

SENATE, No. 327

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Senator LITTELL

1 AN ACT concerning municipal service fees on manufactured homes,
2 amending and supplementing P.L.1983, c.400 and amending
3 P.L.1974, c.49.

4

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

7

8 1. Section 3 of P.L.1983, c.400 (C.54:4-1.4) is amended to read as
9 follows:

10 3. As used in this act:

11 a. "Commissioner" means the Commissioner of the Department of
12 Community Affairs;

13 b. "Cooperative" means a housing corporation or association which
14 entitles the holder of a share or membership interest thereof to possess
15 and occupy for dwelling purposes a house, apartment, manufactured
16 home or other unit of housing owned by the corporation or
17 association, or to purchase a unit of housing constructed or erected by
18 the corporation or association;

19 c. "Grade" means a reference plane consisting of the average
20 finished ground level adjacent to a structure, building, or facility at all
21 visible exterior walls;

22 d. "Manufactured home" means a unit of housing which:

23 (1) Consists of one or more transportable sections which are
24 substantially constructed off site and, if more than one section, are
25 joined together on site;

26 (2) Is built on a permanent chassis;

27 (3) Is designed to be used, when connected to utilities, as a
28 dwelling on a permanent or nonpermanent foundation; and

29 (4) Is manufactured in accordance with the standards promulgated
30 for a manufactured home by the secretary pursuant to the "National
31 Manufactured Housing Construction and Safety Standards Act of
32 1974," Pub.L. 93-383 (42 U.S.C. § 5401 et seq.) and the standards

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 promulgated for a manufactured or mobile home by the commissioner
2 pursuant to the "State Uniform Construction Code Act," P.L.1975,
3 c.217 (C.52:27D-119 et seq.);

4 "Manufactured home" also means and includes any unit of housing
5 manufactured before the effective date of the standards promulgated
6 by the secretary or, as appropriate, by the commissioner, but which
7 otherwise meets the criteria set forth in this subsection;

8 e. "Mobile home park" means a parcel of land, or two or more
9 contiguous parcels of land, containing no fewer than 10 sites equipped
10 for the installation of manufactured homes, where these sites are under
11 common ownership and control, other than as a cooperative, for the
12 purpose of leasing each site to the owner of a manufactured home for
13 the installation thereof, and where the owner or owners provide
14 services, which are provided by the municipality in which the park is
15 located for property owners outside the park, which services may
16 include but shall not be limited to:

17 (1) The construction and maintenance of streets;

18 (2) Lighting of streets and other common areas;

19 (3) Garbage removal;

20 (4) Snow removal; and

21 (5) Provisions for the drainage of surface water from home sites
22 and common areas.

23 A parcel, or any contiguous parcels, of land which contain, on the
24 effective date of this act, no fewer than three sites equipped for the
25 installation of manufactured homes, and which otherwise conform to
26 the provisions of this subsection, shall qualify as a mobile home park
27 for the purposes of this act;

28 f. "Municipal service fee" means a fee imposed on [manufactured
29 homes installed in a mobile home park] the mobile home park owner
30 for the purpose of reasonable payment for services rendered the
31 owners of the manufactured homes by the municipality or any other
32 local taxing authority established pursuant to an ordinance of the
33 municipal governing body[.]. Such fee may include the full cost of
34 municipal garbage collection from the mobile home park and [for] the
35 full or partial reimbursement of the municipality for payments made
36 thereby to the school district in which the mobile home park is located
37 for educational costs occasioned by pupils residing in that park;

38 g. "Nonpermanent foundation" means any foundation consisting of
39 nonmortared blocks, wheels, a concrete slab, runners, or any
40 combination thereof, or any other system approved by the
41 commissioner for the installation and anchorage of a manufactured
42 home on other than a permanent foundation;

43 h. "Off site construction of a manufactured home or section
44 thereof" means the construction of that home or section at a location
45 other than the location at which the home is to be installed;

46 i. "On site joining of sections of a manufactured home" means the

1 joining of those sections at the location at which the home is to be
2 installed;

3 j. "Permanent foundation" means a system of support installed
4 either partially or entirely below grade, which is:

5 (1) Capable of transferring all design loads imposed by or upon the
6 structure into soil or bedrock without failure;

7 (2) Placed at an adequate depth below grade to prevent frost
8 damage; and

9 (3) Constructed of any material approved by the commissioner;

10 k. "Runners" means a system of support consisting of poured
11 concrete strips running the length of the chassis of a manufactured
12 home under the lengthwise walls of that home;

13 l. "Secretary" means the Secretary of the United States Department
14 of Housing and Urban Development; and

15 m. "Trailer" means a recreational vehicle, travel trailer, camper or
16 other transportable, temporary dwelling unit, with or without its own
17 motor power, designed and constructed for travel and recreational
18 purposes to be installed on a nonpermanent foundation if installation
19 is required.

