

ASSEMBLY, No. 3835

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED FEBRUARY 22, 2011

Sponsored by:

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District 36 (Bergen, Essex and Passaic)

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SYNOPSIS

Clarifies enforcement responsibility of State Housing Code concerning multiple dwellings from municipalities to the State under the "Hotel and Multiple Dwelling Law."

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/17/2011)

1 AN ACT concerning the inspection of multiple dwellings for
2 compliance with safety and other codes, supplementing
3 P.L.1962, c.66 (C. (C.40:48-2.12a et seq.) and revising various
4 parts of the statutory law.

5

6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8

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

10 a. That the Statewide inspection of rental units, under the
11 Department of Community Affairs, is a necessary and appropriate
12 task for State government to perform.

13 b. That all apartment communities in New Jersey containing
14 three or more units fall under the State's jurisdiction via the "Hotel
15 and Multiple Dwelling Law," P.L.1967, c. 76 (C.55:13A-1 et seq.).
16 New Jersey was one of the first states in the nation to adopt
17 Statewide regulations governing multi-family housing and remains
18 one of just a handful to have Statewide registration and inspection
19 requirements.

20 c. There is an overlap of jurisdiction under New Jersey laws
21 concerning the maintenance requirements for and inspection of
22 multiple dwellings. While the State Housing Code provides
23 municipalities with the ability to adopt local ordinances with
24 minimum maintenance standards in accordance with that act, and
25 which code is applicable to all types of buildings, statutes enacted
26 subsequent to that law place the responsibility to enforce fire, and
27 building codes, and certain health and safety items, including use,
28 occupancy and maintenance, on the State, through the Bureau of
29 Housing Inspection, Division of Codes and Standards, in the
30 Department of Community Affairs.

31 d. There is also a duplication of laws permitting or requiring
32 landlord registration, which creates confusion, and permits
33 additional fees to be charged to landlords for the same purpose.

34 e. This confusing array of laws, many of which have in effect
35 been rendered moot by subsequent enactments, requires Legislative
36 correction, so that the State's requirements for landlord registration,
37 and maintenance and use standards and inspection therefore of
38 multiple dwellings are clear and not duplicated at the local level.

39 f. The Legislature determines that it is appropriate for the
40 statutes authorizing municipal ordinances effectuating the State
41 Housing Code to be amended to exclude the regulation of multiple
42 dwellings. The Legislature further determines that it is appropriate
43 that the minimum requirements under the State Housing Code for
44 multiple dwellings be enforced by the State Department of

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 Community Affairs pursuant to “Hotel and Multiple Dwelling
2 Law,” in addition to the other protections provided by that act.

3
4 2. (New section) The provisions of the State Housing Code,
5 N.J.A.C.5:28 -1 et seq., adopted by the Department of Community
6 Affairs pursuant to P.L.1966, c.168 (C.2A:42-74 et seq.) which may
7 be applied to multiple dwellings shall be enforced solely pursuant to
8 P.L.1967, c.76 (C.55:13A-1 et seq.). The provisions of this section
9 shall not be construed to prevent a municipality from abating a
10 nuisance or from inspecting a multiple dwelling upon a change of
11 occupancy pursuant to P.L.1979. c.476 (C.40:48-2.12m).

12
13 3. Section 5 of P.L.1966, c.168 (C.2A:42-78) is amended to
14 read as follows:

15 5. Any ordinance adopted **[under this act]** pursuant to section
16 4 of P.L.1966, c.168 providing for the regulation of rents may
17 provide for the registration of the owners **[and management]** of
18 every multiple dwelling in the municipality. Such registration shall
19 be with the clerk of the municipality upon forms prescribed by and
20 furnished by the municipality. Every such registration form shall
21 include the name and address of the owner and the name and
22 address of an agent in charge of the premises residing in the
23 municipality. Notwithstanding any ordinance to the contrary, no
24 municipality may charge a fee for a registration made pursuant to
25 this section.

