

# ASSEMBLY, No. 2864

## STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED FEBRUARY 16, 2016

**Sponsored by:**

Assemblywoman **GAIL PHOEBUS**  
District 24 (Morris, Sussex and Warren)  
Assemblyman **ANTHONY M. BUCCO**  
District 25 (Morris and Somerset)

**Co-Sponsored by:**

Assemblyman Space

**SYNOPSIS**

Authorizes imposition of additional fines for overcrowding.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 2/19/2016)

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 (3) that 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  
46 eliminate overcrowding or unauthorized occupancy of a residential

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

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

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

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

33 j. For the purposes of this section:

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

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

48 "overcrowding" means occupancy in excess of the standards  
49 governing the use and occupancy of housing space and floor area

1 adopted by the Department of Community Affairs pursuant to the  
2 State Housing Code, promulgated pursuant to P.L.1968, c. 168  
3 (C.2A:42-74 et seq.), or the "Hotel and Multiple Dwelling Law,"  
4 P.L.1967, c.76 (C.55:13A-1 et seq.).

5 "owner-landlord" shall not include a mortgagee in possession  
6 through foreclosure.

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

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

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

28

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

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

47 a. The person fails to pay rent due and owing under the lease  
48 whether the same be oral or written; provided that, for the purposes  
49 of this section, any portion of rent unpaid by a tenant to a landlord

1 but utilized by the tenant to continue utility service to the rental  
2 premises after receiving notice from an electric, gas, water or sewer  
3 public utility that such service was in danger of discontinuance  
4 based on nonpayment by the landlord, shall not be deemed to be  
5 unpaid rent.

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

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

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

16 e. (1) The person has continued, after written notice to cease, to  
17 substantially violate or breach any of the covenants or agreements  
18 contained in the lease for the premises where a right of reentry is  
19 reserved to the landlord in the lease for a violation of such covenant  
20 or agreement, provided that such covenant or agreement is  
21 reasonable and was contained in the lease at the beginning of the  
22 lease term.

23 (2) In public housing under the control of a public housing  
24 authority or redevelopment agency, the person has substantially  
25 violated or breached any of the covenants or agreements contained  
26 in the lease for the premises pertaining to illegal uses of controlled  
27 dangerous substances, or other illegal activities, whether or not a  
28 right of reentry is reserved to the landlord in the lease for a  
29 violation of such covenant or agreement, provided that such  
30 covenant or agreement conforms to federal guidelines regarding  
31 such lease provisions and was contained in the lease at the  
32 beginning of the lease term.

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

37 g. The landlord or owner (1) seeks to permanently board up or  
38 demolish the premises because he has been cited by local or State  
39 housing inspectors for substantial violations affecting the health and  
40 safety of tenants and it is economically unfeasible for the owner to  
41 eliminate the violations; (2) seeks to comply with local or State  
42 housing inspectors who have cited him for substantial violations  
43 affecting the health and safety of tenants and it is unfeasible to so  
44 comply without removing the tenant; simultaneously with service of  
45 notice of eviction pursuant to this clause, the landlord shall notify  
46 the Department of Community Affairs of the intention to institute  
47 proceedings and shall provide the department with such other  
48 information as it may require pursuant to rules and regulations. The

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

24 For the purposes of this subsection:

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

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

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

39 i. The landlord or owner proposes, at the termination of a  
40 lease, reasonable changes of substance in the terms and conditions  
41 of the lease, including specifically any change in the term thereof,  
42 which the tenant, after written notice, refuses to accept; provided  
43 that in cases where a tenant has received a notice of termination  
44 pursuant to subsection g. of section 3 of P.L.1974, c.49 (C.2A:18-  
45 61.2), or has a protected tenancy status pursuant to the "Senior  
46 Citizens and Disabled Protected Tenancy Act," P.L.1981, c.226  
47 (C.2A:18-61.22 et al.), or pursuant to the "Tenant Protection Act of  
48 1992," P.L.1991, c.509 (C.2A:18-61.40 et al.), the landlord or  
49 owner shall have the burden of proving that any change in the terms

1 and conditions of the lease, rental or regulations both is reasonable  
2 and does not substantially reduce the rights and privileges to which  
3 the tenant was entitled prior to the conversion.

