

# SENATE, No. 822

## STATE OF NEW JERSEY 214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

**Sponsored by:**

**Senator JIM WHELAN**

**District 2 (Atlantic)**

**SYNOPSIS**

Defines "transient guest" for purposes of good cause for New Jersey Anti-Eviction Law.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning occupants of certain rentals and amending  
2 section 2 of P.L.1974, c.49.

3

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

6

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

9 2. No lessee or tenant or the assigns, under-tenants or legal  
10 representatives of such lessee or tenant may be removed by the  
11 Superior Court from any house, building, mobile home or land in a  
12 mobile home park or tenement leased for residential purposes, other  
13 than (1) owner-occupied premises with not more than two rental  
14 units or a hotel, motel or other guest house or part thereof rented to  
15 a transient guest or seasonal tenant; (2) a dwelling unit which is  
16 held in trust on behalf of a member of the immediate family of the  
17 person or persons establishing the trust, provided that the member  
18 of the immediate family on whose behalf the trust is established  
19 permanently occupies the unit; and (3) a dwelling unit which is  
20 permanently occupied by a member of the immediate family of the  
21 owner of that unit, provided, however, that exception (2) or (3) shall  
22 apply only in cases in which the member of the immediate family  
23 has a developmental disability, except upon establishment of one of  
24 the following grounds as good cause:

25 a. The person fails to pay rent due and owing under the lease  
26 whether the same be oral or written; provided that, for the purposes  
27 of this section, any portion of rent unpaid by a tenant to a landlord  
28 but utilized by the tenant to continue utility service to the rental  
29 premises after receiving notice from an electric, gas, water or sewer  
30 public utility that such service was in danger of discontinuance  
31 based on nonpayment by the landlord, shall not be deemed to be  
32 unpaid rent.

33 b. The person has continued to be, after written notice to cease,  
34 so disorderly as to destroy the peace and quiet of the occupants or  
35 other tenants living in said house or neighborhood.

36 c. The person has willfully or by reason of gross negligence  
37 caused or allowed destruction, damage or injury to the premises.

38 d. The person has continued, after written notice to cease, to  
39 substantially violate or breach any of the landlord's rules and  
40 regulations governing said premises, provided such rules and  
41 regulations are reasonable and have been accepted in writing by the  
42 tenant or made a part of the lease at the beginning of the lease term.

43 e. (1) The person has continued, after written notice to cease,  
44 to substantially violate or breach any of the covenants or  
45 agreements contained in the lease for the premises where a right 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 reentry is reserved to the landlord in the lease for a violation of such  
2 covenant or agreement, provided that such covenant or agreement is  
3 reasonable and was contained in the lease at the beginning of the  
4 lease term.

5 (2) In public housing under the control of a public housing  
6 authority or redevelopment agency, the person has substantially  
7 violated or breached any of the covenants or agreements contained  
8 in the lease for the premises pertaining to illegal uses of controlled  
9 dangerous substances, or other illegal activities, whether or not a  
10 right of reentry is reserved to the landlord in the lease for a  
11 violation of such covenant or agreement, provided that such  
12 covenant or agreement conforms to federal guidelines regarding  
13 such lease provisions and was contained in the lease at the  
14 beginning of the lease term.

15 f. The person has failed to pay rent after a valid notice to quit  
16 and notice of increase of said rent, provided the increase in rent is  
17 not unconscionable and complies with any and all other laws or  
18 municipal ordinances governing rent increases.

19 g. The landlord or owner (1) seeks to permanently board up or  
20 demolish the premises because he has been cited by local or State  
21 housing inspectors for substantial violations affecting the health and  
22 safety of tenants and it is economically unfeasible for the owner to  
23 eliminate the violations; (2) seeks to comply with local or State  
24 housing inspectors who have cited him for substantial violations  
25 affecting the health and safety of tenants and it is unfeasible to so  
26 comply without removing the tenant; simultaneously with service of  
27 notice of eviction pursuant to this clause, the landlord shall notify  
28 the Department of Community Affairs of the intention to institute  
29 proceedings and shall provide the department with such other  
30 information as it may require pursuant to rules and regulations. The  
31 department shall inform all parties and the court of its view with  
32 respect to the feasibility of compliance without removal of the  
33 tenant and may in its discretion appear and present evidence; (3)  
34 seeks to correct an illegal occupancy because he has been cited by  
35 local or State housing inspectors or zoning officers and it is  
36 unfeasible to correct such illegal occupancy without removing the  
37 tenant; or (4) is a governmental agency which seeks to permanently  
38 retire the premises from the rental market pursuant to a  
39 redevelopment or land clearance plan in a blighted area. In those  
40 cases where the tenant is being removed for any reason specified in  
41 this subsection, no warrant for possession shall be issued until  
42 P.L.1967, c.79 (C.52:31B-1 et seq.) and P.L.1971, c.362 (C.20:4-1  
43 et seq.) have been complied with.

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

1 i. The landlord or owner proposes, at the termination of a  
2 lease, reasonable changes of substance in the terms and conditions  
3 of the lease, including specifically any change in the term thereof,  
4 which the tenant, after written notice, refuses to accept; provided  
5 that in cases where a tenant has received a notice of termination  
6 pursuant to subsection g. of section 3 of P.L.1974, c.49 (C.2A:18-  
7 61.2), or has a protected tenancy status pursuant to section 9 of the  
8 "Senior Citizens and Disabled Protected Tenancy Act," P.L.1981,  
9 c.226 (C.2A:18-61.30), or pursuant to the "Tenant Protection Act of  
10 1992," P.L.1991, c.509 (C.2A:18-61.40 et al.), the landlord or  
11 owner shall have the burden of proving that any change in the terms  
12 and conditions of the lease, rental or regulations both is reasonable  
13 and does not substantially reduce the rights and privileges to which  
14 the tenant was entitled prior to the conversion.

