

SENATE, No. 129

STATE OF NEW JERSEY 214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

Sponsored by:

Senator ANTHONY R. BUCCO

District 25 (Morris)

Senator NIA H. GILL

District 34 (Essex and Passaic)

Co-Sponsored by:

**Senators Singer, Scutari, Ciesla, Kyrillos, Girgenti, Sweeney, Lesniak,
Sarlo, Allen, Turner and Bateman**

SYNOPSIS

Authorizes imposition of additional fines for overcrowding.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning the overcrowding of certain dwelling units,
2 supplementing and amending chapter 18 of Title 2A of the New
3 Jersey Statutes and amending R.S.40:49-5.
4

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

8 1. (New section) a. The governing body of a municipality may
9 adopt an ordinance authorizing the issuance of summonses upon the
10 owner-landlord and the tenants of a residential rental unit in a
11 building containing four or fewer residential rental units alleging a
12 zoning or housing code violation for illegal occupancy resulting in
13 overcrowding.

14 b. The ordinance may authorize the imposition of a fine upon a
15 determination of illegal occupancy resulting in overcrowding, in
16 addition to any other fine provided by law, in the amount of up to
17 \$2,500 for a first violation, \$5,000 for a second violation and
18 \$10,000 for each subsequent violation.

19 c. Fines authorized pursuant to subsection b. of this section
20 may be imposed upon the owner-landlord or the tenants, or both,
21 dependent upon whether the conduct of the owner-landlord or the
22 tenants, or both, was the primary cause for the illegal occupancy
23 resulting in overcrowding, provided the provisions of subsection h.
24 of this section have been met. In order for the conduct of the
25 tenants to be deemed the primary cause for the illegal occupancy, it
26 must be established (1) that the tenant signed a lease or was
27 provided a written copy of the rental policy in which the number of
28 allowed occupants was specified, (2) that the number of allowed
29 occupants was within the standards established by the applicable
30 code requirements, or rental policy if a number was specified in the
31 lease, and that (3) any additional occupants in excess of the number
32 of occupants specified became residents of the rental unit without
33 the expressed consent of the owner-landlord.

34 d. Owner-occupied property shall be exempt from the fines
35 authorized pursuant to subsection b. of this section, except where
36 the owner-landlord of the owner-occupied dwelling is renting rooms
37 or apartments in violation of local ordinances or State law.

38 e. An ordinance adopted pursuant to subsection a. of this
39 section shall provide for the issuance of a notice of violation with a
40 period of time to abate the alleged violation. In the event the
41 violation is not abated within the period of time provided, a
42 summons against the owner-landlord or the tenant, or both, may be
43 issued.

44 f. Notwithstanding the provisions of subsection e. of this
45 section, if an owner-landlord has issued a notice to cease to

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 eliminate overcrowding or unauthorized occupancy of a residential
2 unit that is the subject of a notice of violation, and the owner-
3 landlord files a copy of the notice to cease and an affidavit of good
4 faith with the municipality, no summons shall issue against an
5 owner-landlord for six months from the date of service of the notice
6 to cease. At the end of that six-month period, if the overcrowding
7 or unauthorized occupancy of the residential unit has not been
8 eliminated, and no eviction proceeding is pending, then a summons
9 may be issued against the owner-landlord.

10 g. The service of a notice to cease to eliminate overcrowding or
11 unauthorized occupancy no more than six months prior to the
12 service of a summons or notice of violation under this section,
13 whether or not the owner-landlord prevails, shall serve as a defense
14 by the owner-landlord to any summons, notice, violation, action or
15 proceeding under this section against the owner-landlord before any
16 court or administrative agency.

17 h. A fine shall not be imposed upon an owner-landlord or a
18 tenant unless the parties have been afforded an opportunity for a
19 hearing, before a court of competent jurisdiction, allowing for
20 independent determinations of the existence of overcrowding and
21 the responsibility for the overcrowding. In order for it to be
22 determined that a tenant is responsible for the overcrowding, it must
23 be established (1) that the tenant signed a lease or was provided a
24 written copy of the rental policy in which the number of allowed
25 occupants was specified, (2) that the number of allowed occupants
26 was within the standards established by the applicable code
27 requirements, or rental policy if a number was specified in the
28 lease, and that (3) any additional occupants in excess of the number
29 of occupants specified became residents of the rental unit without
30 the expressed consent of the owner-landlord. The municipal court
31 and the Superior Court shall have jurisdiction of proceedings for the
32 enforcement of the fines provided by this section.

33 i. This section shall not apply to a seasonal rental unit.