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

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

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

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

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

43 m. The landlord or owner conditioned the tenancy upon and in  
44 consideration for the tenant's employment by the landlord or owner  
45 as superintendent, janitor or in some other capacity and such  
46 employment is being terminated.

47 n. The person has been convicted of or pleaded guilty to, or if a  
48 juvenile, has been adjudicated delinquent on the basis of an act

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

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

38 p. The person has been found, by a preponderance of the  
39 evidence, liable in a civil action for removal commenced under this  
40 act for an offense under N.J.S.2C:20-1 et al. involving theft of  
41 property located on the leased premises from the landlord, the  
42 leased premises or other tenants residing in the leased premises, or  
43 N.J.S.2C:12-1 or N.J.S.2C:12-3 involving assault or terroristic  
44 threats against the landlord, a member of the landlord's family or an  
45 employee of the landlord, or under the "Comprehensive Drug  
46 Reform Act of 1987," N.J.S.2C:35-1 et al., involving the use,  
47 possession, manufacture, dispensing or distribution of a controlled  
48 dangerous substance, controlled dangerous substance analog or drug

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

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

28 r. The person is found in a civil action, by a preponderance of  
29 the evidence, to have committed a violation of the human  
30 trafficking provisions set forth in section 1 of P.L.2005, c.77  
31 (C.2C:13-8) within or upon the leased premises or the building or  
32 complex of buildings and land appurtenant thereto, or the mobile  
33 home park, in which those premises are located; or, being the tenant  
34 or lessee of such leased premises, knowingly harbors or harbored  
35 therein a person who has been engaged in human trafficking, or  
36 otherwise permits or permitted such a person to occupy those  
37 premises for residential purposes, whether continuously or  
38 intermittently. No action for removal may be brought pursuant to  
39 this subsection more than two years after the alleged violation has  
40 terminated. A criminal conviction or a guilty plea to a crime of  
41 human trafficking under section 1 of P.L.2005, c.77 (C.2C:13-8)  
42 shall be considered prima facie evidence of civil liability under this  
43 subsection.

44 s. The person's conduct was the primary cause for  
45 overcrowding or unauthorized occupancy and the person has  
46 continued, after a written notice to cease, to permit overcrowding or  
47 unauthorized occupancy of a residential unit. For the purposes of  
48 this subsection, overcrowding or unauthorized occupancy of a

1 residential unit shall be deemed to be the responsibility of the tenant  
2 if it is established (1) that the tenant signed a lease or was provided  
3 a written copy of the rental policy in which the number of allowed  
4 occupants was specified, (2) that the number of allowed occupants  
5 was within the standards established by the applicable code  
6 requirements, or rental policy if a number was specified in the  
7 lease, and (3) that any additional occupants in excess of the number  
8 of occupants specified became residents of the rental unit without  
9 the expressed consent of the owner-landlord.

10 For the purposes of this subsection:

11 "applicable code requirements" means standards governing the  
12 occupancy of housing space adopted by the Department of  
13 Community Affairs pursuant to the State Housing Code,  
14 promulgated pursuant to P.L.1966, c.168 (C.2A:42-74 et seq.) or  
15 the "Hotel and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-  
16 1 et seq.), and

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

21 For purposes of this section, (1) "developmental disability"  
22 means any disability which is defined as such pursuant to section 3  
23 of P.L.1977, c.82 (C.30:6D-3); (2) "member of the immediate  
24 family" means a person's spouse, parent, child or sibling, or a  
25 spouse, parent, child or sibling of any of them; and (3)  
26 "permanently" occupies or occupied means that the occupant  
27 maintains no other domicile at which the occupant votes, pays rent  
28 or property taxes or at which rent or property taxes are paid on the  
29 occupant's behalf.

