants of multiple dwellings should be educated and
29 vigilant about preventing the presence of bedbugs in their homes.

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 "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.

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

43 "Dwelling" or "multiple dwelling" means a multiple dwelling as
44 defined in section 3 of the "Hotel and Multiple Dwelling Law,"

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 P.L.1967, c.76 (C.55:13A-3), except that this definition shall not
2 include any common interest community.

3 "Eradicate" means the process that shall be undertaken by a
4 commercial pesticide applicator, licensed pursuant to the "Pesticide
5 Control Act of 1971," P.L.1971, c.176 (C.13:1F-1 et seq.) and the
6 rules and regulations promulgated by the New Jersey Department of
7 Environmental Protection to effectuate that act, to eliminate the
8 presence of bedbugs by poisoning, spraying, fumigating, trapping,
9 or by any other recognized and lawful pest-elimination methods,
10 including repeated applications of any treatment, particularly to
11 areas where bedbugs are likely to congregate. An eradication shall
12 be deemed completed if there has been no evidence of bedbug
13 activity for 50 days after the last application of any treatment.

14 "Local board" or "local board of health" means the board of
15 health of any municipality or the boards, bodies or officers in such
16 municipality lawfully exercising any of the powers of a local board
17 of health under the laws governing such municipality.

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

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

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

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

37

38 3. (New section) a. The department, in consultation with the
39 Department of Community Affairs, shall, as soon as practicable and
40 annually thereafter, prepare a pamphlet that describes bedbugs and
41 explains how the presence of bedbugs spreads. This pamphlet may
42 contain any information that the commissioner deems necessary and
43 may be revised by the department whenever new information
44 concerning bedbugs becomes available. The pamphlet shall contain
45 the following information:

46 (1) Measures that may be taken to prevent and control the
47 presence of bedbugs in a residential setting, including professional

1 extermination, cleaning the dwelling space and mattresses, and
2 laundering bedclothes, and clothing;

3 (2) Specific facts about the bedbug, including its appearance and
4 breeding habits;

5 (3) The State's guidelines and regulations for disinfecting,
6 labeling, and reselling mattresses;

7 (4) Tenant behaviors that are risk factors for attracting and
8 supporting the presence of bedbugs; and

9 (5) A statement describing the legal rights and responsibilities
10 imposed on tenants and owners of multiple dwellings by this act,
11 including, but not limited to the owner's duty to keep the premises
12 free of the presence of bedbugs, a tenant's duty to notify the owner
13 of the presence of bedbugs, and the potential financial liability of a
14 tenant for repeated eradications caused by either a failure to
15 properly maintain the unit or for interfering with the owner's access
16 to the unit for inspection or eradication purposes.

17 b. The department shall make the pamphlet available to the
18 public in both the English and Spanish languages. The department
19 shall post the pamphlet on the department's Internet website, in an
20 easily printable format. The pamphlet shall serve as an
21 informational document only, and nothing therein shall be
22 construed as binding on or affecting a judicial determination related
23 to this act. The pamphlet shall not be deemed to be medical advice.

24 c. Within 90 days after the department has made the pamphlet
25 available to the public, every owner of a multiple dwelling shall
26 provide each occupied dwelling unit in the multiple dwelling with a
27 copy of the pamphlet personally delivered to the unit or sent by
28 registered mail or certified mail, return receipt requested, to the
29 tenant's last known address, which may be the address of the unit.
30 Each tenant shall sign and acknowledge receipt thereof. If an
31 owner is unable to secure the tenant's signature or
32 acknowledgement of receipt, the owner shall be deemed to have
33 complied with the requirements of this subsection if the owner
34 makes two attempts, in good faith, to deliver the pamphlet, at least
35 one of which attempts shall be tendered by registered mail or
36 certified mail, return receipt requested, and both of which shall be
37 documented, including their date, in the owner's written records or
38 electronic database. After the department has made the pamphlet
39 available to the public, every owner of a multiple dwelling shall
40 provide a copy of the current pamphlet to each new tenant at or
41 prior to the time the tenant assumes occupancy of the dwelling.
42 Each new tenant shall sign and acknowledge receipt thereof to the
43 owner. A signed provision acknowledging receipt in a lease
44 agreement dated on or after the date the pamphlet is made available
45 to the public shall be deemed sufficient notice pursuant to this
46 section.

