

SENATE, No. 1638

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED FEBRUARY 13, 2020

Sponsored by:

Senator NILSA CRUZ-PEREZ

District 5 (Camden and Gloucester)

SYNOPSIS

Expands municipal authority to license and inspect residential rental property.

CURRENT VERSION OF TEXT

As introduced.



S1638 CRUZ-PEREZ

2

1 **AN ACT** concerning municipal licenses and amending R.S.40:52-1.

2

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

5

6 1. R.S.40:52-1 is amended to read as follows:

7 40:52-1. The governing body may make, amend, repeal and
8 enforce ordinances to license and regulate:

9 a. All vehicles used for the transportation of passengers,
10 baggage, merchandise, and goods and chattels of every kind, and
11 the owners and drivers of all such vehicles; and the places and
12 premises in which or at which the different kinds of business or
13 occupations mentioned herein are carried on and conducted.
14 Nothing herein contained shall be construed as modifying or
15 repealing any of the provisions of chapter 4 of Title 48 of the
16 Revised Statutes (R.S.48:4-1 et seq.);

17 b. Buses, and the owners and drivers of all such vehicles,
18 and to fix the fees for such licenses, which may be imposed for
19 revenue, and to prohibit the operation of all such vehicles in the
20 public streets or places of such municipality, unless such ordinances
21 are complied with, whether such vehicles are operated over routes
22 wholly or partly within the territorial limits of such municipality;
23 the powers conferred by this section shall not be in substitution of
24 but in addition to whatever other right, power and authority any
25 such municipality may at any time have as to licensing, regulating,
26 or control of the operation of such buses, commonly called
27 jitneys, and this section shall not be construed as modifying or
28 repealing any of the provisions of chapter 4 (R.S.48:4-1 et seq.) or
29 article 3 of chapter 16 (R.S.48:16-23 et seq.) of Title 48 of the
30 Revised Statutes;

31 c. Cartmen, expressmen, baggagemen, porters, common criers,
32 hawkers, peddlers, employment agencies, pawnbrokers, junk shop-
33 keepers, junk dealers, motor vehicle junk dealers, street sprinklers,
34 bill posters, bill tackers, sweeps, scavengers, itinerant vendors of
35 merchandise, medicines and remedies; and the places and premises
36 in which or at which the different kinds of business or occupations
37 mentioned herein are conducted and carried on; provided, however,
38 no ordinance regulating solicitation for services shall be applicable
39 to solicitations, whether written or oral, for snow shoveling services
40 made within 24 hours of a snowstorm that has been predicted by a
41 commonly recognized commercial or governmental weather
42 reporting entity;

43 d. Hotels, boardinghouses, lodging and rooming houses, trailer
44 camps and camp sites, motels, furnished and unfurnished rented
45 housing or living units and all other places and buildings used for

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 sleeping and lodging purposes, and the occupancy thereof,
2 restaurants and all other eating places, and the keepers thereof;
- 3 e. Automobile garages, dealers in second-hand motor vehicles
4 and parts thereof, bathhouses, swimming pools, and the keepers
5 thereof;
- 6 f. Theatres, cinema and show houses, opera houses, concert
7 halls, dance halls, pool or billiard parlors, bowling alleys, exhibition
8 grounds, and all other places of public amusement, circuses and
9 traveling or other shows, plays, dances, exhibitions, concerts,
10 theatrical performances, and all street parades in connection
11 therewith;
- 12 g. Lumber and coal yards, stores for the sale of meats,
13 groceries and provisions, dry goods and merchandise, and goods
14 and chattels of every kind, and all other kinds of business conducted
15 in the municipality other than herein mentioned, and the places and
16 premises in or at which the business is conducted and carried on;
17 street stands for the sale or distribution of newspapers, magazines,
18 periodicals, books, and goods and merchandise or other articles;
- 19 h. Street signs and other objects projecting beyond the building
20 line, into or over any public street or highway;
- 21 i. Auctioneers and their business, whether the auctioneers be
22 real estate brokers engaged in selling at auction or real estate
23 auctioneers licensed by the New Jersey Real Estate Commission;
24 fix their fees, and license and regulate public auctions; make such
25 regulations as the governing body of the municipality shall deem
26 necessary, to protect the public against fraud at public auction sales,
27 and for the safety and protection of the property of the municipality
28 and its inhabitants, including the power to require from auctioneers
29 a bond to the municipality, not exceeding the penal sum of
30 \$5,000.00, conditioned as the governing body shall require;
- 31 j. Sales of goods, wares and merchandise to be advertised, held
32 out or represented, or which are advertised, held out or represented,
33 to the public, by any means, directly or by implication, as forced
34 sales at reduced prices or as insurance, bankruptcy, mortgage
35 foreclosure, insolvency, removal, loss or expiration of lease or
36 closing out sales, or as assignees', receivers' or trustees' sales or as
37 sales of goods distrained or as sales of goods damaged by fire,
38 smoke or water, except any sale which is to be held under a judicial
39 order, judgment or decree or a writ issuing out of any court or to
40 enforce any lawful lien or power of sale whether by judicial process
41 or not or by a licensed auctioneer; to make such regulations
42 governing the advertisement, holding out or representing to the
43 public of such sales, and the conduct thereof, as the governing body
44 of the municipality shall deem necessary to protect the public
45 against fraud; to prohibit the advertising, holding out or
46 representing to the public of any sale as being of the character
47 above described which is not of such character and to fix license

1 fees for the conduct of such sales and to impose penalties for the
2 violation of any such ordinance;

3 k. (Deleted by amendment, P.L.1997, c.320.)

