

## SENATE, No. 833

---

# STATE OF NEW JERSEY

---

INTRODUCED FEBRUARY 26, 1996

By Senator BUBBA

1   **AN ACT** concerning certain rental properties and amending P.L.1974,  
2   c.49 and P.L.1993, c.127.

3

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

6

7       1. Section 1 of P.L.1993, c.127 (C.40:48-2.12n) is amended to  
8   read as follows:

9           1. The Legislature finds, determines and declares:

10          a. Many of the shore resort and other communities in this State,  
11   and the residents thereof, have experienced disturbances, damage and  
12   public expense resulting from carelessly granted and inadequately  
13   supervised [seasonal] rentals to irresponsible [vacationers] tenants by  
14   inept or indifferent landlords.

15          b. To preserve the peace and tranquility of those communities [for  
16   their permanent residents, and to maintain their viability as vacation  
17   spots not only for citizens of this State but also for persons and  
18   families from far and near whom the beauties and pleasures of the New  
19   Jersey shore have historically attracted], it is necessary and desirable  
20   that those communities have adequate means to curb and discourage  
21   those occasional excesses arising from irresponsible [seasonal] rentals.

22          c. Accordingly, it is the purpose of this legislation to enable [such]  
23   communities faced with the problems arising from such rentals to take  
24   effective action to assure that excesses, when they occur, shall not be  
25   repeated, and that landlords [offering seasonal] of these rentals be held  
26   to sufficient standards of responsibility.

27   (cf: P.L.1993, c.127, s.1)

28

29       2. Section 2 of P.L.1993, c.127 (C.40:48-2.12o) is amended to  
30   read as follows:

31          2. As used in this act:

32            "Hearing officer" means a person designated pursuant to subsection  
33   b. of section 3 of this act to hear and determine proceedings under this  
34   act.

**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        "Landlord" means the person or persons who own or purport to  
2    own any building in which there is rented or offered for rent housing  
3    space for living or dwelling under either a written or oral lease,  
4    including but not limited to any building subject to the "Hotel and  
5    Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.), and  
6    owner-occupied two-unit premises. In the case of a mobile home  
7    park, "landlord" shall mean the owner of an individual dwelling unit  
8    within the mobile home park.

9        ["Seasonal rental"] "Rental" means any rental of residential  
10   accommodations [for a term of less than one year and including any  
11   part of the period extending from May 15 to September 15].

12       "Substantiated complaint" means a complaint which may form the  
13   basis for proceedings in accordance with subsection a. of section 4 of  
14   this act.

15       (cf: P.L.1993, c.127, s.2)

16

17       3. Section 3 of P.L.1993, c.127 is (C.40:48-2.12p) amended to  
18   read as follows:

19       3. a. Any municipality [in a county of the fifth or sixth class] may  
20   enact an ordinance holding landlords of [seasonal] rentals to standards  
21   of responsibility in the selection of tenants and supervision of the  
22   rental premises, requiring that under certain circumstances, as  
23   hereinafter in this act described, such landlords may be required to  
24   post adequate bond against the consequences of disorderly behavior  
25   of their tenants, and in the case of subsequent violations forfeit such  
26   bond, in whole or part, in compensation for the consequences of such  
27   behavior.

28       b. To assure impartiality in the administration of such an ordinance,  
29   the municipal governing body shall make provision for the hearings  
30   and decisions held and made thereunder to be conducted and decided  
31   by a licensed attorney of this State who shall not be an owner or lessee  
32   of any real property within the municipality, nor hold any interest in  
33   the assets of or profits arising from the ownership or lease of such  
34   property.

35       (cf: P.L.1993, c.127, s.3)

36

37       4. Section 4 of P.L.1993, c.127 (C.40:48-2.12q) is amended to  
38   read as follows:

39       4. An ordinance adopted under authority of this section shall  
40   provide:

41       a. If in any one year a specified number, which shall not be less  
42   than three, of complaints, on separate occasions, of disorderly,  
43   indecent, tumultuous or riotous conduct upon or in proximity to any  
44   [seasonal] rental premises, and attributable to the acts or incitements  
45   of any of the tenants of those premises, have been substantiated by  
46   prosecution and conviction in any court of competent jurisdiction, the

1 municipal governing body or any officer or employee of the  
2 municipality designated by the governing body for the purpose, may  
3 institute proceedings to require the landlord of those premises to post  
4 a bond against the consequences of future incidents of the same  
5 character.

6       b. The governing body or person designated pursuant to subsection  
7 a. of this section shall cause to be served upon the landlord, in person  
8 or by registered mail to the address appearing on the tax records of the  
9 municipality, notice advising of the institution of such proceedings,  
10 together with particulars of the substantiated complaints upon which  
11 those proceedings are based, and of the time and place at which a  
12 hearing will be held in the matter, which shall be in the municipal  
13 building, municipal court or other public place within the municipality,  
14 and which shall be no sooner than 30 days from the date upon which  
15 the notice is served or mailed.