30 (cf: P.L.2013, c.51, s.7)

31

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

34 3. a. A municipality may enact an ordinance providing that  
35 any tenant who receives a notice of eviction pursuant to section 3 of  
36 P.L.1974, c.49 (C.2A:18-61.2) that results from zoning or code  
37 enforcement activity for an illegal occupancy, as set forth in  
38 paragraph (3) of subsection g. of section 2 of P.L.1974, c.49  
39 (C.2A:18-61.1), except for overcrowding where the tenant's own  
40 conduct was the primary cause of the overcrowding, shall be  
41 considered a displaced person and shall be entitled to relocation  
42 assistance in an amount equal to six times the monthly rental paid  
43 by the displaced person. The owner-landlord of the structure shall  
44 be liable for the payment of relocation assistance pursuant to this  
45 section.

46 b. A municipality that has enacted an ordinance pursuant to  
47 subsection a. of this section may pay relocation assistance to any  
48 displaced person who has not received the required payment from  
49 the owner-landlord of the structure at the time of eviction pursuant

1 to subsection a. of this section from a revolving relocation  
2 assistance fund established pursuant to section 2 of P.L.1987, c.98  
3 (C.20:4-4.1a). All relocation assistance costs incurred by a  
4 municipality pursuant to this subsection shall be repaid by the  
5 owner-landlord of the structure to the municipality in the same  
6 manner as relocation costs are billed and collected under section 1  
7 of P.L.1983, c.536 (C.20:4-4.1) and section 1 of P.L.1984, c.30  
8 (C.20:4-4.2). These repayments shall be deposited into the  
9 municipality's revolving relocation assistance fund.

10 c. A municipality that has enacted an ordinance pursuant to  
11 subsection a. of this section, in addition to requiring reimbursement  
12 from the owner-landlord of the structure for relocation assistance  
13 paid to a displaced tenant, may require that an additional fine for  
14 zoning or housing code violation for an illegal occupancy, up to an  
15 amount equal to six times the monthly rental paid by the displaced  
16 person, be paid to the municipality by the owner-landlord of the  
17 structure.

18 In addition to this penalty, a municipality, after affording the  
19 owner-landlord an opportunity for a hearing on the matter, may  
20 impose upon the owner-landlord, for a second or subsequent  
21 violation for an illegal occupancy, a fine equal to the annual tuition  
22 cost of any resident of the illegally occupied unit attending a public  
23 school, which fine shall be recovered in a civil action by a summary  
24 proceeding in the name of the municipality pursuant to "The  
25 Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et  
26 seq.). The municipal court and the Superior Court shall have  
27 jurisdiction of proceedings for the enforcement of the penalty  
28 provided by this section. The tuition cost shall be determined in the  
29 manner prescribed for nonresident pupils pursuant to N.J.S.18A:38-  
30 19 and the payment of the fine shall be remitted to the appropriate  
31 school district.

32 d. For the purposes of this section, the owner-landlord of a  
33 structure shall exclude mortgagees in possession of a structure  
34 through foreclosure.

35 For the purposes of this section, a "second or subsequent  
36 violation for an illegal occupancy" shall be limited to those  
37 violations that are new and are a result of distinct and separate  
38 zoning or code enforcement activities, and shall not include any  
39 continuing violations for which citations are issued by a zoning or  
40 code enforcement agent during the time period required for  
41 summary dispossession proceedings to conclude if the owner has  
42 initiated eviction proceedings in a court of proper jurisdiction.

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

44

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

47 4. a. If a residential tenant is displaced because of an illegal  
48 occupancy in a residential rental premises pursuant to paragraph (3)  
49 of subsection g. of section 2 of P.L.1974, c.49 (C.2A:18-61.1) ,

1 except for overcrowding where the tenant's own conduct was the  
2 primary cause of the overcrowding, and the municipality in which  
3 the rental premises is located has not enacted an ordinance pursuant  
4 to section 3 of P.L.1993, c.342 (C.2A:18-61.1g), the displaced  
5 residential tenant shall be entitled to reimbursement for relocation  
6 expenses from the owner in an amount equal to six times the  
7 monthly rental paid by the displaced person.

