

[Second Reprint]

SENATE, No. 2795

STATE OF NEW JERSEY
214th LEGISLATURE

INTRODUCED MARCH 21, 2011

Sponsored by:

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District 1 (Cape May, Atlantic and Cumberland)

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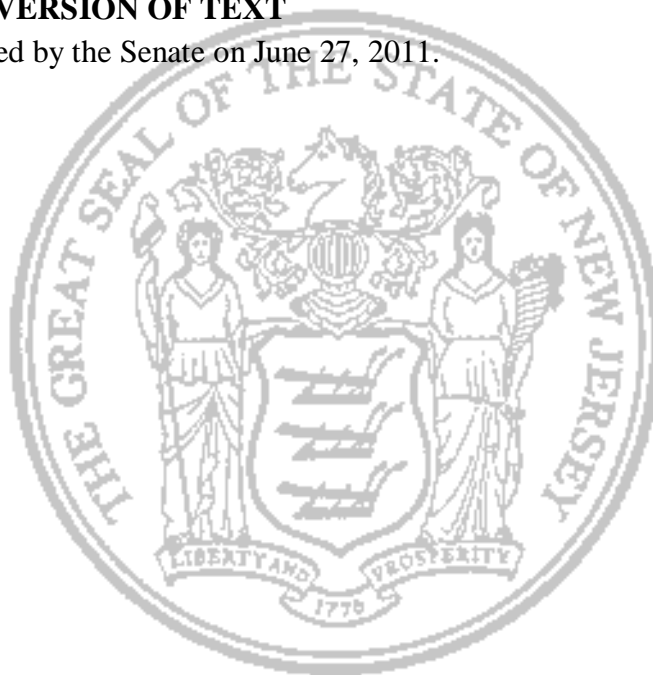
Senators Connors and Addiego

SYNOPSIS

Re-aligns 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 amended by the Senate on June 27, 2011.



(Sponsorship Updated As Of: 5/13/2011)

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 ²hotels and² multiple dwellings. While ²**[the]² State ²**[Housing**
 23 **Code]** law² provides municipalities with the ability to adopt local
 24 ordinances ²**[with]** establishing² minimum maintenance standards
 25 ²**[in accordance with that act, and which code is]** that are²
 26 applicable to all types of buildings, statutes enacted ²**[subsequent]**
 27 subsequently² to that law place the responsibility to enforce ²**[fire,**
 28 and building codes, and certain health and safety items, including
 29 use, occupancy and maintenance, on] building maintenance
 30 standards in hotels and multiple dwellings with² the State, through
 31 the Bureau of Housing Inspection, Division of Codes and
 32 Standards, in the Department of Community Affairs.
 33 d. There is also a duplication of laws permitting or requiring
 34 landlord registration, which creates confusion, and permits
 35 additional fees to be charged to landlords for the same purpose.
 36 e. This confusing array of laws, many of which have in effect
 37 been rendered moot by subsequent enactments, requires Legislative
 38 correction, so that the State's requirements for landlord registration,
 39 and maintenance and use standards and inspection therefore of
 40 multiple dwellings are clear and not duplicated at the local level.
 41 f. The Legislature determines that it is appropriate for the
 42 statutes authorizing municipal ordinances ²**[effectuating the State**
 43 **Housing Code]** ensuring the safe maintenance and operation 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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SCU committee amendments adopted May 12, 2011.

²Senate floor amendments adopted June 27, 2011.

1 residential structures² to be amended to ²**[exclude]** eliminate this
2 duplication by ensuring that the State Housing Code is applicable to
3 one- and two- unit residential dwellings while the “Regulations for
4 the Maintenance of Hotels and Multiple Dwellings,” adopted
5 pursuant to the “Hotel and Multiple Dwelling Law,” which provides
6 for the² the regulation of ²hotels and² multiple dwellings ²shall
7 serve as a Statewide and uniform standard and shall be the standard
8 adopted by a municipality for multiple dwellings instead of the
9 State Housing Code². ²**[The Legislature further determines that it**
10 **is appropriate that the minimum requirements under the State**
11 **Housing Code for multiple dwellings be enforced by the State**
12 **Department of Community Affairs pursuant to “Hotel and Multiple**
13 **Dwelling Law,” in addition to the other protections provided by that**
14 **act.]**²

15

16 2. (New section) ²a.² The provisions of the State Housing
17 Code, N.J.A.C.5:28-1 et seq., adopted by the Department of
18 Community Affairs pursuant to P.L.1966, c.168 (C.2A:42-74 et
19 seq.) ²**[which may be applied to multiple dwellings shall be**
20 **enforced solely pursuant to P.L.1967, c.76 (C.55:13A-1 et seq.)]**
21 shall be applicable solely to one or two-dwelling unit residential
22 structures².

23 ²b. On or after the effective date of P.L. , c. (C.) (pending
24 before the Legislature as this bill), and notwithstanding any
25 municipal ordinance to the contrary, the regulations promulgated by
26 the commissioner to effectuate P.L.1967, c.76 (C.55:13A-1 et seq.)
27 shall provide the exclusive standards and specifications for all
28 maintenance, occupancy, and use requirements applicable to hotels
29 and multiple dwellings as defined pursuant to section 3 of P.L.1967,
30 c.76 (C.55:13A-3).