16       c. At the hearing convened pursuant to subsection b. of this  
17 section, the hearing officer shall give full hearing to both the  
18 complaint of the municipality and to any evidence in contradiction or  
19 mitigation that the landlord, if present or represented and offering such  
20 evidence, may present. At the conclusion of the hearing the hearing  
21 officer shall determine whether the landlord shall be required to post  
22 a bond in accordance with the terms of the ordinance.

23       d. Any bond required to be posted shall be in accordance with the  
24 judgment of the hearing officer, in light of the nature and extent of the  
25 offenses indicated in the substantiated complaints upon which the  
26 proceedings are based, to be adequate in the case of subsequent  
27 offenses to make reparation for (1) damages likely to be caused to  
28 public or private property and damages consequent upon disruption of  
29 affected residents' rights of fair use and quiet possession of their  
30 premises, (2) securing the payment of fines and penalties likely to be  
31 levied for such offenses, and (3) compensating the municipality for the  
32 costs of repressing and prosecuting such incidents of disorderly  
33 behavior; but no such bond shall be in an amount less than \$500 or  
34 more than \$5,000. The municipality may enforce the bond thus  
35 required by action in the Superior Court, and shall be entitled to an  
36 injunction prohibiting the landlord from making or renewing any lease  
37 of the affected premises for residential purposes until that bond or  
38 equivalent security, in satisfactory form and amount, has been  
39 deposited with the municipality.

40       e. A bond or other security deposited in compliance with  
41 subsection d. of this section shall remain in force for a period specified  
42 pursuant to the ordinance, which shall be not less than two or more  
43 than four years. Upon the lapse of the specified period the landlord  
44 shall be entitled to the discharge thereof, unless prior thereto further  
45 proceedings leading to a forfeiture or partial forfeiture of the bond or  
46 other security shall have been had under section 5 of this act, in which

1 case the security shall be renewed, in an amount and for a period that  
2 shall be specified by the hearing officer.  
3 (cf: P.L.1993, c.127, s.4)

4

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

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

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

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

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

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

35 e. The person has continued, after written notice to cease, to  
36 substantially violate or breach any of the covenants or agreements  
37 contained in the lease for the premises where a right of reentry is  
38 reserved to the landlord in the lease for a violation of such covenant  
39 or agreement, provided that such covenant or agreement is reasonable  
40 and was contained in the lease at the beginning of the lease term.

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

45 g. The landlord or owner (1) seeks to permanently board up or  
46 demolish the premises because he has been cited by local or State

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

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

27 i. The landlord or owner proposes, at the termination of a lease,  
28 reasonable changes of substance in the terms and conditions of the  
29 lease, including specifically any change in the term thereof, which the  
30 tenant, after written notice, refuses to accept; provided that in cases  
31 where a tenant has received a notice of termination pursuant to  
32 subsection g. of section 3 of P.L.1974, c.49 (C.2A:18-61.2), or has a  
33 protected tenancy status pursuant to section 9 of the "Senior Citizens  
34 and Disabled Protected Tenancy Act," P.L.1981, c.226  
35 (C.2A:18-61.30), or pursuant to the "Tenant Protection Act of 1992,"  
36 P.L.1991, c.509 (C.2A:18-61.40 et al.), the landlord or owner shall  
37 have the burden of proving that any change in the terms and conditions  
38 of the lease, rental or regulations both is reasonable and does not  
39 substantially reduce the rights and privileges to which the tenant was  
40 entitled prior to the conversion.

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

43 k. The landlord or owner of the building or mobile home park is  
44 converting from the rental market to a condominium, cooperative or  
45 fee simple ownership of two or more dwelling units or park sites,  
46 except as hereinafter provided in subsection l. of this section. Where

1 the tenant is being removed pursuant to this subsection, no warrant for  
2 possession shall be issued until this act has been complied with. No  
3 action for possession shall be brought pursuant to this subsection  
4 against a senior citizen tenant or disabled tenant with protected  
5 tenancy status pursuant to the "Senior Citizens and Disabled Protected  
6 Tenancy Act," P.L.1981, c.226 (C.2A:18-61.22 et al.), or against a  
7 qualified tenant under the "Tenant Protection Act of 1992," P.L.1991,  
8 c.509 (C.2A:18-61.40 et al.), as long as the agency has not terminated  
9 the protected tenancy status or the protected tenancy period has not  
10 expired.