20 (cf: P.L.1983, c.400, s.3)

21

22 2. Section 4 of P.L.1983, c.400 (C.54:4-1.5) is amended to read as
23 follows:

24 4. a. Except as otherwise provided for in subsection b. of this
25 section and in P.L.1982, c.220 (C.54:4-23a), a manufactured home
26 shall be subject to taxation as real property under chapter 4 of Title 54
27 of the Revised Statutes when that home:

28 (1) Is affixed to the land on which it is sited by a permanent
29 foundation; or

30 (2) Is affixed to that land by a nonpermanent foundation and
31 connected to utility systems in such manner as to render the home
32 habitable as a dwelling unit on a permanent basis.

33 b. A manufactured home which is installed in a mobile home park
34 shall not be subject to taxation as real property for the purpose of
35 assessing the value of the mobile home park under section 1 of
36 P.L.1960, c.51 (C.54:4-2.25); however, a manufactured home may be
37 assessed for the purpose of the calculation or allocation of a service
38 fee pursuant to section 5 of P.L.1983, c.400 (C.54:4-1.6).

39 (cf: P.L.1983, c.400, s.4)

40

41 3. Section 5 of P.L.1983, c.400 (C.54:4-1.6) is amended to read as
42 follows:

43 5. a. A municipality, by ordinance, shall provide for the imposition
44 of an annual municipal service fee, on manufactured homes installed
45 in a mobile home park within its corporate boundaries. In setting this
46 fee, the municipal governing body shall take into account the extent to

1 which the taxes assessed and levied pursuant to Title 54 of the Revised
2 Statutes against the land and improvements thereto which together
3 constitute the mobile home park in which the homes are installed
4 defray the costs of services provided, or paid for, by the municipality,
5 or provided by any other appropriate taxing authority, for lessees of
6 sites in the park. The ordinance imposing the municipal service fee
7 shall provide for the proration of that fee, as necessary, utilizing
8 criteria set forth in the ordinance, in order to account for vacancies in
9 the mobile home park and differences in manufactured home size and
10 occupancy. A municipality adopting a municipal service fee ordinance
11 may establish an assessed value for each manufactured home for the
12 purpose of establishing the municipal service fee in a manner similar
13 to the assessment of real property taxes.

14 b. [The] Payment of the municipal service fee shall be [collected
15 from each owner of a manufactured home on a monthly basis by the
16 owner of the mobile home park in which the home is installed. The
17 park owner shall issue a receipt to the homeowner upon each
18 collection] the responsibility of the mobile home park owner.

19 The park owner shall transmit the [fees collected] fee, in [a] the
20 manner set forth in the ordinance imposing the fee, to the tax collector
21 of the taxing district constituting the municipality in which the fee is
22 imposed[, and shall transmit therewith a copy of each receipt issued
23 pursuant to this subsection].

24 The governing body of the municipality may, by ordinance, fix a
25 rate of interest to be charged [a homeowner by the municipality] a
26 park owner for failure to pay the municipal service fee when due and
27 payable[, and to be charged a park owner for failure to transmit fees
28 actually collected when so required]. This rate shall be fixed within
29 the limits established for interest charged for delinquent property taxes
30 pursuant to R.S.54:4-67. Any service fee a park owner wilfully fails
31 to pay shall be charged against the mobile home park property and the
32 amount so charged, along with interest, shall forthwith become a lien
33 upon the mobile home park property and shall be added to and become
34 and form part of the taxes next to be assessed and levied upon that
35 mobile home park property, and shall be collected and enforced by the
36 same officers and in the same manner as taxes. The pro rata portion
37 of the outstanding municipal service fee attributable to each
38 manufactured home in the mobile home park also shall be a lien on the
39 manufactured homes themselves and shall be filed as a lien with the
40 county in which the mobile home park is situated as well as with the
41 Office of the Secretary of State in Trenton.

42 c. An ordinance adopted pursuant to subsection a. of this section
43 shall set forth the manner in which the municipal service fee shall be
44 allocated among the owners of manufactured homes within the mobile
45 home park. To the extent that the respective portion of the municipal
46 service fee allocated to the owner of a manufactured home constitutes

1 a new fee or an increase of any similar fee imposed before the effective
2 date of this act, this new fee or increase, as appropriate, shall in turn
3 constitute a rent surcharge, collectible in addition to any surcharge or
4 increase permitted by any rent control or rent levelling ordinance
5 adopted by the municipality.

6 d. Notwithstanding any provision to the contrary of subsection c.
7 of this section, the respective portion of a municipal service fee
8 allocated to the owner of a manufactured home shall be deemed rent
9 for eviction purposes.

10 (cf: P.L.1983, c.400, s.5)

11

12 4. (New section) Failure of a municipality to adopt a municipal
13 service fee ordinance prior to the effective date of P.L. , c. (now
14 pending before the Legislature as this bill), shall not invalidate any
15 pre-existing municipal ordinance levying municipal fees or charges for
16 reimbursement for local government services. A municipality shall be
17 entitled to collect any outstanding fees, including interest or penalties,
18 where applicable, and the park owner or resident shall not be entitled
19 to a refund or reimbursement for any fees paid to the municipality.
20 Municipalities containing a mobile home park shall adopt a municipal
21 service fee ordinance on or before the first day of the fifth month next
22 following enactment of P.L. , c. (now pending before the
23 Legislature as this bill).

