

SENATE, No. 2195

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED JULY 19, 2010

Sponsored by:

Senator GERALD CARDINALE

District 39 (Bergen)

SYNOPSIS

Requires residential leases to specify when rent payments are due and allows residential leases to require weekly, monthly, or annual payments or a single payment for the entire lease term.

CURRENT VERSION OF TEXT

As introduced.



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1 AN ACT concerning rent payments for dwelling units and
2 supplementing chapter 8 of Title 46 of the Revised Statutes.

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

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7 1. Notwithstanding any provision of law, rule, or regulation to
8 the contrary, a lease for residential property shall specify when rent
9 payments are due and payable, and may specify weekly, monthly, or
10 annual payments or a single payment for the entire lease term. A
11 rent payment authorized pursuant to this section is not a security
12 deposit or part thereof and shall not be subject to the limitation on
13 the amount that may be required as a security deposit in section 4 of
14 P.L.1971, c.223 (C.46:8-21.2).

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16 2. This act shall take effect immediately.

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STATEMENT

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21 This bill would require a lease for residential property to specify
22 when rent must be paid, and specifically allows a lease to require
23 weekly, monthly, or annual payments or a single payment for the
24 entire lease term. While not clearly prohibited by New Jersey
25 statutes, a 1972 decision of the Bergen County District Court has
26 deterred landlords and tenants from agreeing to make and accept
27 rent payments that exceed one and one-half times the amount of one
28 month's rent.

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30 The decision held that prepayments of rent are security deposits
31 subject to the statutory limitations that prohibit landlords from
32 requiring more than one and one-half times the monthly rental
33 payment as security. Brownstone Arms v. Asher 121 N.J.Super.
34 401 (Cty. Ct. 1972). The "Truth-in-Renting" statement, prepared
35 by the Department of Community Affairs pursuant to P.L.1975,
36 c.310 (C.46:8-43 et seq.), cites to Brownstone Arms, informing

37

38 advanced rents in excess of one and one-half times the

39 monthly rental payment violates the security deposit law.

40 Therefore, any prepaid funds held to secure future rents are

41 considered to be a part of the security deposit. This

42 includes the last month's rent. It does not matter what the

43 prepaid funds are labeled. The landlord may only require

44 one and one-half times the tenant's monthly rent as

45 security and the first month's rent at the inception of the

46 lease. That means the landlord may not require more than

47 two and one-half times the monthly rent at the inception of

48 the lease, this includes the security deposit and the first
month's rent.

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1 While "The Truth-in-Renting Act" provides that the "Truth-in-
2 Renting" statement is an *informational document*, not to be
3 *construed as binding on or affecting a judicial determination*, the
4 act requires every landlord to post the statement so it is *prominent*
5 *and accessible to all tenants* and to provide a copy of the statement
6 to each new tenant at or prior to the time the tenant moves in to the
7 dwelling. This notoriety has resulted in a wide-spread
8 misinterpretation of the statute, to the detriment of landlords and
9 tenants alike.

10 The bill will remedy that misinterpretation by requiring
11 residential leases to specify when rent payments are due and
12 payable. The bill provides that residential leases may specify that
13 rent payments are due and payable weekly, monthly, or annually or
14 may provide for a single rent payment for the entire lease term. The
15 bill also clarifies that rent payments made pursuant to the bill are
16 not security deposits and therefore not subject to the limitation on
17 the amount that may be required as a security deposit under current
18 law.

19 The bill is particularly necessary at this time due to pervasive job
20 losses among individuals who may have accumulated some wealth
21 but who cannot currently demonstrate adequate repayment ability.
22 The bill will afford these individuals an opportunity to rent
23 apartments that would not otherwise be available to them, so long
24 as their savings allow them to make an initial lump sum payment
25 acceptable to the landlord. Similarly, the bill would provide
26 landlords the benefit of an increased pool of prospective tenants and
27 establish a secure source of funding which may sway them to offer
28 an unemployed person an initial lease term while the tenant
29 attempts to secure gainful employment and becomes qualified for
30 more traditional lease payment options.