34 j. For the purposes of this section:

35 "affidavit of good faith" means an owner-landlord's sworn
36 statement that (1) the tenant signed a lease or was provided a
37 written copy of the rental policy in which the number of intended
38 occupants was specified, (2) that the number of allowed occupants
39 was within the standards established by the applicable code
40 requirements or rental policy, and that (3) any additional occupants
41 in excess of the number of occupants specified became residents of
42 the rental unit without the consent of the owner-landlord.

43 "applicable code requirements" means standards governing the
44 occupancy of space adopted by the Department of Community
45 Affairs pursuant to the State Housing Code, promulgated pursuant
46 to P.L.1966, c.168 (C.2A:42-74 et seq.) or the "Hotel and Multiple
47 Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.).

1 "overcrowding" means occupancy in excess of the standards
2 governing the use and occupancy of space and floor area adopted by
3 the Department of Community Affairs pursuant to the State
4 Housing Code, promulgated pursuant to P.L.1968, c. 168 (C.2A:42-
5 74 et seq.), or the "Hotel and Multiple Dwelling Law," P.L.1967,
6 c.76 (C.55:13A-1 et seq.).

7 "owner-landlord" shall not include a mortgagee in possession
8 through foreclosure.

9 "rental policy" means any documents including, but not limited
10 to, a lease agreement, rental application, rules and regulations, or
11 rules of conduct established by the owner-landlord that creates
12 maximum occupancy limits for the rental unit.

13 "seasonal rental unit" means use or rental for a term of not more
14 than 125 consecutive days for residential purposes by a person
15 having a permanent place of residence elsewhere. "Seasonal rental
16 unit" does not mean use or rental of living quarters for seasonal,
17 temporary or migrant farm workers in connection with any work or
18 place where work is being performed. The owner-landlord shall
19 have the burden of proving that the use or rental of the residential
20 property is seasonal.

21 "second violation" or "subsequent violation" for illegal
22 occupancy resulting in overcrowding shall be limited to those
23 violations that are issued within five-years of a prior violation, are
24 new and are a result of distinct and separate zoning or code
25 enforcement activities, and shall not include any continuing
26 violations for which citations are issued by a zoning or code
27 enforcement agent during the time period required for summary
28 dispossession proceedings to conclude if the owner has initiated
29 eviction proceedings in a court of proper jurisdiction.

30

31 2. Section 2 of P.L.1974, c.49 (C.2A:18-61.1) is amended to
32 read as follows:

33 2. No lessee or tenant or the assigns, under-tenants or legal
34 representatives of such lessee or tenant may be removed by the
35 Superior Court from any house, building, mobile home or land in a
36 mobile home park or tenement leased for residential purposes, other
37 than (1) owner-occupied premises with not more than two rental
38 units or a hotel, motel or other guest house or part thereof rented to
39 a transient guest or seasonal tenant; (2) a dwelling unit which is
40 held in trust on behalf of a member of the immediate family of the
41 person or persons establishing the trust, provided that the member
42 of the immediate family on whose behalf the trust is established
43 permanently occupies the unit; and (3) a dwelling unit which is
44 permanently occupied by a member of the immediate family of the
45 owner of that unit, provided, however, that exception (2) or (3) shall
46 apply only in cases in which the member of the immediate family
47 has a developmental disability, except upon establishment of one of
48 the following grounds as good cause:

- 1 a. The person fails to pay rent due and owing under the lease
2 whether the same be oral or written; provided that, for the purposes
3 of this section, any portion of rent unpaid by a tenant to a landlord
4 but utilized by the tenant to continue utility service to the rental
5 premises after receiving notice from an electric, gas, water or sewer
6 public utility that such service was in danger of discontinuance
7 based on nonpayment by the landlord, shall not be deemed to be
8 unpaid rent.
- 9 b. The person has continued to be, after written notice to cease,
10 so disorderly as to destroy the peace and quiet of the occupants or
11 other tenants living in said house or neighborhood.
- 12 c. The person has willfully or by reason of gross negligence
13 caused or allowed destruction, damage or injury to the premises.
- 14 d. The person has continued, after written notice to cease, to
15 substantially violate or breach any of the landlord's rules and
16 regulations governing said premises, provided such rules and
17 regulations are reasonable and have been accepted in writing by the
18 tenant or made a part of the lease at the beginning of the lease term.
- 19 e. (1) The person has continued, after written notice to cease, to
20 substantially violate or breach any of the covenants or agreements
21 contained in the lease for the premises where a right of reentry is
22 reserved to the landlord in the lease for a violation of such covenant
23 or agreement, provided that such covenant or agreement is
24 reasonable and was contained in the lease at the beginning of the
25 lease term.
- 26 (2) In public housing under the control of a public housing
27 authority or redevelopment agency, the person has substantially
28 violated or breached any of the covenants or agreements contained
29 in the lease for the premises pertaining to illegal uses of controlled
30 dangerous substances, or other illegal activities, whether or not a
31 right of reentry is reserved to the landlord in the lease for a
32 violation of such covenant or agreement, provided that such
33 covenant or agreement conforms to federal guidelines regarding
34 such lease provisions and was contained in the lease at the
35 beginning of the lease term.
- 36 f. The person has failed to pay rent after a valid notice to quit
37 and notice of increase of said rent, provided the increase in rent is
38 not unconscionable and complies with any and all other laws or
39 municipal ordinances governing rent increases.
- 40 g. The landlord or owner (1) seeks to permanently board up or
41 demolish the premises because he has been cited by local or State
42 housing inspectors for substantial violations affecting the health and
43 safety of tenants and it is economically unfeasible for the owner to
44 eliminate the violations; (2) seeks to comply with local or State
45 housing inspectors who have cited him for substantial violations
46 affecting the health and safety of tenants and it is unfeasible to so
47 comply without removing the tenant; simultaneously with service of
48 notice of eviction pursuant to this clause, the landlord shall notify

1 the Department of Community Affairs of the intention to institute
2 proceedings and shall provide the department with such other
3 information as it may require pursuant to rules and regulations. The
4 department shall inform all parties and the court of its view with
5 respect to the feasibility of compliance without removal of the
6 tenant and may in its discretion appear and present evidence; (3)
7 seeks to correct an illegal occupancy because he has been cited by
8 local or State housing inspectors or zoning officers and it is
9 unfeasible to correct such illegal occupancy without removing the
10 tenant; or (4) is a governmental agency which seeks to permanently
11 retire the premises from the rental market pursuant to a
12 redevelopment or land clearance plan in a blighted area. In those
13 cases where the tenant is being removed for any reason specified in
14 this subsection, except for overcrowding where the tenant's own
15 conduct was the primary cause of the overcrowding, no warrant for
16 possession shall be issued until P.L.1967, c.79 (C.52:31B-1 et seq.)
17 and P.L.1971, c.362 (C.20:4-1 et seq.) have been complied with. In
18 order for the conduct of a tenant to be deemed the primary cause for
19 overcrowding, it must be established (1) that the tenant signed a
20 lease or was provided a written copy of the rental policy in which
21 the number of allowed occupants was specified, (2) that the number
22 of allowed occupants was within the standards established by the
23 applicable code requirements, or rental policy if a number was
24 specified in the lease, and that (3) any additional occupants in
25 excess of the number of occupants specified became residents of the
26 rental unit without the expressed consent of the owner-landlord.

27 For the purposes of this subsection:

28 "applicable code requirements" means standards governing the
29 occupancy of space adopted by the Department of Community
30 Affairs pursuant to the State Housing Code, promulgated pursuant
31 to P.L.1966, c.168 (C.2A:42-74 et seq.) or the "Hotel and Multiple
32 Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.), and

33 "rental policy" means any documents including, but not limited
34 to, a lease agreement, rental application, rules and regulations, or
35 rules of conduct established by the owner-landlord that creates
36 maximum occupancy limits for the rental unit.

37 h. The owner seeks to retire permanently the residential building
38 or the mobile home park from residential use or use as a mobile
39 home park, provided this subsection shall not apply to
40 circumstances covered under subsection g. of this section.

41 i. The landlord or owner proposes, at the termination of a lease,
42 reasonable changes of substance in the terms and conditions of the
43 lease, including specifically any change in the term thereof, which
44 the tenant, after written notice, refuses to accept; provided that in
45 cases where a tenant has received a notice of termination pursuant
46 to subsection g. of section 3 of P.L.1974, c.49 (C.2A:18-61.2), or
47 has a protected tenancy status pursuant to section 9 of the "Senior
48 Citizens and Disabled Protected Tenancy Act," P.L.1981, c.226

1 (C.2A:18-61.30), or pursuant to the "Tenant Protection Act of
2 1992," P.L.1991, c.509 (C.2A:18-61.40 et al.), the landlord or
3 owner shall have the burden of proving that any change in the terms
4 and conditions of the lease, rental or regulations both is reasonable
5 and does not substantially reduce the rights and privileges to which
6 the tenant was entitled prior to the conversion.