47 d. The pamphlet shall contain, in a conspicuous form, the
48 following statement:

1 "If you notice or suspect the presence of bedbugs in your unit,
2 you are required by law to promptly notify the owner or manager of
3 your unit. You may be responsible for the costs of exterminating
4 bedbugs if you do not notify your owner or manager."

5 e. The pamphlet shall contain a separate written statement as
6 follows:

7 "Upon reasonable notice, you must grant the owner of your
8 apartment access to the apartment for purposes of an inspection for
9 or the eradication of the presence of bedbugs. This inspection may
10 include a visual inspection and manual inspection of your personal
11 belongings, limited to bedding or furniture. If bedbugs are found in
12 the unit, additional access and measures may be required. If you do
13 not grant your landlord access for purposes of an inspection for or
14 the eradication of the presence of bedbugs or if you obstruct access
15 for purposes of visual inspection, your landlord may not be
16 responsible for any costs and damages relating to and arising from
17 bedbugs in your unit. You may also be responsible for the costs of
18 repeated eradication of bedbugs if you fail to properly maintain
19 your dwelling."

20 f. The pamphlet shall contain a separate written statement
21 notifying the tenant that,

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

24 (2) The presence of bedbugs in the unit may constitute damages
25 to the unit beyond normal wear and tear and actual eradication costs
26 may be itemized and deducted from the tenant's security deposit
27 pursuant to section of 3 of P.L.1971, c.223 (C.46:8-21.1).
28

29 4. (New section) a. Every owner of a multiple dwelling shall
30 be responsible, at his own expense, for maintaining the multiple
31 dwelling free of the presence of bedbugs except pursuant to section
32 7 of P.L. , c. (C.) (pending before the Legislature as this
33 bill).

34 b. Any tenant who has knowledge of the presence of bedbugs,
35 or who suspects the presence of bedbugs based on the presence of
36 characteristic bite marks, shall notify the owner in writing of the
37 presence of bedbugs in the dwelling unit.

38 c. Upon written notice from a tenant, or from the local board
39 pursuant to R.S.26:3-49, of the presence of bedbugs in any dwelling
40 unit, an owner shall, within 10 days following that written notice, at
41 his own expense,

42 (1) begin the process of eradicating bedbugs in the dwelling
43 unit;

44 (2) ascertain the presence of bedbugs in other dwelling units or
45 common areas; and

46 (3) following written notice to the tenants of those units where
47 bedbugs are present, eradicate any remaining presence of bedbugs
48 in other dwelling units or common areas

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

6 d. (1) When the owner of a multiple dwelling requires access to
7 a unit for purposes of ascertaining the presence of bedbugs or
8 eradicating the presence of bedbugs, the owner shall provide at least
9 48 hours' notice to the tenants, in writing, that the owner requires
10 access for purposes of ascertaining or eradicating the presence of
11 bedbugs.

12 (2) Upon reasonable notice pursuant to paragraph (1) of this
13 subsection, a tenant shall grant an owner access to the affected unit
14 for purposes of inspection or eradication. If the tenant, after
15 receiving reasonable notice of an inspection or eradication pursuant
16 to this subsection, interferes with, obstructs, or actively inhibits
17 access to the unit for purposes of a visual inspection for, or
18 eradication of, the presence of bedbugs, the owner shall not be
19 liable to the tenant of the unit for any damages relating to and
20 arising from the presence of bedbugs.

21
22 5. (New section) a. If the owner does not act, within 10 days,
23 pursuant to section 4 of P.L. , c. (C.) (pending before the
24 Legislature as this bill), the tenant may notify, in writing, the local
25 board or local health officer of any failure of the multiple dwelling
26 to be kept in a condition free of bedbugs.

