

ASSEMBLY, No. 226

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen GARCIA and ROMANO

1 AN ACT concerning eviction from residential premises after
2 foreclosure and amending 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. As used in this act, the term "landlord" or "owner" shall include
10 a landlord's successor in ownership or possession, including a
11 mortgagee or other lienholder which has foreclosed upon and taken
12 possession of property, and whose actions shall be governed by this
13 act, except when adherence to the provisions of this act would cause
14 a mortgagee to be in violation of federal law.

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

31 a. The person fails to pay rent due and owing under the lease
32 whether the same be oral or written.

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

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

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

11 e. The person has continued, after written notice to cease, to
12 substantially violate or breach any of the covenants or agreements
13 contained in the lease for the premises where a right of reentry is
14 reserved to the landlord in the lease for a violation of such covenant
15 or agreement, provided that such covenant or agreement is reasonable
16 and was contained in the lease at the beginning of the lease term.

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

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

45 h. The owner seeks to retire permanently the residential building
46 or the mobile home park from residential use or use as a mobile home

1 park, provided this subsection shall not apply to circumstances
2 covered under subsection g. of this section.

3 i. The landlord or owner proposes, at the termination of a lease,
4 reasonable changes of substance in the terms and conditions of the
5 lease, including specifically any change in the term thereof, which the
6 tenant, after written notice, refuses to accept; provided that in cases
7 where a tenant has received a notice of termination pursuant to
8 subsection g. of section 3 of P.L.1974, c.49 (C.2A:18-61.2), or has a
9 protected tenancy status pursuant to section 9 of the "Senior Citizens
10 and Disabled Protected Tenancy Act," P.L.1981, c.226
11 (C.2A:18-61.22 et al.), or pursuant to the "Tenant Protection Act of
12 1992," P.L.1991, c.509 (C.2A:18-61.40 et al.), the landlord or owner
13 shall have the burden of proving that any change in the terms and
14 conditions of the lease, rental or regulations both is reasonable and
15 does not substantially reduce the rights and privileges to which the
16 tenant was entitled prior to the conversion.

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

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

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

44 (2) The owner of three or less condominium or cooperative units
45 seeks to evict a tenant whose initial tenancy began by rental from an
46 owner of three or less units after the master deed or agreement

1 establishing the cooperative was recorded, because the owner seeks to
2 personally occupy the unit, or has contracted to sell the unit to a buyer
3 who seeks to personally occupy it and the contract for sale calls for
4 the unit to be vacant at the time of closing;

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

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

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

34 o. The person has been convicted of or pleaded guilty to, or if a
35 juvenile, has been adjudicated delinquent on the basis of an act which
36 if committed by an adult would constitute an offense under
37 N.J.S.2C:12-1 or N.J.S.2C:12-3 involving assault, or terroristic threats
38 against the landlord, a member of the landlord's family or an employee
39 of the landlord; or, being the tenant or lessee of such leased premises,
40 knowingly harbors therein a person who has been so convicted or has
41 so pleaded, or otherwise permits such a person to occupy those
42 premises for residential purposes, whether continuously or
43 intermittently.

44 p. The person has been found, by a preponderance of the evidence,
45 liable in a civil action for removal commenced under this act for an
46 offense under N.J.S.2C:12-1 or N.J.S.2C:12-3 involving assault or

1 terroristic threats against the landlord, a member of the landlord's
2 family or an employee of the landlord, or under the "Comprehensive
3 Drug Reform Act of 1987," N.J.S.2C:35-1 et al., involving the use,
4 possession, manufacture, dispensing or distribution of a controlled
5 dangerous substance, controlled dangerous substance analog or drug
6 paraphernalia within the meaning of that act within or upon the leased
7 premises or the building or complex of buildings and land appurtenant
8 thereto, or the mobile home park, in which those premises are located,
9 and has 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 to
12 N.J.S.2C:35-14; or, being the tenant or lessee of such leased premises,
13 knowingly harbors therein a person who committed such an offense,
14 or otherwise permits such a person to occupy those premises for
15 residential purposes, whether continuously or intermittently, except
16 that this subsection shall not apply to a person who harbors or permits
17 a juvenile to occupy the premises if the juvenile has been adjudicated
18 delinquent upon the basis of an act which if committed by an adult
19 would constitute the offense of use or possession under the said
20 "Comprehensive Drug Reform Act of 1987."

