

SENATE, No. 736

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 15, 1996

By Senator CAFIERO

1 **AN ACT** concerning removal of residential lessees and tenants in
2 certain cases, and amending P.L.1974, c.49.
3

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

6

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,
28 so disorderly as to destroy the peace and quiet of the occupants or
29 other tenants living in said house or neighborhood.

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

32 d. The person has continued, after written notice to cease, to
33 substantially violate or breach any of the landlord's rules and
34 regulations governing said premises, provided such rules and

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 regulations are reasonable and have been accepted in writing by the
2 tenant or made a part of the lease at the beginning of the lease term.

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

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

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

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

41 i. The landlord or owner proposes, at the termination of a lease,
42 reasonable changes of substance in the terms and conditions of the
43 lease, including specifically any change in the term thereof, which the
44 tenant, after written notice, refuses to accept; provided that in cases
45 where a tenant has received a notice of termination pursuant to
46 subsection g. of section 3 of P.L.1974, c.49 (C.2A:18-61.2), or has a

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

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

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

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

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

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

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

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

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

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

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

20 q. The person has been convicted of or pleaded guilty to, or if a
21 juvenile, has been adjudicated delinquent on the basis of an act which
22 if committed by an adult would constitute an offense under
23 N.J.S.2C:39-3, N.J.S.2C:39-4, N.J.S.2C:39-5, N.J.S.2C:39-9,
24 N.J.S.2C:58-3, N.J.S.2C:58-4 or N.J.S.2C:58-5 involving the unlawful
25 possession of a firearm within or upon the leased premises or the
26 building or complex of buildings and land appurtenant thereto, or the
27 mobile home park, in which those premises are located, or being the
28 tenant or lessee of such leased premises, knowingly harbors therein a
29 person who has been so convicted or has so pleaded, or otherwise
30 permits such a person to occupy those premises for residential
31 purposes, whether continuously or intermittently, except that this
32 subsection shall not apply to a person who harbors or permits a
33 juvenile to occupy the premises if the juvenile has been adjudicated
34 delinquent upon the basis of an act which if committed by an adult
35 would constitute an offense enumerated in this subsection.

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

44 (cf: P.L. 1995, c.269, s.1)

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

3 3. No judgment of possession shall be entered for any premises
4 covered by section 2 of this act, except in the nonpayment of rent
5 under subsection a. or f. of section 2, unless the landlord has made
6 written demand and given written notice for delivery of possession of
7 the premises. The following notice shall be required:

8 a. For an action alleging disorderly conduct under subsection b. of
9 section 2, or injury to the premises under subsection c. of section 2 or
10 any grounds under subsection m., n., o. [or] , p. or q. of section 2,
11 three days' notice prior to the institution of the action for possession;

12 b. For an action alleging continued violation of rules and
13 regulations under subsection d. of section 2, or substantial breach of
14 covenant under subsection e. of section 2, or habitual failure to pay
15 rent, one month's notice prior to the institution of the action for
16 possession;

17 c. For an action alleging any grounds under subsection g. of
18 section 2, three months' notice prior to the institution of the action;

19 d. For an action alleging permanent retirement under subsection h.
20 of section 2, 18 months' notice prior to the institution of the action
21 and, provided that, where there is a lease in effect, no action may be
22 instituted until the lease expires;

23 e. For an action alleging refusal of acceptance of reasonable lease
24 changes under subsection i. of section 2, one month's notice prior to
25 institution of action;

26 f. For an action alleging any grounds under subsection l. of section
27 2, two months' notice prior to the institution of the action and,
28 provided that where there is a written lease in effect no action shall be
29 instituted until the lease expires;

30 g. For an action alleging any grounds under subsection k. of
31 section 2, three years' notice prior to the institution of action, and
32 provided that where there is a written lease in effect, no action shall be
33 instituted until the lease expires.

34 The notice in each of the foregoing instances shall specify in detail
35 the cause of the termination of the tenancy and shall be served either
36 personally upon the tenant or lessee or such person in possession by
37 giving him a copy thereof, or by leaving a copy thereof at his usual
38 place of abode with some member of his family above the age of 14
39 years, or by certified mail; if the certified letter is not claimed, notice
40 shall be sent by regular mail.

41 (cf: P.L.1989, c.294, s.2)

42

43 3. This act shall take effect immediately.

STATEMENT

3 This bill amends section 2 of P.L.1974, c.49 (C.2A:18-61.1) to
4 establish the unlawful possession of a firearm as grounds for a landlord
5 to legally evict a tenant.

Under the provisions of the bill, a landlord may legally evict a tenant if that tenant is convicted of, or pleads guilty to, a violation of laws involving the unlawful possession of a firearm, including N.J.S.2C:39-3 (prohibited weapons and devices), N.J.S.2C:39-4 (possession of weapons for unlawful purposes), N.J.S.2C:39-5 (unlawful possession of a weapon), N.J.S.2C:39-9 (unlawful distribution of firearms), N.J.S.2C:58-3 (permits to purchase firearms), N.J.S.2C:58-4 (permits to carry a firearm) or N.J.S.2C:58-5 (permits to procure a machine gun or assault firearm).

15 The bill also permits the landlord to evict a tenant who knowingly
16 harbors a person guilty of unlawfully possessing a firearm or who
17 permits any such person to occupy the leased premises.

18 The landlord may not, however, evict a tenant who harbors or
19 permits a juvenile to occupy the premises if the juvenile has been
20 adjudicated delinquent for one of the offenses enumerated in the bill.
21 This exemption is provided to protect tenants who are unaware that a
22 juvenile residing with them possesses a firearm unlawfully.