4 l. (Deleted by amendment, P.L.1984, c.205.)

5 m. The rental of real property for commercial purposes wherein
6 the lease is for a term less than 175 consecutive days. No ordinance
7 adopted pursuant to this subsection shall apply to any lease or
8 occupancy which results from a tenant holding over at the
9 expiration or early termination of a lease with an original term in
10 excess of 175 consecutive days, regardless of whether the holdover
11 is month-to-month or for some other term of less than 175
12 consecutive days; and

13 n. The rental of real property **【for a term less than 175**
14 **consecutive days】** for residential purposes **【by a person having a**
15 **permanent place of residence elsewhere】** and to fix the fees for such
16 licenses. Notwithstanding the provisions of R.S.40:52-2 to the
17 contrary, fees established pursuant to this subsection shall be
18 dedicated to meeting the costs of implementing and enforcing this
19 subsection and shall not be used for any other purpose. A
20 municipality that licenses the rental of residential real property
21 pursuant to this subsection shall require the landlord of each
22 licensed property to file with the clerk of the municipality, or with
23 such other municipal official as is designated by the clerk, a
24 certificate of registration in accordance with section 2 of P.L.1974,
25 c.50 (C.46:8-28); provided, however, that no additional registration
26 shall be required for a licensed property for which a registration
27 certificate with current ownership information has been filed with
28 either the clerk of the municipality, or with such other municipal
29 official as is designated by the clerk, or, in the case of a multiple
30 dwelling, with the Bureau of Housing Inspection in the Department
31 of Community Affairs, in accordance with section 2 of P.L.1974,
32 c.50 (C.46:8-28). The power of a municipality to license and
33 regulate residential rental property under this subsection shall
34 include the power to inspect said property as a condition of
35 licensure; provided, however, that a municipality shall not inspect
36 residential rental property more than once per calendar year, except
37 when prompted by complaints, evidence of code violations, or
38 patently unsound conditions on the property.

39 Nothing in this chapter contained shall be construed to authorize
40 or empower the governing body of any municipality to license or
41 regulate any person holding a license or certificate issued by any
42 department, board, commission, or other agency of the State;
43 provided, however, that the governing body of a municipality may
44 make, amend, repeal and enforce ordinances to license and regulate
45 real estate auctioneers or real estate brokers engaged in selling at
46 auction and their business as provided in this section despite the
47 fact that such real estate auctioneers or brokers may be licensed by

1 the New Jersey Real Estate Commission and notwithstanding the
2 provisions of this act or any other act.

3 (cf: P.L.2015, c.240)

4

5 2. This act shall take effect immediately and shall be
6 retroactive to August 6, 2015; provided, however, that a
7 municipality shall not collect fees authorized by section 1 of this act
8 or refund fees collected by the municipality for property licensed
9 prior to the effective date of this act.

10

11

12

STATEMENT

13

14 This bill would expand the authority of a municipality to inspect,
15 license, and regulate the rental of residential real property. Under
16 current law, a municipality has the authority to license and regulate
17 commercial and residential leases of less than 175 days. This bill
18 would authorize municipalities to inspect, license, and regulate
19 rentals of residential real property regardless of the duration of the
20 lease agreement. The bill would maintain the restriction on the
21 licensure of commercial property to leases of a term of less than
22 175 days.

23

24 The power of a municipality to license and regulate residential
25 rental property under this bill includes the power to inspect rental
26 property as a condition of licensure. Under the bill, a municipality
27 cannot inspect residential rental property more than once per
28 calendar year, except when prompted by complaints, evidence of
29 code violations, or patently unsound conditions on the property. In
30 addition, the bill would require property owners to register the
31 property with the municipality at the time the municipality issues a
32 license. Under the bill, no additional registration will be required
33 for a licensed property for which a registration certificate with
34 current ownership information has been filed with either the clerk
35 of the municipality or, in the case of a multiple dwelling, with the
36 Bureau of Housing Inspection in the Department of Community
37 Affairs. The municipality would have the authority to charge fees
38 for the license, but the fees must be dedicated to meeting the costs
39 of implementing and enforcing the licensing scheme and cannot be
used for any other purpose.

40

41 This bill would be effective immediately and retroactive to
42 August 6, 2015. The bill, however, would prohibit municipalities
43 from collecting fees for licenses issued prior to the effective date of
44 this bill, which the municipality has not yet collected.
45 Municipalities would not be responsible for returning any fees
collected prior to the effective date of this bill.