11 1. (1) The owner of a building or mobile home park, which is  
12 constructed as or being converted to a condominium, cooperative or  
13 fee simple ownership, seeks to evict a tenant or sublessee whose initial  
14 tenancy began after the master deed, agreement establishing the  
15 cooperative or subdivision plat was recorded, because the owner has  
16 contracted to sell the unit to a buyer who seeks to personally occupy  
17 it and the contract for sale calls for the unit to be vacant at the time of  
18 closing. However, no action shall be brought against a tenant under  
19 paragraph (1) of this subsection unless the tenant was given a  
20 statement in accordance with section 6 of P.L.1975, c.311  
21 (C.2A:18-61.9);

22 (2) The owner of three or less condominium or cooperative units  
23 seeks to evict a tenant whose initial tenancy began by rental from an  
24 owner of three or less units after the master deed or agreement  
25 establishing the cooperative was recorded, because the owner seeks to  
26 personally occupy the unit, or has contracted to sell the unit to a buyer  
27 who seeks to personally occupy it and the contract for sale calls for  
28 the unit to be vacant at the time of closing;

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

33 m. The landlord or owner conditioned the tenancy upon and in  
34 consideration for the tenant's employment by the landlord or owner as  
35 superintendent, janitor or in some other capacity and such employment  
36 is being terminated.

37 n. The person has been convicted of or pleaded guilty to, or if a  
38 juvenile, has been adjudicated delinquent on the basis of an act which  
39 if committed by an adult would constitute an offense under the  
40 "Comprehensive Drug Reform Act of 1987," N.J.S.2C:35-1 et al.  
41 involving the use, possession, manufacture, dispensing or distribution  
42 of a controlled dangerous substance, controlled dangerous substance  
43 analog or drug paraphernalia within the meaning of that act within or  
44 upon the leased premises or the building or complex of buildings and  
45 land appurtenant thereto, or the mobile home park, in which those  
46 premises are located, and has not in connection with his sentence for

1 that offense either (1) successfully completed or (2) been admitted to  
2 and continued upon probation while completing, a drug rehabilitation  
3 program pursuant to N.J.S.2C:35-14; or, being the tenant or lessee of  
4 such leased premises, knowingly harbors or harbored therein a person  
5 who has been so convicted or has so pleaded, or otherwise permits or  
6 permitted such a person to occupy those premises for residential  
7 purposes, whether continuously or intermittently, except that this  
8 subsection shall not apply to a person harboring or permitting a  
9 juvenile to occupy the premises if the juvenile has been adjudicated  
10 delinquent upon the basis of an act which if committed by an adult  
11 would constitute the offense of use or possession under the said act.  
12 No action for removal may be brought pursuant to this subsection  
13 more than two years after the date of the adjudication or conviction or  
14 more than two years after the person's release from incarceration  
15 whichever is the later.

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

29 p. The person has been found, by a preponderance of the evidence,  
30 liable in a civil action for removal commenced under this act for an  
31 offense under N.J.S.2C:12-1 or N.J.S.2C:12-3 involving assault or  
32 terroristic threats against the landlord, a member of the landlord's  
33 family or an employee of the landlord, or under the "Comprehensive  
34 Drug Reform Act of 1987," N.J.S.2C:35-1 et al., involving the use,  
35 possession, manufacture, dispensing or distribution of a controlled  
36 dangerous substance, controlled dangerous substance analog or drug  
37 paraphernalia within the meaning of that act within or upon the leased  
38 premises or the building or complex of buildings and land appurtenant  
39 thereto, or the mobile home park, in which those premises are located,  
40 and has not in connection with his sentence for that offense either (1)  
41 successfully completed or (2) been admitted to and continued upon  
42 probation while completing a drug rehabilitation program pursuant to  
43 N.J.S.2C:35-14; or, being the tenant or lessee of such leased premises,  
44 knowingly harbors or harbored therein a person who committed such  
45 an offense, or otherwise permits or permitted such a person to occupy  
46 those premises for residential purposes, whether continuously or

1 intermittently, except that this subsection shall not apply to a person  
2 who harbors or permits a juvenile to occupy the premises if the  
3 juvenile has been adjudicated delinquent upon the basis of an act which  
4 if committed by an adult would constitute the offense of use or  
5 possession under the said "Comprehensive Drug Reform Act of 1987."

6       q. The landlord has been required to post bond against the  
7 consequences of a tenant's disorderly behavior pursuant to P.L.1993,  
8 c.127 (C.40:48-2.12n et seq.).

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

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

18

19       6. This act shall take effect immediately.

20

## STATEMENT

23

24 This bill would extend to municipalities throughout the State the  
25 same authority, currently available only to shore resort municipalities,  
26 to enact ordinances which would hold landlords responsible for the  
27 actions of unruly rental tenants.

Under current law, P.L.1993, c.127 (C.40:48-2.12n et seq.), shore resort municipalities are authorized to adopt ordinances which permit action against a landlord after at least three substantiated complaints, on at least three separate occasions in one year, against a tenant for disorderly or other prohibited conduct. The landlord may be required, after a hearing, to post a bond in an amount ranging from \$500 to \$5,000. The objective of the bond would be to ensure the landlord's payment for damages caused by the rental tenant, for future fines and penalties, and for municipal law enforcement costs.

37 This bill would allow any municipality in the State to enact a similar  
38 ordinance, in recognition that the problems associated with disorderly  
39 rental tenants are not exclusive to shore resort municipalities.

40

41

42

43

44 Extends protection against unruly tenants to non-shore municipalities.