31 ²c. The provisions of this section shall not be construed to
32 prevent a municipality from ²abating a nuisance ¹, adopting
33 ordinances to prevent conditions harmful to the public health and
34 safety of the occupants of such buildings.¹ ²adopting ordinances
35 concerning fire safety as authorized by P.L.1983, c.383 (C.52:27D-
36 192 et seq.) “the Uniform Fire Safety Act” or conducting an
37 inspection to enforce the fire code regulations promulgated under
38 that act, conducting an inspection in response to a complaint of a
39 violation of a municipal ordinance adopted in accordance with
40 subsection b. of this section,² or from inspecting a multiple
41 dwelling upon a change of occupancy pursuant to P.L.1979. c.476
42 (C.40:48-2.12m) ¹, provided that any new ordinances shall not
43 conflict with section 4 of P.L. , c. (C.) (pending before the
44 Legislature as this bill)¹.

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

3 5. Any ordinance adopted **[under this act]** pursuant to section
4 4 of P.L.1966, c.168 ¹(C.2A:42-77),¹ providing for the regulation of
5 rents¹,¹ may provide for the registration of the owners **[and**
6 management] of every multiple dwelling in the municipality. Such
7 registration shall be with the clerk of the municipality upon forms
8 prescribed by and furnished by the municipality. Every such
9 registration form shall include the name and address of the owner
10 and the name and address of an agent in charge of the premises
11 residing in the municipality. Notwithstanding any ordinance to the
12 contrary, no municipality may charge a fee for a registration made
13 pursuant to this section.

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

15

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

18 1. The governing body of any municipality may make, amend,
19 repeal and enforce ordinances to regulate buildings and structures,
20 provided that such ordinances do not conflict with the State
21 Uniform Construction Code Act, P.L.1975, c.217 (C.52:27D-119 et
22 seq.) and the code promulgated pursuant to that act, and **[their]** the
23 use and occupation of such buildings and structures to prevent and
24 abate conditions therein harmful to the health and safety of the
25 occupants of said buildings and structures and the general public in
26 the municipality, ²**[other than those]** provided that an ordinance
27 adopted to regulate any² conditions and uses ²**[regulated]**² in
28 ²hotels and² multiple dwellings ²**[pursuant to P.L.1967, c. 76**
29 **(C.55:13A-1 et seq.) shall comply with the requirements of**
30 subsection b. of section 2 of P.L. , c. (C.) (pending before
31 the Legislature as this bill)².

32 (cf: P.L.1962, c.66, s.1)

33

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

36 1. a. The governing body of a municipality may adopt
37 ordinances, other than as prohibited in subsection b. of this section,
38 regulating the maintenance and condition of any unit of dwelling
39 space, upon the termination of occupancy, in any residential rental
40 property for the purpose of the safety, healthfulness, and upkeep of
41 the structure and the adherence to such other standards of
42 maintenance and condition as are required in the interest of public
43 safety, health and welfare. Such ordinances shall require the owner
44 of any residential rental property, prior to rental or lease involving
45 a new occupancy of any unit of dwelling space in such property, to
46 obtain a certificate of inspection or occupancy for the unit of
47 dwelling space. Such certificate of inspection or occupancy shall

1 be issued by the municipality upon the inspection of the unit of
2 dwelling space by a municipal inspector and his findings that such
3 unit meets the standards provided by law. The municipality may
4 charge a fee to fund the costs of the inspections and the issuance of
5 the certificates. The fee shall be reasonable and shall not exceed
6 the costs of the inspection. For purposes of this act "owner" means
7 the person who owns, purports to own, or exercises control of any
8 residential rental property.

9 b. Nothing in subsection a. of this section shall authorize a
10 municipality to inspect multiple dwellings as defined pursuant to
11 section 3 of P.L.1967, c.76 (C.55:13A-3), on any basis other than
12 upon the termination of occupancy of a multiple dwelling unit.

13 (cf: P.L.1979, c.476, s.1)

14
15 ¹[6. Section 2 of P.L.1974, c.50 (C.46:8-28) is amended to read
16 as follows:

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

30 a. The name and address of the record owner or owners of the
31 premises and the record owner or owners of the rental business if
32 not the same persons. In the case of a partnership the names of all
33 general partners shall be provided;

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

36 c. If the address of any record owner is not located in the
37 county in which the premises are located, the name and address of a
38 person who resides in the county in which the premises are located
39 and is authorized to accept notices from a tenant and to issue
40 receipts therefor and to accept service of process on behalf of the
41 record owner;

42 d. The name and address of the managing agent of the
43 premises, if any;

44 e. The name and address, including the dwelling unit,
45 apartment or room number of the superintendent, janitor, custodian
46 or other individual employed by the record owner or managing
47 agent to provide regular maintenance service, if any;

1 f. The name, address and telephone number of an individual
2 representative of the record owner or managing agent who may be
3 reached or contacted at any time in the event of an emergency
4 affecting the premises or any unit of dwelling space therein,
5 including such emergencies as the failure of any essential service or
6 system, and who has the authority to make emergency decisions
7 concerning the building and any repair thereto or expenditure in
8 connection therewith and shall, at all times, have access to a current
9 list of building tenants that shall be made available to emergency
10 personnel as required in the event of an emergency;

11 g. The name and address of every holder of a recorded
12 mortgage on the premises;

13 h. If fuel oil is used to heat the building and the landlord
14 furnishes the heat in the building, the name and address of the fuel
15 oil dealer servicing the building and the grade of fuel oil used.