27 b. If, following written notice from a tenant, or from the local
28 board pursuant to R.S.26:3-49, or from the Department of
29 Community Affairs, pursuant to an inspection conducted pursuant
30 to section 7 of P.L.1967, c.76 (C.55:13A-7) the owner of a multiple
31 dwelling does not eradicate the bedbugs pursuant to section 4 of
32 P.L. , c. (C.) (pending before the Legislature as this bill),
33 the local health officer shall act as an agent for the owner of a
34 multiple dwelling to inspect for the presence of bedbugs and, if
35 required, to engage a commercial pesticide applicator at a usual and
36 customary price in the area to eradicate the bedbugs, within 10 days
37 following written notice to all affected tenants, as described in
38 subsection c. of section 4 of P.L. , c. (C.) (pending before the
39 Legislature as this bill).

40 c. Any commercial pesticide applicator who provides services
41 to eradicate the presence of bedbugs in accordance with subsection
42 a. of this section may bill the owner of a multiple dwelling directly.
43 The municipality or a local board may adopt an ordinance, similar
44 to an ordinance adopted pursuant to section 6 of P.L.1962, c.66
45 (C.40:48-2.12f), providing that the municipality shall pay the costs
46 of eradication of the presence of bedbugs, and that the costs shall be
47 charged against the multiple dwelling premises, and may be a lien
48 against the premises. In the event that a landlord fails to pay the

1 costs pursuant to this section, the municipality or local board may
2 serve written notice of the failure to pay, and shall demand that the
3 deficiency be cured within 10 days. Judicial notice or hearing shall
4 be required to enforce the lien. The owner of the multiple dwelling
5 shall reimburse the local health officer or local board for the actual
6 costs incurred for any eradication of the presence of bedbugs.

7
8 6. (New section) a. An owner shall visually inspect the unit no
9 more than 30 days prior to the date a new lease term commences or
10 a new tenant commences occupancy of a dwelling unit, except for a
11 dwelling unit rented, occupied, or leased for seasonal use. The
12 owner shall visually inspect any dwelling unit rented, occupied, or
13 leased for seasonal use that has been unoccupied for 30 days or
14 more prior to the date a new lease term commences or a new tenant
15 commences occupancy of a dwelling unit. The owner shall include
16 a provision in the lease certifying that the owner has visually
17 inspected the dwelling unit for the presence of bedbugs.

18 b. An owner may visually inspect a dwelling unit for evidence
19 of the presence of bedbugs when an tenant terminates occupancy of
20 the unit. If the owner ascertains the presence of bedbugs, of which
21 the owner has not received notice pursuant to section 4 of P.L. ,
22 c. (C.) (pending before the Legislature as this bill), the
23 presence of bedbugs may constitute damages to the unit beyond
24 normal wear and tear, and the owner may itemize and deduct from
25 the tenant's security deposit pursuant to section 3 of P.L.1971,
26 c.223 (C.46:8-21.1), provided that the landlord has complied with
27 the procedures set forth in subsection c. of section 3 of P.L. ,
28 c. (C.) (pending before the Legislature as this bill).

29 c. The owner may also deduct from the security deposit any
30 costs for eradication services for which the tenant is responsible
31 pursuant to section 7 of P.L. , c. (C.) (pending before the
32 Legislature as this bill) and that are due and owing to the landlord,
33 provided that the landlord has complied with the procedures set
34 forth in subsection c. of section 3 of P.L. , c. (C.) (pending
35 before the Legislature as this bill).

36
37 7. (New section) If repeated eradications are necessary due to
38 the tenant's failure to properly maintain the dwelling, the costs of
39 eradication may be charged to the tenant, provided that the landlord
40 has complied with the procedures set forth in subsection c. of
41 section 3 of P.L. , c. (C.) (pending before the Legislature as
42 this bill).