7 j. The person, after written notice to cease, has habitually and
8 without legal justification failed to pay rent which is due and owing.

9 k. The landlord or owner of the building or mobile home park is
10 converting from the rental market to a condominium, cooperative or
11 fee simple ownership of two or more dwelling units or park sites,
12 except as hereinafter provided in subsection l. of this section.
13 Where the tenant is being removed pursuant to this subsection, no
14 warrant for possession shall be issued until this act has been
15 complied with. No action for possession shall be brought pursuant
16 to this subsection against a senior citizen tenant or disabled tenant
17 with protected tenancy status pursuant to the "Senior Citizens and
18 Disabled Protected Tenancy Act," P.L.1981, c.226 (C.2A:18-61.22
19 et al.), or against a qualified tenant under the "Tenant Protection
20 Act of 1992," P.L.1991, c.509 (C.2A:18-61.40 et al.), as long as the
21 agency has not terminated the protected tenancy status or the
22 protected tenancy period has not expired.

23 l. (1) The owner of a building or mobile home park, which is
24 constructed as or being converted to a condominium, cooperative or
25 fee simple ownership, seeks to evict a tenant or sublessee whose
26 initial tenancy began after the master deed, agreement establishing
27 the cooperative or subdivision plat was recorded, because the owner
28 has contracted to sell the unit to a buyer who seeks to personally
29 occupy it and the contract for sale calls for the unit to be vacant at
30 the time of closing. However, no action shall be brought against a
31 tenant under paragraph (1) of this subsection unless the tenant was
32 given a statement in accordance with section 6 of P.L.1975, c.311
33 (C.2A:18-61.9);

34 (2) The owner of three or less condominium or cooperative units
35 seeks to evict a tenant whose initial tenancy began by rental from an
36 owner of three or less units after the master deed or agreement
37 establishing the cooperative was recorded, because the owner seeks
38 to personally occupy the unit, or has contracted to sell the unit to a
39 buyer who seeks to personally occupy it and the contract for sale
40 calls for the unit to be vacant at the time of closing;

41 (3) The owner of a building of three residential units or less
42 seeks to personally occupy a unit, or has contracted to sell the
43 residential unit to a buyer who wishes to personally occupy it and
44 the contract for sale calls for the unit to be vacant at the time of
45 closing.

46 m. The landlord or owner conditioned the tenancy upon and in
47 consideration for the tenant's employment by the landlord or owner
48 as superintendent, janitor or in some other capacity and such

1 employment is being terminated.

2 n. The person has been convicted of or pleaded guilty to, or if a
3 juvenile, has been adjudicated delinquent on the basis of an act
4 which if committed by an adult would constitute an offense under
5 the "Comprehensive Drug Reform Act of 1987," N.J.S.2C:35-1 et
6 al. involving the use, possession, manufacture, dispensing or
7 distribution of a controlled dangerous substance, controlled
8 dangerous substance analog or drug paraphernalia within the
9 meaning of that act within or upon the leased premises or the
10 building or complex of buildings and land appurtenant thereto, or
11 the mobile home park, in which those premises are located, and has
12 not in connection with his sentence for that offense either (1)
13 successfully completed or (2) been admitted to and continued upon
14 probation while completing, a drug rehabilitation program pursuant
15 to N.J.S.2C:35-14; or, being the tenant or lessee of such leased
16 premises, knowingly harbors or harbored therein a person who has
17 been so convicted or has so pleaded, or otherwise permits or
18 permitted such a person to occupy those premises for residential
19 purposes, whether continuously or intermittently, except that this
20 subsection shall not apply to a person harboring or permitting a
21 juvenile to occupy the premises if the juvenile has been adjudicated
22 delinquent upon the basis of an act which if committed by an adult
23 would constitute the offense of use or possession under the said act.
24 No action for removal may be brought pursuant to this subsection
25 more than two years after the date of the adjudication or conviction
26 or more than two years after the person's release from incarceration
27 whichever is the later.

28 o. The person has been convicted of or pleaded guilty to, or if a
29 juvenile, has been adjudicated delinquent on the basis of an act
30 which if committed by an adult would constitute an offense under
31 N.J.S.2C:12-1 or N.J.S.2C:12-3 involving assault, or terroristic
32 threats against the landlord, a member of the landlord's family or an
33 employee of the landlord; or, being the tenant or lessee of such
34 leased premises, knowingly harbors or harbored therein a person
35 who has been so convicted or has so pleaded, or otherwise permits
36 or permitted such a person to occupy those premises for residential
37 purposes, whether continuously or intermittently. No action for
38 removal may be brought pursuant to this subsection more than two
39 years after the adjudication or conviction or more than two years
40 after the person's release from incarceration whichever is the later.

