

SENATE, No. 737

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 15, 1996

By Senator CAFIERO

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 2A:18-61.1. Grounds for removal of tenants

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

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

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

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

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

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

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

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

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

39 i. The landlord or owner proposes, at the termination of a lease,
40 reasonable changes of substance in the terms and conditions of the
41 lease, including specifically any change in the term thereof, which the
42 tenant, after written notice, refuses to accept; provided that in cases
43 where a tenant has received a notice of termination pursuant to
44 subsection g. of section 3 of P.L.1974, c.49 (C.2A:18-61.2), or has a
45 protected tenancy status pursuant to section 9 of the "Senior Citizens
46 and Disabled Protected Tenancy Act," P.L.1981, c.226
47 (C.2A:18-61.30), or pursuant to the "Tenant Protection Act of 1992,"

1 P.L.1991, c.509 (C.2A:18-61.40 et al.), the landlord or owner shall
2 have the burden of proving that any change in the terms and conditions
3 of the lease, rental or regulations both is reasonable and does not
4 substantially reduce the rights and privileges to which the tenant was
5 entitled prior to the conversion.

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

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

22 1. (1) The owner of a building or mobile home park, which is
23 constructed as or being converted to a condominium, cooperative or
24 fee simple ownership, seeks to evict a tenant or sublessee whose initial
25 tenancy began after the master deed, agreement establishing the
26 cooperative or subdivision plat was recorded, because the owner has
27 contracted to sell the unit to a buyer who seeks to personally occupy
28 it and the contract for sale calls for the unit to be vacant at the time of
29 closing. However, no action shall be brought against a tenant under
30 paragraph (1) of this subsection unless the tenant was given a
31 statement in accordance with section 6 of P.L.1975, c.311
32 (C.2A:18-61.9);

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

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

44 m. The landlord or owner conditioned the tenancy upon and in
45 consideration for the tenant's employment by the landlord or owner as
46 superintendent, janitor or in some other capacity and such employment
47 is being terminated.

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

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

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

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

17 q. The person has been convicted of or pleaded guilty to, or if a
18 juvenile, has been adjudicated delinquent on the basis of an act which
19 if committed by an adult would constitute an offense under
20 N.J.S.2C:20-1 et al. involving theft of property from the landlord, the
21 leased premises or other tenants residing in the same building or
22 complex; or, being the tenant or lessee of such leased premises,
23 knowingly harbors therein a person who has been so convicted or has
24 so pleaded, or otherwise permits such a person to occupy those
25 premises for residential purposes, whether continuously or
26 intermittently.

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

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

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37 2. This act shall take effect immediately.

1 STATEMENT

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This bill augments the grounds for the eviction of a residential tenant. Currently, a tenant may be removed for the damage or destruction of the landlord's property, but theft of the landlord's property without actual damage to the premises is not a ground for removal. This bill authorizes the eviction of a tenant when convicted of or found liable in a civil action for theft of property from a landlord, the leased premises or other tenants residing in the same building or complex. This bill is intended to further protect the safety and welfare of the landlord and other tenants.

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16 Permits eviction of residential tenant guilty of theft of property from
17 leased premises.