26 (cf: P.L.1966, c.168, s.5)

27
28 4. Section 1 of P.L.1962, c.66 (C.40:48-2.12a) is amended to
29 read as follows:

30 1. The governing body of any municipality may make, amend,
31 repeal and enforce ordinances to regulate buildings and structures,
32 provided that such ordinances do not conflict with the State
33 Uniform Construction Code Act, P.L.1975, c.217 (C.52:27D-119 et
34 seq.) and the code promulgated pursuant to that act, and **[their]** the
35 use and occupation of such buildings and structures to prevent and
36 abate conditions therein harmful to the health and safety of the
37 occupants of said buildings and structures and the general public in
38 the municipality, other than those conditions and uses regulated in
39 multiple dwellings pursuant to P.L.1967, c. 76 (C.55:13A-1 et seq.).
40 (cf: P.L.1962, c.66, s.1)

41
42 5. Section 1 of P.L.1979. c.476 (C.40:48-2.12m) is amended to
43 read as follows:

44 1. a. The governing body of a municipality may adopt
45 ordinances, other than as prohibited in subsection b. of this section,
46 regulating the maintenance and condition of any unit of dwelling
47 space, upon the termination of occupancy, in any residential rental
48 property for the purpose of the safety, healthfulness, and upkeep of

1 the structure and the adherence to such other standards of
2 maintenance and condition as are required in the interest of public
3 safety, health and welfare. Such ordinances shall require the owner
4 of any residential rental property, prior to rental or lease involving
5 a new occupancy of any unit of dwelling space in such property, to
6 obtain a certificate of inspection or occupancy for the unit of
7 dwelling space. Such certificate of inspection or occupancy shall
8 be issued by the municipality upon the inspection of the unit of
9 dwelling space by a municipal inspector and his findings that such
10 unit meets the standards provided by law. The municipality may
11 charge a fee to fund the costs of the inspections and the issuance of
12 the certificates. The fee shall be reasonable and shall not exceed
13 the costs of the inspection. For purposes of this act "owner" means
14 the person who owns, purports to own, or exercises control of any
15 residential rental property.

16 b. Nothing in subsection a. of this section shall authorize a
17 municipality to inspect multiple dwellings as defined pursuant to
18 section 3 of P.L.1967, c.76 (C.55:13A-3), on any basis other than
19 upon the termination of occupancy of a multiple dwelling unit.
20 (cf: P.L.1979, c.476, s.1)

21

22 6. Section 2 of P.L.1974, c.50 (C.46:8-28) is amended to read
23 as follows:

24 2. Every landlord shall, within 30 days following the effective
25 date of this act, or at the time of the creation of the first tenancy in
26 any newly constructed or reconstructed building, file with the clerk
27 of the municipality, or with such other municipal official as is
28 designated by the clerk, in which the residential property is situated,
29 in the case of a **one-dwelling unit rental or a two-dwelling unit**
30 **non-owner occupied** one- or two- unit rental dwelling premises, or
31 with the Bureau of Housing Inspection in the Department of
32 Community Affairs in the case of a multiple dwelling as defined in
33 section 3 of the "Hotel and Multiple Dwelling Law" (C.55:13A-3),
34 a certificate of registration on forms prescribed by the
35 Commissioner of Community Affairs, which shall contain the
36 following information:

37 a. The name and address of the record owner or owners of the
38 premises and the record owner or owners of the rental business if
39 not the same persons. In the case of a partnership the names of all
40 general partners shall be provided;

41 b. If the record owner is a corporation, the name and address of
42 the registered agent and corporate officers of said corporation;

43 c. If the address of any record owner is not located in the
44 county in which the premises are located, the name and address of a
45 person who resides in the county in which the premises are located
46 and is authorized to accept notices from a tenant and to issue
47 receipts therefor and to accept service of process on behalf of the
48 record owner;

- 1 d. The name and address of the managing agent of the
2 premises, if any;
- 3 e. The name and address, including the dwelling unit,
4 apartment or room number of the superintendent, janitor, custodian
5 or other individual employed by the record owner or managing
6 agent to provide regular maintenance service, if any;
- 7 f. The name, address and telephone number of an individual
8 representative of the record owner or managing agent who may be
9 reached or contacted at any time in the event of an emergency
10 affecting the premises or any unit of dwelling space therein,
11 including such emergencies as the failure of any essential service or
12 system, and who has the authority to make emergency decisions
13 concerning the building and any repair thereto or expenditure in
14 connection therewith and shall, at all times, have access to a current
15 list of building tenants that shall be made available to emergency
16 personnel as required in the event of an emergency;
- 17 g. The name and address of every holder of a recorded
18 mortgage on the premises;
- 19 h. If fuel oil is used to heat the building and the landlord
20 furnishes the heat in the building, the name and address of the fuel
21 oil dealer servicing the building and the grade of fuel oil used.
22 (cf: P.L.2003, c.56, s.2)

23
24 7. Section 3 of P.L.1981, c.442 (C.46:8-28.1) is amended to
25 read as follows:

26 3. In the case of a filing under section 2 of P.L.1974, c.50
27 (C.46:8-28) with the municipal clerk, or with such other municipal
28 official as is designated by the clerk, the clerk or designated official
29 shall index and file the certificate and make it reasonably available
30 for public inspection. In the case of a filing with the Bureau of
31 Housing Inspection, the filing shall be accompanied by the filing
32 fee required pursuant to section 12 of P.L.1967, c. 76 (C. 55:13A-
33 12). The bureau shall review the certificate and, if it is found to be
34 in conformity with this law and any regulations promulgated
35 hereunder, validate the certificate and issue a validated copy to the
36 landlord and a validated copy to the clerk of the municipality in
37 which the building or project is located. The clerk shall index the
38 validated certificates, or forward them to the designated official for
39 indexing, and the certificates shall be made available as with the
40 certificates required of **[one and two]** one- or two- unit rental
41 dwelling [unit nonowner occupied] premises. To reduce
42 administrative costs, any information required to be transmitted
43 pursuant to this section may be provided and stored in an electronic
44 format, and shall be updated frequently on a reasonable basis, in
45 accordance with regulations promulgated by the Commissioner of
46 Community Affairs.
47 (cf: P.L.2001, c.264, s.2)

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

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

10 Any such regulations issued and promulgated by the
11 commissioner pursuant to this section shall provide standards and
12 specifications for such maintenance materials, methods and
13 techniques, fire warning and extinguisher systems, elevator
14 systems, emergency egresses, and such other protective equipment
15 as the commissioner shall deem reasonably necessary to the health,
16 safety and welfare of the occupants or intended occupants of any
17 units of dwelling space in any hotel or multiple dwelling, and on or
18 after the effective date of P.L. , c. (C.) (pending before the
19 Legislature as this bill), shall include all items listed in the State
20 Housing Code which are applicable to multiple dwellings, including
21 but not limited to:

- 22 (a) Structural adequacy ratings;
- 23 (b) Methods of egress, including fire escapes, outside fireproof
24 stairways, independent stairways, and handrails, railings, brackets,
25 braces and landing platforms thereon, additional stairways, and
26 treads, winders, and risers thereof, entrances and ramps;
- 27 (c) Bulkheads and scuttles, partitions, walls, ceilings and floors;
- 28 (d) Garbage and refuse collection and disposal, cleaning and
29 janitorial services, repairs, and extermination services;
- 30 (e) Electrical wiring and outlets, and paints and the composition
31 thereof;
- 32 (f) Doors, and the manner of opening thereof;
- 33 (g) Transoms, windows, shafts and beams;
- 34 (h) Chimneys, flues and central heating units;
- 35 (i) Roofing and siding materials;
- 36 (j) Lots, yards, courts and garages, including the size and
37 location thereof;
- 38 (k) Intakes, open ducts, offsets and recesses;
- 39 (l) Windows, including the size and height thereof;
- 40 (m) Rooms, including the area and height thereof, and the
41 permissible number of occupants thereof, including the use and
42 occupancy of space in accordance with the State Housing Code;
- 43 (n) Stairwells, skylights and alcoves;
- 44 (o) Public halls, including the lighting and ventilation thereof;
- 45 (p) Accessory passages to rooms;
- 46 (q) Cellars, drainage and air space;
- 47 (r) Water-closets, bathrooms and sinks;

- 1 (s) Water connections, including the provision of drinking and
2 hot and cold running water;
- 3 (t) Sewer connections, privies, cesspools, and private sewers;
- 4 (u) Rain water and drainage conductors;
- 5 (v) Entrances and ramps; and
- 6 (w) Presence of lead-based paint hazards in multiple dwellings
7 and in single-family and two-family dwellings, exclusive of owner-
8 occupied dwelling units, subject to P.L.2003, c.311 (C.52:27D-
9 437.1 et al.). In a common interest community, any inspection fee
10 for and violation found within a unit which is solely related to this
11 subsection shall be the responsibility of the unit owner and not the
12 homeowners' association, unless the association is the owner of the
13 unit.

14 (cf: P.L.2007, c.251, s.5)

15

16 9. Section 21 of PL 1967 c. 76 (C.55:13A-21) is amended to
17 read as follows:

18 21. a. Each municipality of this State is hereby authorized to
19 enforce the provisions of this act, and any rules or regulations
20 promulgated thereunder, within the corporate limits thereof, subject
21 to the control and supervision of the commissioner and in
22 accordance with such rules and regulations as the commissioner
23 may issue and promulgate. The commissioner shall consult with
24 and advise any municipality which enforces the provisions of this
25 act, and any rules and regulations promulgated hereunder, and each
26 such municipality shall furnish the commissioner with such reports,
27 data and information as the commissioner may deem necessary.