43
44 8. (New section) a. Any owner of a multiple dwelling whose
45 negligence or failure to act results in action by the local health
46 officer pursuant to section 5 of P.L. , c. (C.) (pending
47 before the Legislature as this bill) shall be liable for a civil penalty
48 of not more than \$300 for each affected dwelling unit and not more

1 than \$1000 for each affected common area in the multiple dwelling.
2 Such penalty shall be recovered by and in the name of the local
3 board of health, if one exists. If no local board exists, the penalty
4 shall be paid into the treasury of the municipality in which the
5 violation occurred for the general uses of the municipality.

6 b. The local board or local health officer may bring an action in
7 a summary manner pursuant to the "Penalty Enforcement Law of
8 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), and the Rules
9 Governing the Courts of the State of New Jersey governing actions
10 for the collection of civil penalties, in the municipal court or the
11 Superior Court to recover a penalty imposed pursuant to subsection
12 a. of this section. The court is empowered to issue any appropriate
13 injunctive orders, and to authorize immediate collection of
14 reimbursable costs due the local board.

15

16 9. (New section) The commissioner, in consultation with the
17 Department of Community Affairs, pursuant to the "Administrative
18 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt
19 rules and regulations to effectuate the purposes of this act.

20

21 10. R.S.26:3-46 is amended to read as follows:

22 26:3-46. The local board, within its jurisdiction, shall examine
23 into and prohibit any nuisance, offensive matter, foul or noxious
24 odors, gases or vapors, water in which mosquito larvae breed, and
25 all causes of ill health or disease, including bedbugs, which may be
26 known to the board or brought to its attention, which, in its
27 opinion, are injurious to the health of the inhabitants therein, and
28 shall cause the same to be removed and abated at the expense of
29 the owner.

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

31

32 11. R.S.26:3-49 is amended to read as follows:

33 26:3-49. Whenever any nuisance, noxious gases or vapors, water
34 in which mosquito larvae breed, or cause of ill health or disease is
35 found on private property, the local board shall notify the owner to
36 remove and abate the same, at his own expense, within such time
37 as the board may specify. A duplicate of the notice shall be left
38 with one or more of the tenants or occupants. Whenever any
39 infestation of bedbugs is found in a multiple dwelling, the local
40 board shall notify the owner to eradicate the infestation, at his own
41 expense, immediately.

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

45 In the event that an owner does not eradicate an infestation of
46 bedbugs immediately following notice pursuant to this section, the
47 local board of health is authorized to act as an agent for the

1 landlord, pursuant to section 5 of P.L. , c. (C.), for purposes
2 of eradicating the infestation.

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

4

5 12. R.S.26:3-54 is amended to read as follows:

6 26:3-54. The local board may recover, by a civil action, the
7 expenses incurred in such removal and abatement from any person
8 who shall have caused or allowed such nuisance, source of foulness,
9 water in which mosquito larvae breed, or cause of sickness,
10 hazardous to the public health to exist, or from any owner, tenant,
11 or occupant of premises who, after notice as herein provided, shall
12 fail to remove and abate the same within the time specified in the
13 notice. The local board may recover, by a civil action, the
14 expenses incurred in eradication of an infestation of bedbugs,
15 pursuant to section 5 of P.L. , c. (C.), from the owner of a
16 multiple dwelling who, after notice, failed to eradicate the
17 infestation of bedbugs.

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

19

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

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

29 Any such regulations issued and promulgated by the
30 commissioner pursuant to this section shall provide standards and
31 specifications for such maintenance materials, methods and
32 techniques, fire warning and extinguisher systems, elevator
33 systems, emergency egresses, and such other protective equipment
34 as the commissioner shall deem reasonably necessary to the health,
35 safety and welfare of the occupants or intended occupants of any
36 units of dwelling space in any hotel or multiple dwelling, including
37 but not limited to:

38 (a) Structural adequacy ratings;

39 (b) Methods of egress, including fire escapes, outside fireproof
40 stairways, independent stairways, and handrails, railings, brackets,
41 braces and landing platforms thereon, additional stairways, and
42 treads, winders, and risers thereof, entrances and ramps;

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

44 (d) Garbage and refuse collection and disposal, cleaning and
45 janitorial services, repairs, and extermination services;

46 (e) Electrical wiring and outlets, and paints and the composition
47 thereof;