24

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

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

43 a. The person fails to pay rent due and owing under the lease
44 whether the same be oral or written. Any payment to the owner of a
45 mobile home park by or on behalf of a tenant shall first be applied to
46 any municipal service fee imposed pursuant to the "Manufactured

1 Home Taxation Act," P.L.1983, c.400 (C.54:4-1.2 et seq.) and then
2 shall be applied to the rent outstanding.

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

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

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

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

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

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

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

5 i. The landlord or owner proposes, at the termination of a lease,
6 reasonable changes of substance in the terms and conditions of the
7 lease, including specifically any change in the term thereof, which the
8 tenant, after written notice, refuses to accept; provided that in cases
9 where a tenant has received a notice of termination pursuant to
10 subsection g. of section 3 of P.L.1974, c.49 (C.2A:18-61.2), or has a
11 protected tenancy status pursuant to section 9 of the "Senior Citizens
12 and Disabled Protected Tenancy Act," P.L.1981, c.226
13 (C.2A:18-61.30), or pursuant to the "Tenant Protection Act of 1992,"
14 P.L.1991, c.509 (C.2A:18-61.40 et al.), the landlord or owner shall
15 have the burden of proving that any change in the terms and conditions
16 of the lease, rental or regulations both is reasonable and does not
17 substantially reduce the rights and privileges to which the tenant was
18 entitled prior to the conversion.

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

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

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

46 (2) The owner of three or less condominium or cooperative units

1 seeks to evict a tenant whose initial tenancy began by rental from an
2 owner of three or less units after the master deed or agreement
3 establishing the cooperative was recorded, because the owner seeks to
4 personally occupy the unit, or has contracted to sell the unit to a buyer
5 who seeks to personally occupy it and the contract for sale calls for
6 the unit to be vacant at the time of closing;

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

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

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

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

46 p. The person has been found, by a preponderance of the evidence,

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

23 For purposes of this section, (1) "developmental disability" means
24 any disability which is defined as such pursuant to section 3 of
25 P.L.1977, c.82 (C.30:6D-3); (2) "member of the immediate family"
26 means a person's spouse, parent, child or sibling, or a spouse, parent,
27 child or sibling of any of them; and (3) "permanently" occupies or
28 occupied means that the occupant maintains no other domicile at
29 which the occupant votes, pays rent or property taxes or at which rent
30 or property taxes are paid on the occupant's behalf.
31 (cf: P.L.1993, c.342, s.1)

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33 6. This act shall take effect immediately.

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STATEMENT

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38 This bill amends and clarifies provisions of the "Manufactured
39 Home Taxation Act," P.L.1983, c.400 (C.54:4-1.2). The law was
40 enacted in 1983 and requires municipalities to adopt ordinances
41 imposing a service fee on mobile home parks. To date, the sponsor is
42 aware of only two municipalities that have adopted such ordinances.
43 This bill is intended to amend provisions of that law in order to
44 provide greater guidance to municipalities in the adoption of their
45 mobile home park service fee ordinances.

46 The bill amends the definition of "municipal service fee" so that

1 each municipality can determine whether it requires full or only partial
2 reimbursement of payments made by the municipality to the school
3 district for the educational costs of the pupils residing in the park. The
4 current definition implies that full reimbursement is required, placing
5 a greater school-cost burden on mobile home park residents than on
6 other residential property taxpayers within the municipality. Partial
7 reimbursement of the educational costs would permit a municipality to
8 put its mobile home park residents on par with other municipal
9 residents so as not to defeat the affordable housing nature of some
10 mobile home parks. The bill changes current law to place the fee on
11 the mobile home park owner directly, instead of having that person be
12 a collection agent for the municipality. Unpaid fees would be a lien
13 against the mobile home park as well as against the individual
14 manufactured homes within the park.

15 The bill also makes clear that a manufactured home installed in a
16 mobile home park, while not subject to taxation as real property for
17 the purposes of assessing the value of the mobile home park, may be
18 assessed for the purpose of calculating and prorating the municipal
19 service fee. The bill also clarifies the law so that it is up to the
20 municipal ordinance imposing the service fee how the fee is to be
21 prorated among the units in a park. Municipalities would be able to
22 use criteria such as the size of the manufactured home unit or the
23 number of persons residing in each unit. In order to make collection
24 of the service fee easier for the municipality, any service fee that a
25 park owner wilfully fails to collect or transmit to the municipality shall
26 be charged against the mobile home park property as a tax and then
27 may be collected and enforced in the same manner as property taxes
28 are collected and enforced. The eviction for cause law is amended by
29 the bill to protect mobile home park owners by providing that partial
30 rent payments collected from tenants are first to be applied to satisfy
31 the municipal service fee and then to satisfy any rent delinquency.

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36 Amends and clarifies "Manufactured Home Taxation Act."