28 b. On or after the effective date of P.L. , c. (C.) (pending
29 before the Legislature as this bill), and notwithstanding any
30 municipal ordinance to the contrary, the regulations promulgated by
31 the commissioner to effectuate P.L.1967, c.76 (C.55:13A-1 et seq.)
32 shall provide the exclusive standards and specifications for all
33 maintenance, occupancy and use requirements of the State Housing
34 Code applicable to multiple dwellings, and shall preempt any
35 separate municipal periodic inspections of multiple dwellings
36 except as expressly authorized pursuant to P.L.1967, c.76
37 (C.55:13A-1 et seq.).

38 (cf: P.L.1967, c.76, s.21)

39

40 10. Section 25 of P.L.1967, c.76 (C.55:13A-25) is amended to
41 read as follows:

42 25. (a) This act is not intended, and nothing in this act shall be
43 construed, to abrogate or impair the powers and duties of local
44 boards of health, of the Department of Health under chapter 177 of
45 the laws of 1947.

46 (b) **[**This act is not intended, and nothing in this act shall be
47 construed, to preclude the right of any municipality to adopt and
48 enforce ordinances or regulations more restrictive than this act or

1 any rules or regulations promulgated thereunder] (Deleted by
2 amendment, P.L. , c. (C.) (pending before the Legislature as
3 this bill).

4 (cf: P.L.1967, c.76, s.25)

5
6 11. The following sections are repealed:

7 Section 3 of P.L.1962, c.66 (C.40:48-2.12c)

8 Section 2 of P.L.1983, c.2 (C.40:48-2.12a1)

9
10
11 STATEMENT

12
13 All apartment communities in New Jersey containing three or
14 more units fall under the State's jurisdiction via the "Hotel and
15 Multiple Dwelling Law," P.L.1967, c. 76 (C.55:13A-1 et seq.). By
16 enacting that 1967 law, New Jersey was one of the first states in the
17 nation to adopt Statewide regulations governing multi-family
18 housing and remains one of just a handful of States to have
19 Statewide registration and inspection requirements.

20 There is an overlap of jurisdiction under New Jersey laws
21 concerning the maintenance requirements for and inspection of
22 multiple dwellings. The State Housing Code adopted by the
23 Commissioner of Community Affairs provides municipalities with
24 the ability to adopt local ordinances with minimum maintenance
25 standards in accordance with that act; the code applies not only to
26 multiple dwellings, but to all types of buildings. Subsequent to the
27 enactment of the law authorizing the State Housing Code, the
28 Legislature enacted the "Hotel and Multiple Dwelling Law," which
29 provides a separate, uniform maintenance code for multiple
30 dwellings, with a special emphasis on fire safety. Virtually all of
31 the standards contained in the State Housing Code are also included
32 in the regulations of the department concerning hotels and multiple
33 dwellings. Municipalities are also authorized under a separate law
34 to inspect for fire safety and health violations upon a change of
35 occupancy in a rental unit.

36 There also exist several laws permitting multiple dwelling
37 landlord registration by both municipalities and the State, which
38 creates confusion, and permits additional fees to be charged for the
39 same purpose.

40 This bill corrects this situation by moving the enforcement of the
41 provisions of the State Housing Code which may be applied to
42 multiple dwellings, to the "Hotel and Multiple Dwelling Law."
43 This means that periodic inspection of multiple dwellings for
44 compliance with property maintenance codes, and use and
45 occupancy requirements, will now be performed solely by the State,
46 and not by a municipality, unless it is performing the State
47 inspection pursuant to a contract with the State. The bill also
48 clarifies the laws concerning landlord registration, and requires

1 registration of any rental unit, regardless of whether a portion of it
2 is owner-occupied, either with the municipality if a one- or two-unit
3 rental dwelling, or with the State, if a multiple dwelling.
4 Municipalities would continue to be authorized to register rental
5 dwellings for the purposes of enforcing rent-leveling ordinances,
6 but would be prohibited from charging a separate fee for that
7 registration. In addition, municipalities will continue to be
8 authorized to issue “continuing certificates of occupancy “ upon a
9 termination of occupancy in a rental unit, but would be preempted
10 by the bill from having or adopting ordinances under which periodic
11 inspections of multiple dwellings would be made.