

ASSEMBLY, No. 165

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen GIBSON and ASSELTA

1 AN ACT concerning the eviction of residential tenants and amending
2 P.L.1974, c.49.

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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. Section 2 of P.L.1974, c.49 (C.2A:18-61.1) is amended to read
8 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 units
14 or a hotel, motel or other guest house or part thereof rented to a
15 transient guest or seasonal tenant; (2) a dwelling unit which is held in
16 trust on behalf of a member of the immediate family of the person or
17 persons establishing the trust, provided that the member of the
18 immediate family on whose behalf the trust is established permanently
19 occupies the unit; and (3) a dwelling unit which is permanently
20 occupied by a member of the immediate family of the owner of that
21 unit, provided, however, that exception (2) or (3) shall apply only in
22 cases in which the member of the immediate family has a
23 developmental disability, except upon establishment of one of the
24 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.

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

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

32 d. The person has continued, after written notice to cease, to

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 substantially violate or breach any of the landlord's rules and
2 regulations governing said premises, provided such rules and
3 regulations are reasonable and have been accepted in writing by the
4 tenant or made a part of the lease at the beginning of the lease term.

5 e. The person has continued, after written notice to cease, to
6 substantially violate or breach any of the covenants or agreements
7 contained in the lease for the premises where a right of reentry is
8 reserved to the landlord in the lease for a violation of such covenant
9 or agreement, provided that such covenant or agreement is reasonable
10 and was contained in the lease at the beginning of the lease term.

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

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

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

43 i. The landlord or owner proposes, at the termination of a lease,
44 reasonable changes of substance in the terms and conditions of the
45 lease, including specifically any change in the term thereof, which the
46 tenant, after written notice, refuses to accept; provided that in cases

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

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

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

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

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

45 (3) The owner of a building of three residential units or less seeks
46 to personally occupy a unit, or has contracted to sell the residential

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

3 m. The landlord or owner conditioned the tenancy upon and in
4 consideration for the tenant's employment by the landlord or owner as
5 superintendent, janitor or in some other capacity and such employment
6 is being terminated.

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

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 which
30 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 threats
32 against the landlord, a member of the landlord's family or an employee
33 of the landlord; or, being the tenant or lessee of such leased premises,
34 knowingly harbors therein a person who has been so convicted or has
35 so pleaded, or otherwise permits such a person to occupy those
36 premises for residential purposes, whether continuously or
37 intermittently.

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

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

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

36 (cf: P.L.1993, c.342, s.1)

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38 2. This act shall take effect immediately.

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STATEMENT

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43 This bill augments the grounds for the eviction of a residential
44 tenant. Currently, a tenant may be removed for the damage or
45 destruction of the landlord's property, but theft of the landlord's
46 property without actual damage to the premises is not a ground for

1 removal. The bill authorizes the eviction of a tenant when convicted
2 of or found liable in a civil action of theft of property from a landlord,
3 the leased premises or other tenants residing in the same building or
4 complex. The bill is intended to further protect the safety and welfare
5 of the landlord and other tenants.

6 The bill provides that theft of property from a landlord, in order to
7 be considered grounds for eviction, must have occurred on the rental
8 premises. In order for grounds to exist for eviction when a tenant is
9 convicted of or found liable in a civil action of theft of property
10 located on the leased premises from a landlord, the leased premises or
11 other tenants residing in the same building or complex, it must be
12 proven that the tenant intended to steal the property; a tenant should
13 not be subject to eviction solely on the basis of a mistaken belief that
14 he was entitled to use certain property located on the rental premises.

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20 Permits the eviction of residential tenants guilty for theft of property
from the leased premises.