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

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

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

42 (2) The owner of three or less condominium or cooperative units  
43 seeks to evict a tenant whose initial tenancy began by rental from an  
44 owner of three or less units after the master deed or agreement  
45 establishing the cooperative was recorded, because the owner seeks  
46 to personally occupy the unit, or has contracted to sell the unit to a

1 buyer who seeks to personally occupy it and the contract for sale  
2 calls for the unit to be vacant at the time of closing;

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

8 m. The landlord or owner conditioned the tenancy upon and in  
9 consideration for the tenant's employment by the landlord or owner  
10 as superintendent, janitor or in some other capacity and such  
11 employment is being terminated.

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

38 o. The person has been convicted of or pleaded guilty to, or if a  
39 juvenile, has been adjudicated delinquent on the basis of an act  
40 which if committed by an adult would constitute an offense under  
41 N.J.S.2C:12-1 or N.J.S.2C:12-3 involving assault, or terroristic  
42 threats against the landlord, a member of the landlord's family or an  
43 employee of the landlord; or, being the tenant or lessee of such  
44 leased premises, knowingly harbors or harbored therein a person  
45 who has been so convicted or has so pleaded, or otherwise permits  
46 or permitted such a person to occupy those premises for residential  
47 purposes, whether continuously or intermittently. No action for

1 removal may be brought pursuant to this subsection more than two  
2 years after the adjudication or conviction or more than two years  
3 after the person's release from incarceration whichever is the later.

4 p. The person has been found, by a preponderance of the  
5 evidence, liable in a civil action for removal commenced under this  
6 act for an offense under N.J.S.2C:20-1 et al. involving theft of  
7 property located on the leased premises from the landlord, the  
8 leased premises or other tenants residing in the leased premises, or  
9 N.J.S.2C:12-1 or N.J.S.2C:12-3 involving assault or terroristic  
10 threats against the landlord, a member of the landlord's family or an  
11 employee of the landlord, or under the "Comprehensive Drug  
12 Reform Act of 1987," N.J.S.2C:35-1 et al., involving the use,  
13 possession, manufacture, dispensing or distribution of a controlled  
14 dangerous substance, controlled dangerous substance analog or drug  
15 paraphernalia within the meaning of that act within or upon the  
16 leased premises or the building or complex of buildings and land  
17 appurtenant thereto, or the mobile home park, in which those  
18 premises are located, and has not in connection with his sentence  
19 for that offense either (1) successfully completed or (2) been  
20 admitted to and continued upon probation while completing a drug  
21 rehabilitation program pursuant to N.J.S.2C:35-14; or, being the  
22 tenant or lessee of such leased premises, knowingly harbors or  
23 harbored therein a person who committed such an offense, or  
24 otherwise permits or permitted such a person to occupy those  
25 premises for residential purposes, whether continuously or  
26 intermittently, except that this subsection shall not apply to a person  
27 who harbors or permits a juvenile to occupy the premises if the  
28 juvenile has been adjudicated delinquent upon the basis of an act  
29 which if committed by an adult would constitute the offense of use  
30 or possession under the said "Comprehensive Drug Reform Act of  
31 1987."

32 q. The person has been convicted of or pleaded guilty to, or if a  
33 juvenile, has been adjudicated delinquent on the basis of an act  
34 which if committed by an adult would constitute an offense under  
35 N.J.S.2C:20-1 et al. involving theft of property from the landlord,  
36 the leased premises or other tenants residing in the same building or  
37 complex; or, being the tenant or lessee of such leased premises,  
38 knowingly harbors therein a person who has been so convicted or  
39 has so pleaded, or otherwise permits such a person to occupy those  
40 premises for residential purposes, whether continuously or  
41 intermittently.

42 For purposes of this section, (1) "developmental disability"  
43 means any disability which is defined as such pursuant to section 3  
44 of P.L.1977, c.82 (C.30:6D-3); (2) "member of the immediate  
45 family" means a person's spouse, parent, child or sibling, or a  
46 spouse, parent, child or sibling of any of them; and (3)  
47 "permanently" occupies or occupied means that the occupant

1 maintains no other domicile at which the occupant votes, pays rent  
2 or property taxes or at which rent or property taxes are paid on the  
3 occupant's behalf.

4 For purposes of this section, "transient guest" means any person  
5 occupying, for 90 days or less, a hotel, motel, or other guest house,  
6 including, but not limited to, a boarding house or rooming house, as  
7 defined in section 3 of P.L.1979, c.496 (C.55:13B-3), or part  
8 thereof, whether or not the units therein are intended for limited  
9 tenure.

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

11

12 2. This act shall take effect immediately.

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STATEMENT

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17 This bill would amend section 2 of P.L.1974, c.49, known  
18 informally as the New Jersey Anti-Eviction Law, to define the term  
19 "transient guest." This legislation would reconcile several judicial  
20 decisions that have extended the protections of the Anti-Eviction  
21 Law to guests of motels and hotels who may not have been entitled  
22 to the protections of the statute.

23 If enacted, this bill would require a guest in a motel or rooming  
24 house to be an occupant for more than 90 days before the person  
25 could be considered for the same statutory protections as a tenant.  
26 This change to the law would resolve several Appellate Division  
27 decisions that have inconsistently applied the Anti-Eviction Law to  
28 hotel and motel residents whose periods of occupancy varied in  
29 length. This bill also would square the statutory law with earlier  
30 decisions of the Appellate Division that held that "the protections  
31 afforded by N.J.S.A. 2A:18-61.1 expressly do not apply to transient  
32 ...tenants residing at a hotel, motel or other guest house."  
33 Porozonoff v. Alberti, 168 N.J. Super. 140, 142 (1979).