8 b. Payment by the owner shall be due five days prior to the  
9 removal of the displaced tenant. If payment is not made within this  
10 time, interest shall accrue and be due to the displaced residential  
11 tenant on the unpaid balance at the rate of 18% per annum until the  
12 amount due and all interest accumulated thereon shall be paid in  
13 full.

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

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

35 e. For the purposes of this section, the owner of a structure  
36 shall exclude mortgagees in possession of a structure through  
37 foreclosure.

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

39  
40 5. Section 3 of P.L.1974, c.49 (C.2A:18-61.2) is amended to  
41 read as follows:

42 3. No judgment of possession shall be entered for any premises  
43 covered by section 2 of **[this act]** P.L.1974, c.49 (C.2A:18-61.1),  
44 except in the nonpayment of rent under subsection a. or f. of section  
45 2, unless the landlord has made written demand and given written  
46 notice for delivery of possession of the premises. The following  
47 notice shall be required:

- 1 a. For an action alleging disorderly conduct under subsection b.  
2 of section 2, or injury to the premises under subsection c. of section  
3 2, or any grounds under subsection m., n., o., p., q., or r. of section  
4 2, three days' notice prior to the institution of the action for  
5 possession;
- 6 b. For an action alleging continued violation of rules and  
7 regulations under subsection d. of section 2, or substantial breach of  
8 covenant under subsection e. of section 2, or habitual failure to pay  
9 rent, one month's notice prior to the institution of the action for  
10 possession;
- 11 c. For an action alleging any grounds under subsection g. of  
12 section 2, three months' notice prior to the institution of the action;
- 13 d. For an action alleging permanent retirement under  
14 subsection h. of section 2, 18 months' notice prior to the institution  
15 of the action and, provided that, where there is a lease in effect, no  
16 action may be instituted until the lease expires;
- 17 e. For an action alleging refusal of acceptance of reasonable  
18 lease changes under subsection i. of section 2, one month's notice  
19 prior to institution of action;
- 20 f. For an action alleging any grounds under subsection l. of  
21 section 2, two months' notice prior to the institution of the action  
22 and, provided that where there is a written lease in effect no action  
23 shall be instituted until the lease expires;
- 24 g. For an action alleging any grounds under subsection k. of  
25 section 2, three years' notice prior to the institution of action, and  
26 provided that where there is a written lease in effect, no action shall  
27 be instituted until the lease expires;
- 28 h. In public housing under the control of a public housing  
29 authority or redevelopment agency, for an action alleging  
30 substantial breach of contract under paragraph (2) of subsection e.  
31 of section 2, the period of notice required prior to the institution of  
32 an action for possession shall be in accordance with federal  
33 regulations pertaining to public housing leases;
- 34 i. For an action alleging overcrowding or unauthorized  
35 occupancy under subsection s. of section 2 of P.L.1974, c.49  
36 (C.2A:18-61.1), one month's notice prior to the institution of the  
37 action for possession.
- 38 The notice in each of the foregoing instances shall specify in  
39 detail the cause of the termination of the tenancy and shall be  
40 served either personally upon the tenant or lessee or such person in  
41 possession by giving him a copy thereof, or by leaving a copy  
42 thereof at his usual place of abode with some member of his family  
43 above the age of 14 years, or by certified mail; if the certified letter  
44 is not claimed, notice shall be sent by regular mail.  
45 (cf: P.L.2013, c.51, s.8)
- 46
- 47 6. R.S.40:49-5 is amended to read as follows:

1 40:49-5. The governing body may prescribe penalties for the  
2 violation of ordinances it may have authority to pass, by one or  
3 more of the following: imprisonment in the county jail or in any  
4 place provided by the municipality for the detention of prisoners,  
5 for any term not exceeding 90 days; or by a fine not exceeding  
6 \$2,000 unless a fine in excess of \$2,000 is specifically authorized  
7 by statute; or by a period of community service not exceeding 90  
8 days.