16 (cf: P.L.2003, c.56, s.2)]¹

17

18 ¹[7.] 6.¹ Section 3 of P.L.1981, c.442 (C.46:8-28.1) is amended
19 to read as follows:

20 3. In the case of a filing under section 2 of P.L.1974, c.50
21 (C.46:8-28) with the municipal clerk, or with such other municipal
22 official as is designated by the clerk, the clerk or designated official
23 shall index and file the certificate and make it reasonably available
24 for public inspection. In the case of a filing with the Bureau of
25 Housing Inspection, the filing shall be accompanied by the filing
26 fee required pursuant to section 12 of P.L.1967, c. 76 (C. 55:13A-
27 12). The bureau shall review the certificate and, if it is found to be
28 in conformity with this law and any regulations promulgated
29 hereunder, validate the certificate and issue a validated copy to the
30 landlord and a validated copy to the clerk of the municipality in
31 which the building or project is located. The clerk shall index the
32 validated certificates, or forward them to the designated official for
33 indexing, and the certificates shall be made available as with the
34 certificates required of ~~one and two~~ ¹~~one- or two- unit rental~~
35 one and two¹ dwelling ~~unit nonowner occupied~~ ¹unit nonowner
36 occupied¹ premises. To reduce administrative costs, any
37 information required to be transmitted pursuant to this section may
38 be provided and stored in an electronic format, and shall be updated
39 frequently on a reasonable basis, in accordance with regulations
40 promulgated by the Commissioner of Community Affairs.

41 (cf: P.L.2001, c.264, s.2)

42

43 ²[¹8.] 7.¹ Section 7 of P.L.1967, c.76 (C.55:13A-7) is amended
44 to read as follows:

45 7. The commissioner shall issue and promulgate, in the manner
46 specified in section 8 of P.L.1967, c.76 (C.55:13A-8), such
47 regulations as the commissioner may deem necessary to assure that

1 any hotel or multiple dwelling will be maintained in such manner as
2 is consistent with, and will protect, the health, safety and welfare of
3 the occupants or intended occupants thereof, or of the public
4 generally.

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

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

1 (w) Presence of lead-based paint hazards in multiple dwellings
2 and in single-family and two-family dwellings, exclusive of owner-
3 occupied dwelling units, subject to P.L.2003, c.311 (C.52:27D-
4 437.1 et al.). In a common interest community, any inspection fee
5 for and violation found within a unit which is solely related to this
6 subsection shall be the responsibility of the unit owner and not the
7 homeowners' association, unless the association is the owner of the
8 unit.

9 (cf: P.L.2007, c.251, s.5)]²

10
11 ¹[9.] ²[8.1] ^{7.}² Section 21 of PL 1967 c. 76 (C.55:13A-21) is
12 amended to read as follows:

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

23 b. On or after the effective date of P.L. , c. (C.) (pending
24 before the Legislature as this bill), and notwithstanding any
25 municipal ordinance to the contrary, the regulations promulgated by
26 the commissioner to effectuate P.L.1967, c.76 (C.55:13A-1 et seq.)
27 shall provide the exclusive standards and specifications for all
28 maintenance, occupancy and use requirements ²[of the State
29 Housing Code]² applicable to ²hotels and² multiple dwellings, and
30 shall preempt any separate municipal periodic inspections of
31 multiple dwellings except as expressly authorized pursuant to
32 P.L.1967, c.76 (C.55:13A-1 et seq.).

33
34 ¹[10.] ²[9.1] ^{8.}² Section 25 of P.L.1967, c.76 (C.55:13A-25) is
35 amended to read as follows:

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

40 (b) **[This act is not intended, and nothing in this act shall be**
41 **construed, to preclude the right of any municipality to adopt and**
42 **enforce ordinances or regulations more restrictive than this act or**
43 **any rules or regulations promulgated thereunder]** (Deleted by
44 amendment, P.L. , c. (C.) (pending before the Legislature as
45 this bill).

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

S2795 [2R] VAN DREW, OROHO

9

- 1 ¹~~11.~~²~~10.~~¹ 9.² The following sections are repealed:
- 2 Section 3 of P.L.1962, c.66 (C.40:48-2.12c)
- 3 Section 2 of P.L.1983, c.2 (C.40:48-2.12a1)
- 4
- 5 ²10. This act shall be effective immediately.²