

[First Reprint]
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:

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate floor amendments adopted May 30, 1996.

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

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

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

15 "Substantiated complaint" means a complaint which may form the
16 basis for proceedings in accordance with subsection a. of section 4 of
17 this act.

18 (cf: P.L.1993, c.127, s.2)

19

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

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

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

38 (cf: P.L.1993, c.127, s.3)

39

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

42 4. An ordinance adopted under authority of this section shall
43 provide:

44 a. If in any one year a specified number, which shall not be less
45 than three, of complaints, on separate occasions, of disorderly,
46 indecent, tumultuous or riotous conduct upon or in proximity to any

1 [seasonal] rental premises, and attributable to the acts or incitements
2 of any of the tenants of ¹[those premises] the housing or apartment
3 unit¹, have been substantiated by prosecution and conviction in any
4 court of competent jurisdiction, the municipal governing body or any
5 officer or employee of the municipality designated by the governing
6 body for the purpose, may institute proceedings to require the landlord
7 of those premises to post a bond against the consequences of future
8 incidents of the same character.

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

19 c. At the hearing convened pursuant to subsection b. of this
20 section, the hearing officer shall give full hearing to both the
21 complaint of the municipality and to any evidence in contradiction or
22 mitigation that the landlord, if present or represented and offering such
23 evidence, may present. At the conclusion of the hearing the hearing
24 officer shall determine whether the landlord shall be required to post
25 a bond in accordance with the terms of the ordinance. ¹The hearing
26 officer shall not require a landlord to post a bond if the landlord
27 demonstrates that he has sought or is seeking to evict the tenant on the
28 basis of the complained behavior.¹

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

46 e. A bond or other security deposited in compliance with

1 subsection d. of this section shall remain in force for a period specified
2 pursuant to the ordinance, which shall be not less than two or more
3 than four years. Upon the lapse of the specified period the landlord
4 shall be entitled to the discharge thereof, unless prior thereto further
5 proceedings leading to a forfeiture or partial forfeiture of the bond or
6 other security shall have been had under section 5 of this act, in which
7 case the security shall be renewed, in an amount and for a period that
8 shall be specified by the hearing officer.

9 (cf: P.L.1993, c.127, s.4)

10

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

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

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

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

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

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

41 e. The person has continued, after written notice to cease, to
42 substantially violate or breach any of the covenants or agreements
43 contained in the lease for the premises where a right of reentry is
44 reserved to the landlord in the lease for a violation of such covenant
45 or agreement, provided that such covenant or agreement is reasonable
46 and was contained in the lease at the beginning of the lease term.

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

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

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

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

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

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

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

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

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

39 m. The landlord or owner conditioned the tenancy upon and in
40 consideration for the tenant's employment by the landlord or owner as
41 superintendent, janitor or in some other capacity and such employment
42 is being terminated.

43 n. The person has been convicted of or pleaded guilty to, or if a
44 juvenile, has been adjudicated delinquent on the basis of an act which
45 if committed by an adult would constitute an offense under the
46 "Comprehensive Drug Reform Act of 1987," N.J.S.2C:35-1 et al.

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

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

35 p. The person has been found, by a preponderance of the evidence,
36 liable in a civil action for removal commenced under this act for an
37 offense under N.J.S.2C:12-1 or N.J.S.2C:12-3 involving assault or
38 terroristic threats against the landlord, a member of the landlord's
39 family or an employee of the landlord, or under the "Comprehensive
40 Drug Reform Act of 1987," N.J.S.2C:35-1 et al., involving the use,
41 possession, manufacture, dispensing or distribution of a controlled
42 dangerous substance, controlled dangerous substance analog or drug
43 paraphernalia within the meaning of that act within or upon the leased
44 premises or the building or complex of buildings and land appurtenant
45 thereto, or the mobile home park, in which those premises are located,
46 and has not in connection with his sentence for that offense either (1)

1 successfully completed or (2) been admitted to and continued upon
2 probation while completing a drug rehabilitation program pursuant to
3 N.J.S.2C:35-14; or, being the tenant or lessee of such leased premises,
4 knowingly harbors or harbored therein a person who committed such
5 an offense, or otherwise permits or permitted such a person to occupy
6 those premises for residential purposes, whether continuously or
7 intermittently, except that this subsection shall not apply to a person
8 who harbors or permits a juvenile to occupy the premises if the
9 juvenile has been adjudicated delinquent upon the basis of an act which
10 if committed by an adult would constitute the offense of use or

11 possession under the said "Comprehensive Drug Reform Act of 1987."
12 q. The landlord has been required to post bond against the
13 consequences of a tenant's disorderly behavior pursuant to P.L.1993,
14 c.127 (C.40:48-2.12n et seq.).

15 ¹r. The person has been convicted in a court of competent
16 jurisdiction of three or more separate complaints of disorderly,
17 indecent, tumultuous or riotous conduct upon or in proximity to the
18 rental premises.¹

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

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

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29 6. This act shall take effect immediately.

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