41 p. The person has been found, by a preponderance of the
42 evidence, liable in a civil action for removal commenced under this
43 act for an offense under N.J.S.2C:20-1 et al. involving theft of
44 property located on the leased premises from the landlord, the
45 leased premises or other tenants residing in the leased premises, or
46 N.J.S.2C:12-1 or N.J.S.2C:12-3 involving assault or terroristic
47 threats against the landlord, a member of the landlord's family or an
48 employee of the landlord, or under the "Comprehensive Drug

1 Reform Act of 1987," N.J.S.2C:35-1 et al., involving the use,
2 possession, manufacture, dispensing or distribution of a controlled
3 dangerous substance, controlled dangerous substance analog or drug
4 paraphernalia within the meaning of that act within or upon the
5 leased premises or the building or complex of buildings and land
6 appurtenant thereto, or the mobile home park, in which those
7 premises are located, and has not in connection with his sentence
8 for that offense either (1) successfully completed or (2) been
9 admitted to and continued upon probation while completing a drug
10 rehabilitation program pursuant to N.J.S.2C:35-14; or, being the
11 tenant or lessee of such leased premises, knowingly harbors or
12 harbored therein a person who committed such an offense, or
13 otherwise permits or permitted such a person to occupy those
14 premises for residential purposes, whether continuously or
15 intermittently, except that this subsection shall not apply to a person
16 who harbors or permits a juvenile to occupy the premises if the
17 juvenile has been adjudicated delinquent upon the basis of an act
18 which if committed by an adult would constitute the offense of use
19 or possession under the said "Comprehensive Drug Reform Act of
20 1987."

21 q. The person has been convicted of or pleaded guilty to, or if a
22 juvenile, has been adjudicated delinquent on the basis of an act
23 which if committed by an adult would constitute an offense under
24 N.J.S.2C:20-1 et al. involving theft of property from the landlord,
25 the leased premises or other tenants residing in the same building or
26 complex; or, being the tenant or lessee of such leased premises,
27 knowingly harbors therein a person who has been so convicted or
28 has so pleaded, or otherwise permits such a person to occupy those
29 premises for residential purposes, whether continuously or
30 intermittently.

31 r. The person's conduct was the primary cause for
32 overcrowding or unauthorized occupancy and the person has
33 continued, after a written notice to cease, to permit overcrowding or
34 unauthorized occupancy of a residential unit. For the purposes of
35 this subsection, overcrowding or unauthorized occupancy of a
36 residential unit shall be deemed to be the responsibility of the tenant
37 if it is established (1) that the tenant signed a lease or was provided
38 a written copy of the rental policy in which the number of allowed
39 occupants was specified, (2) that the number of allowed occupants
40 was within the standards established by the applicable code
41 requirements, or rental policy if a number was specified in the
42 lease, and that (3) any additional occupants in excess of the number
43 of occupants specified became residents of the rental unit without
44 the expressed consent of the owner-landlord.

45 For the purposes of this subsection:

46 "applicable code requirements" means standards governing the
47 occupancy of space adopted by the Department of Community
48 Affairs pursuant to the State Housing Code, promulgated pursuant

1 to P.L.1966, c.168 (C.2A:42-74 et seq.) or the "Hotel and Multiple
2 Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.), and
3 "rental policy" means any documents including, but not limited
4 to, a lease agreement, rental application, rules and regulations, or
5 rules of conduct established by the owner-landlord that creates
6 maximum occupancy limits for the rental unit.

7 For purposes of this section, (1) "developmental disability"
8 means any disability which is defined as such pursuant to section 3
9 of P.L.1977, c.82 (C.30:6D-3); (2) "member of the immediate
10 family" means a person's spouse, parent, child or sibling, or a
11 spouse, parent, child or sibling of any of them; and (3)
12 "permanently" occupies or occupied means that the occupant
13 maintains no other domicile at which the occupant votes, pays rent
14 or property taxes or at which rent or property taxes are paid on the
15 occupant's behalf.