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

29 (cf: P.L.1991, c.509, s.19)

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31 2. Section 4 of P.L.1974, c.49 (C.2A:18-61.3) is amended to read
32 as follows:

33 4. a. No landlord may evict or fail to renew any lease of any
34 premises covered by section 2 of this act except for good cause as
35 defined in section 2.

36 b. A person who was a tenant of a landlord in premises covered by
37 section 2 of P.L.1974, c.49 (C.2A:18-61.1) may not be removed by
38 any order or judgment for possession from the premises by the owner's
39 or landlord's successor in ownership or possession or mortgagees and
40 their successors in interest except:

41 (1) For good cause in accordance with the requirements which
42 apply to premises covered pursuant to P.L.1974, c.49 (C.2A:18-61.1
43 et seq.); or

44 (2) For proceedings in premises where federal law supersedes
45 applicable State law governing removal of occupants, including
46 foreclosure proceedings by a mortgagee when the mortgage on the

1 property was federally guaranteed; or

2 (3) For proceedings where removal of occupants is sought by an
3 authorized State or local agency pursuant to eminent domain or code
4 enforcement laws and which comply with applicable relocation laws
5 pursuant to the "Relocation Assistance Law of 1967," P.L.1967, c.79
6 (C.52:31B-1 et seq.) and the "Relocation Assistance Act," P.L.1971,
7 c.362 (C.20:4-1 et seq.).

8 Where the owner's or landlord's successor in ownership or
9 possession is not bound by the lease entered into with the former
10 tenant and may offer a different lease to the former tenant, nothing in
11 **[this 1986 amendatory and supplementary act]** P.L.1986, c.138 shall
12 limit that right.

13 (cf: P.L.1986, c.138, s.7)

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15 3. This act shall take effect immediately.

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STATEMENT

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20 The purpose of this bill is to reaffirm the intent of the Legislature
21 in enacting the 1986 amendments to the Anti-Eviction law by including
22 foreclosing mortgagees and other lienholders, along with landlords and
23 owners, as parties who must comply with the procedures set forth in
24 the anti-eviction act, P.L.1974, c.49, when evicting tenants from
25 certain rental property. The New Jersey Supreme Court held in
26 Guttenberg S.& L. Ass'n v. Rivera, 85 N.J. 617 (1981), that a
27 mortgagee that foreclosed on property was not covered by that act,
28 and did not have to follow the statutory procedures when evicting
29 tenants whose leaseholds were subsequent to the mortgage. It is the
30 Legislature's intent that mortgagees that foreclose on rental property
31 covered by the act must comply with the provisions of the act, and
32 may evict tenants only on the basis of "good cause" as provided by the
33 act.

34 The bill also reaffirms the intent of the exemption found in
35 N.J.S.A.2A:18-61.3(b)(2) clarifying that it extends to mortgagees
36 governed by conditions of federally insured mortgage programs which
37 are contrary to the anti-eviction law. However, several federal
38 agencies have established regulations, policies, or practices governing
39 property disposition which defer to state law in determining the rights
40 of tenants of foreclosed property. For example, the policy of the
41 Federal Housing Administration is to permit former tenants to remain
42 in possession after foreclosure when "state or local law prohibits the
43 mortgagee from evicting a tenant residing in the property who is
44 making monthly payments to the mortgagor, or prohibits eviction for
45 other similar reasons," 24 CFR 203.670(b)(2). Thus, the protections
46 of the anti-eviction act apply fully to tenants in these circumstances.

1 It is the public policy of this State that mortgagees must follow the
2 procedures of the anti-eviction act whenever federal law, policy or
3 practice defers to state law.

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8 Requires foreclosing mortgagee or other lienholder to comply with
9 anti-eviction law.