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

- 1 (g) Transoms, windows, shafts and beams;
2 (h) Chimneys, flues and central heating units;
3 (i) Roofing and siding materials;
4 (j) Lots, yards, courts and garages, including the size and
5 location thereof;
6 (k) Intakes, open ducts, offsets and recesses;
7 (l) Windows, including the size and height thereof;
8 (m) Rooms, including the area and height thereof, and the
9 permissible number of occupants thereof;
10 (n) Stairwells, skylights and alcoves;
11 (o) Public halls, including the lighting and ventilation thereof;
12 (p) Accessory passages to rooms;
13 (q) Cellars, drainage and air space;
14 (r) Water-closets, bathrooms and sinks;
15 (s) Water connections, including the provision of drinking and
16 hot and cold running water;
17 (t) Sewer connections, privies, cesspools, and private sewers;
18 (u) Rain water and drainage conductors;
19 (v) Entrances and ramps; **[and]**
20 (w) Presence of lead-based paint hazards in multiple dwellings
21 and in single-family and two-family dwellings, exclusive of owner-
22 occupied dwelling units, subject to P.L.2003, c.311 (C.52:27D-
23 437.1 et al.). In a common interest community, any inspection fee
24 for and violation found within a unit which is solely related to this
25 subsection shall be the responsibility of the unit owner and not the
26 homeowners' association, unless the association is the owner of the
27 unit; and
28 (x) Presence of bedbugs, as defined in section 2 of P.L. _____,
29 c. (C. _____) (pending before the Legislature as this bill), or the
30 presence of other vermin and pests in multiple dwellings.
31 (cf: P.L.2007, c.251, s.5)

32

33 14. This act shall take effect immediately.

34

35

36

STATEMENT

37

38 This bill would require owners of multiple dwellings to maintain
39 a safe and clean living environment free of the presence of bedbugs.
40 This legislation provides that property owners are responsible for
41 maintaining multiple dwellings free of bedbug infestations, and
42 must remove bedbugs at their own expense when they become
43 aware of an infestation in a multiple dwelling. This bill provides
44 that a landlord who does not take prompt action upon written notice
45 that bedbugs have infested a property is financially liable for the
46 consequences.

47 The Department of Health and Senior Services is charged with
48 preparing and publishing a bedbug education document in pamphlet

1 form. The legislation would require multiple dwelling owners to
2 provide tenants with this pamphlet within 90 days after the
3 department makes it available to the public. Owners of multiple
4 dwellings would be required to deliver this pamphlet to tenants,
5 who would be required to sign an acknowledgment that they
6 received this document. If an owner is unable to obtain a signature,
7 the owner shall be deemed in compliance with the delivery
8 requirement if two attempts are made to deliver the pamphlet, one
9 of which shall be by certified or registered mail.

10 This publication would set forth the legal rights and
11 responsibilities of both owners and tenants imposed by this
12 legislation. The pamphlet would advise tenants that their units may
13 be subject to inspection for bedbugs and that the tenants may be
14 responsible for certain costs related to bedbug eradication. If
15 enacted, this legislation would require the owner to deliver the
16 pamphlet before charging certain expenses to tenants or deducting
17 certain expenses from tenants' security deposits.

18 This bill requires owners to act to eradicate bedbugs within 10
19 days of receiving written notice of the presence of bedbugs in a
20 unit. When a unit is rented for seasonal use, the owner would have
21 only seven days to act. This bill also requires the owner of a
22 multiple dwelling to provide the tenant with 48 hours' notice that
23 access is required to a unit for purposes of eradicating the presence
24 of bedbugs prior to entering the unit for purposes of inspecting for
25 or eradicating bedbugs.

26 This legislation imposes a duty on tenants to notify the owner of
27 the presence of bedbugs in the unit. This legislation also would
28 require a local board of health to act on the owner's behalf to
29 eradicate the presence bedbugs when an owner does not do so. This
30 bill has no financial impact on taxpayers because the property
31 owner is required to reimburse the board when it acts on the owner's
32 behalf.