16 (cf: P.L.2000, c.113, s.3)

17

18 3. Section 3 of P.L.1993, c.342 (C.2A:18-61.1g) is amended to
19 read as follows:

20 3. a. A municipality may enact an ordinance providing that any
21 tenant who receives a notice of eviction pursuant to section 3 of
22 P.L.1974, c.49 (C.2A:18-61.2) that results from zoning or code
23 enforcement activity for an illegal occupancy, as set forth in
24 paragraph (3) of subsection g. of section 2 of P.L.1974, c.49
25 (C.2A:18-61.1), except for overcrowding where the tenant's own
26 conduct was the primary cause of the overcrowding, shall be
27 considered a displaced person and shall be entitled to relocation
28 assistance in an amount equal to six times the monthly rental paid
29 by the displaced person. The owner-landlord of the structure shall
30 be liable for the payment of relocation assistance pursuant to this
31 section.

32 b. A municipality that has enacted an ordinance pursuant to
33 subsection a. of this section may pay relocation assistance to any
34 displaced person who has not received the required payment from
35 the owner-landlord of the structure at the time of eviction pursuant
36 to subsection a. of this section from a revolving relocation
37 assistance fund established pursuant to section 2 of P.L.1987, c.98
38 (C.20:4-4.1a). All relocation assistance costs incurred by a
39 municipality pursuant to this subsection shall be repaid by the
40 owner-landlord of the structure to the municipality in the same
41 manner as relocation costs are billed and collected under section 1
42 of P.L.1983, c.536 (C.20:4-4.1) and section 1 of P.L.1984, c.30
43 (C.20:4-4.2). These repayments shall be deposited into the
44 municipality's revolving relocation assistance fund.

45 c. A municipality that has enacted an ordinance pursuant to
46 subsection a. of this section, in addition to requiring reimbursement
47 from the owner-landlord of the structure for relocation assistance
48 paid to a displaced tenant, may require that an additional fine for

1 zoning or housing code violation for an illegal occupancy, up to an
2 amount equal to six times the monthly rental paid by the displaced
3 person, be paid to the municipality by the owner-landlord of the
4 structure.

5 In addition to this penalty, a municipality, after affording the
6 owner-landlord an opportunity for a hearing on the matter, may
7 impose upon the owner-landlord, for a second or subsequent
8 violation for an illegal occupancy, a fine equal to the annual tuition
9 cost of any resident of the illegally occupied unit attending a public
10 school, which fine shall be recovered in a civil action by a summary
11 proceeding in the name of the municipality pursuant to "The
12 Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et
13 seq.). The municipal court and the Superior Court shall have
14 jurisdiction of proceedings for the enforcement of the penalty
15 provided by this section. The tuition cost shall be determined in the
16 manner prescribed for nonresident pupils pursuant to N.J.S.18A:38-
17 19 and the payment of the fine shall be remitted to the appropriate
18 school district.

19 d. For the purposes of this section, the owner-landlord of a
20 structure shall exclude mortgagees in possession of a structure
21 through foreclosure.

22 For the purposes of this section, a "second or subsequent
23 violation for an illegal occupancy" shall be limited to those
24 violations that are new and are a result of distinct and separate
25 zoning or code enforcement activities, and shall not include any
26 continuing violations for which citations are issued by a zoning or
27 code enforcement agent during the time period required for
28 summary dispossession proceedings to conclude if the owner has
29 initiated eviction proceedings in a court of proper jurisdiction.

30 (cf: P.L.1999, c.425, s.1)

31

32 4. Section 4 of P.L.1993, c.342 (C.2A:18-61.1h) is amended to
33 read as follows:

34 4. a. If a residential tenant is displaced because of an illegal
35 occupancy in a residential rental premises pursuant to paragraph (3)
36 of subsection g. of section 2 of P.L.1974, c.49 (C.2A:18-61.1) except for overcrowding where the tenant's own conduct was the
37 primary cause of the overcrowding, and the municipality in which
38 the rental premises is located has not enacted an ordinance pursuant
39 to section 3 of P.L.1993, c.342 (C.2A:18-61.1g), the displaced
40 residential tenant shall be entitled to reimbursement for relocation
41 expenses from the owner in an amount equal to six times the
42 monthly rental paid by the displaced person.

44 b. Payment by the owner shall be due five days prior to the
45 removal of the displaced tenant. If payment is not made within this
46 time, interest shall accrue and be due to the displaced residential
47 tenant on the unpaid balance at the rate of 18% per annum until the

1 amount due and all interest accumulated thereon shall be paid in
2 full.