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

13 The governing body may prescribe that for the violation of an  
14 ordinance pertaining to unlawful solid waste disposal at least a  
15 minimum penalty shall be imposed which shall consist of a fine  
16 which may be fixed at an amount not exceeding \$2,500 or a  
17 maximum penalty by a fine not exceeding \$10,000.

18 The court before which any person is convicted of violating any  
19 ordinance of a municipality shall have power to impose any fine,  
20 term of imprisonment, or period of community service not less than  
21 the minimum and not exceeding the maximum fixed in such  
22 ordinance.

23 Any person who is convicted of violating an ordinance within  
24 one year of the date of a previous violation of the same ordinance  
25 and who was fined for the previous violation, shall be sentenced by  
26 a court to an additional fine as a repeat offender. The additional  
27 fine imposed by the court upon a person for a repeated offense shall  
28 not be less than the minimum or exceed the maximum fine fixed for  
29 a violation of the ordinance, but shall be calculated separately from  
30 the fine imposed for the violation of the ordinance.

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

34 Any person convicted of the violation of any ordinance may, in  
35 the discretion of the court by which he was convicted, and in  
36 default of the payment of any fine imposed therefor, be imprisoned  
37 in the county jail or place of detention provided by the municipality,  
38 for any term not exceeding 90 days, or be required to perform  
39 community service for a period not exceeding 90 days.

40 Any municipality that chooses to impose a fine in an amount  
41 greater than \$1,250 upon an owner for violations of housing or  
42 zoning codes shall provide a 30-day period in which the owner shall  
43 be afforded the opportunity to cure or abate the condition and shall  
44 also be afforded an opportunity for a hearing before a court of  
45 competent jurisdiction for an independent determination concerning  
46 the violation. Subsequent to the expiration of the 30-day period, a  
47 fine greater than \$1,250 may be imposed if a court has not

1 determined otherwise or, upon reinspection of the property, it is  
2 determined that the abatement has not been substantially completed.  
3 (cf: P.L.2005, c.269, s.1)  
4

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

#### 8 9 STATEMENT

10  
11 This bill would allow municipalities to adopt ordinances  
12 authorizing the issuance of summonses upon certain landlords and  
13 tenants alleged to have violated occupancy requirements resulting  
14 in overcrowding. The bill would allow for the imposition of fines  
15 upon a culpable landlord or tenant of up to \$2,500 for a first  
16 violation, \$5,000 for a second violation, and \$10,000 for each  
17 subsequent violation. These fines would be in addition to any other  
18 fines or penalties authorized by law. The bill would require that a  
19 hearing be held before any fines could be imposed. The bill would  
20 not be applicable to seasonal rentals or to buildings with more than  
21 four residential rental units.

22 The bill would also clarify existing law by distinguishing  
23 between illegal occupancies resulting in overcrowding that are  
24 caused by landlords and those that are caused by tenants, specifying  
25 that landlords are not obligated to pay tenant relocation costs when  
26 the tenant's own conduct is the primary cause for the overcrowding.  
27 This is consonant with the holdings in Haddock v. Dept. of  
28 Community Development, City of Passaic, 217 N.J.Super. 592  
29 (App. Div. 1987) and M.C. Associates v. Shah, 226 N.J.Super. 173  
30 (App. Div. 1988).

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

35 The bill also establishes new standards to be utilized in  
36 determining whether a tenant has been the primary cause of  
37 overcrowding or illegal occupancy. The bill provides that in order  
38 for the conduct of the tenants to be deemed the primary cause for  
39 the illegal occupancy or overcrowding, it must be established (1)  
40 that the tenant signed a lease or was provided a written copy of the  
41 rental policy in which the number of intended occupants was  
42 specified, (2) that the number of allowed occupants was within the  
43 standards established by the applicable code requirements, or rental  
44 policy if a number was specified in the lease, and (3) that any  
45 additional occupants in excess of the number of occupants specified  
46 became residents of the rental unit without the expressed consent of  
47 the owner-landlord.