3 c. If reimbursement for which an owner is liable is not paid in
4 full within 30 days of removal of the tenant, the unpaid balance
5 thereof and all interest accruing thereon and, in addition thereto, an
6 amount equal to six times the monthly rental paid by the displaced
7 tenant shall be a lien upon the parcel of property on which the
8 dwelling of the displaced residential tenant was located, for the
9 benefit of that tenant. To perfect the lien, a statement showing the
10 amount and due date of the unpaid balance and identifying the
11 parcel shall be recorded with the county clerk or registrar of deeds
12 and mortgages of the county in which the affected property is
13 located, and upon recording, the lien shall have the priority of a
14 mortgage lien. Identification of the parcel by reference to its
15 designation on the tax map of the municipality shall be sufficient
16 for purposes of recording. Whenever the unpaid balance and all
17 interest accrued thereon has been fully paid, the displaced
18 residential tenant shall promptly withdraw or cancel the statement,
19 in writing, at the place of recording.

20 d. This section shall not authorize the enforcement of a lien for
21 actual reasonable moving expenses with respect to any real property
22 the title to which has been acquired by a municipality and which
23 has been transferred pursuant to a rehabilitation agreement.

24 e. For the purposes of this section, the owner of a structure
25 shall exclude mortgagees in possession of a structure through
26 foreclosure.

27 (cf: P.L.1993, c.342, s.4)

28

29 5. Section 3 of P.L.1974, c.49 (C.2A:18-61.2) is amended to
30 read as follows:

31 3. No judgment of possession shall be entered for any premises
32 covered by section 2 of **[this act]**, P.L. 1974, c. 49 (C.2A:18-61.1)
33 except in the nonpayment of rent under subsection a. or f. of section
34 2, unless the landlord has made written demand and given written
35 notice for delivery of possession of the premises. The following
36 notice shall be required:

37 a. For an action alleging disorderly conduct under subsection b.
38 of section 2, or injury to the premises under subsection c. of section
39 2, or any grounds under subsection m., n., o. or p. of section 2, three
40 days' notice prior to the institution of the action for possession;

41 b. For an action alleging continued violation of rules and
42 regulations under subsection d. of section 2, or substantial breach of
43 covenant under subsection e. of section 2, or habitual failure to pay
44 rent, one month's notice prior to the institution of the action for
45 possession;

46 c. For an action alleging any grounds under subsection g. of
47 section 2, three months' notice prior to the institution of the action;

48 d. For an action alleging permanent retirement under subsection

1 h. of section 2, 18 months' notice prior to the institution of the
2 action and, provided that, where there is a lease in effect, no action
3 may be instituted until the lease expires;

4 e. For an action alleging refusal of acceptance of reasonable
5 lease changes under subsection i. of section 2, one month's notice
6 prior to institution of action;

7 f. For an action alleging any grounds under subsection l. of
8 section 2, two months' notice prior to the institution of the action
9 and, provided that where there is a written lease in effect no action
10 shall be instituted until the lease expires;

11 g. For an action alleging any grounds under subsection k. of
12 section 2, three years' notice prior to the institution of action, and
13 provided that where there is a written lease in effect, no action shall
14 be instituted until the lease expires;

15 h. In public housing under the control of a public housing
16 authority or redevelopment agency, for an action alleging
17 substantial breach of contract under paragraph (2) of subsection e.
18 of section 2, the period of notice required prior to the institution of
19 an action for possession shall be in accordance with federal
20 regulations pertaining to public housing leases;

21 i. For an action alleging overcrowding or unauthorized
22 occupancy under subsection r. of section 2 of P.L.1974, c.49
23 (C.2A:18-61.1), one month's notice prior to the institution of the
24 action for possession.

25 The notice in each of the foregoing instances shall specify in
26 detail the cause of the termination of the tenancy and shall be
27 served either personally upon the tenant or lessee or such person in
28 possession by giving him a copy thereof, or by leaving a copy
29 thereof at his usual place of abode with some member of his family
30 above the age of 14 years, or by certified mail; if the certified letter
31 is not claimed, notice shall be sent by regular mail.

32 (cf: P.L.1997, c.228, s.2)

33

34 6. R.S.40:49-5 is amended to read as follows:

35 40:49-5. The governing body may prescribe penalties for the
36 violation of ordinances it may have authority to pass, by one or
37 more of the following: imprisonment in the county jail or in any
38 place provided by the municipality for the detention of prisoners,
39 for any term not exceeding 90 days; or by a fine not exceeding
40 \$2,000 unless a fine in excess of \$2,000 is specifically authorized
41 by statute; or by a period of community service not exceeding 90
42 days.

43 The governing body may prescribe that for the violation of any
44 particular ordinance at least a minimum penalty shall be imposed
45 which shall consist of a fine which may be fixed at an amount not
46 exceeding \$100.

47 The governing body may prescribe that for the violation of an
48 ordinance pertaining to unlawful solid waste disposal at least a

1 minimum penalty shall be imposed which shall consist of a fine
2 which may be fixed at an amount not exceeding \$2,500 or a
3 maximum penalty by a fine not exceeding \$10,000.

4 The court before which any person is convicted of violating any
5 ordinance of a municipality shall have power to impose any fine,
6 term of imprisonment, or period of community service not less than
7 the minimum and not exceeding the maximum fixed in such
8 ordinance.

9 Any person who is convicted of violating an ordinance within
10 one year of the date of a previous violation of the same ordinance
11 and who was fined for the previous violation, shall be sentenced by
12 a court to an additional fine as a repeat offender. The additional
13 fine imposed by the court upon a person for a repeated offense shall
14 not be less than the minimum or exceed the maximum fine fixed for
15 a violation of the ordinance, but shall be calculated separately from
16 the fine imposed for the violation of the ordinance.

17 Any municipality which chooses not to impose an additional fine
18 upon a person for a repeated violation of any municipal ordinance
19 may waive the additional fine by ordinance or resolution.

20 Any person convicted of the violation of any ordinance may, in
21 the discretion of the court by which he was convicted, and in
22 default of the payment of any fine imposed therefor, be imprisoned
23 in the county jail or place of detention provided by the municipality,
24 for any term not exceeding 90 days, or be required to perform
25 community service for a period not exceeding 90 days.

26 Any municipality that chooses to impose a fine in an amount
27 greater than \$1,250 upon an owner for violations of housing or
28 zoning codes shall provide a 30-day period in which the owner shall
29 be afforded the opportunity to cure or abate the condition and shall
30 also be afforded an opportunity for a hearing before a court of
31 competent jurisdiction for an independent determination concerning
32 the violation. Subsequent to the expiration of the 30-day period, a
33 fine greater than \$1,250 may be imposed if a court has not
34 determined otherwise or, upon reinspection of the property, it is
35 determined that the abatement has not been substantially completed.
36 (cf: P.L.2005, c.269, s.1)

37

38 7. This act shall take effect on the first day of the seventh month
39 next following the date of enactment.

40

41

42

STATEMENT

43

44 This bill would allow municipalities to adopt ordinances
45 authorizing the issuance of summonses upon certain landlords and
46 tenants alleged to have violated occupancy requirements resulting
47 in overcrowding. The bill would allow for the imposition of fines
48 upon a culpable landlord or tenant of up to \$2,500 for a first

1 violation, \$5,000 for a second violation, and \$10,000 for each
2 subsequent violation. These fines would be in addition to any other
3 fines or penalties authorized by law. The bill would require that a
4 hearing be held before any fines could be imposed. The bill would
5 not be applicable to seasonal rentals or to buildings with more than
6 four residential rental units.

7 Many municipalities have adopted resolutions petitioning the
8 Legislature to authorize municipalities to impose enhanced
9 penalties, asserting that fines and penalties authorized under current
10 law are inadequate disincentives to deter landlords and tenants from
11 engaging in this offensive, yet lucrative, practice.

12 The bill would also clarify existing law by distinguishing
13 between illegal occupancies resulting in overcrowding that are
14 caused by landlords and those that are caused by tenants, specifying
15 that landlords are not obligated to pay tenant relocation costs when
16 the tenant's own conduct is the primary cause for the overcrowding.
17 This is consonant with the holdings in Haddock v. Dept. of
18 Community Development, City of Passaic, 217 N.J.Super. 592
19 (App. Div. 1987) and M.C.Associates v. Shah, 226 N.J.Super. 173
20 (App. Div. 1988).

21 The bill would also give landlords the right to an expedited
22 eviction when a tenant's conduct was the primary cause of
23 overcrowding in excess of the occupancy allowed under the lease or
24 State law.

25 The bill also establishes new standards to be utilized in
26 determining whether a tenant has been the primary cause of
27 overcrowding or illegal occupancy. The bill provides that in order
28 for the conduct of the tenants to be deemed the primary cause for
29 the illegal occupancy or overcrowding, it must be established (1)
30 that the tenant signed a lease or was provided a written copy of the
31 rental policy in which the number of intended occupants was
32 specified, (2) that the number of allowed occupants was within the
33 standards established by the applicable code requirements, or rental
34 policy if a number was specified in the lease, and (3) that any
35 additional occupants in excess of the number of occupants specified
36 became residents of the rental unit without the expressed consent of
37 the owner-landlord.