

SENATE, No. 1167

STATE OF NEW JERSEY

INTRODUCED MAY 30, 1996

By Senator CARDINALE

1 AN ACT concerning procedures for eviction from certain rental
2 premises and amending 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 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 ; and (4) a premises with not more than four
24 rental units and in which one or more of the units is to be occupied on
25 a permanent basis by an immediate family member of the owner of
26 that premises under exigent circumstances in order to prevent the
27 otherwise homelessness of the immediate family member, except upon
28 establishment of one of the 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

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 c. The person has willfully or by reason of gross negligence caused
2 or allowed destruction, damage or injury to the premises.
- 3 d. The person has continued, after written notice to cease, to
4 substantially violate or breach any of the landlord's rules and
5 regulations governing said premises, provided such rules and
6 regulations are reasonable and have been accepted in writing by the
7 tenant or made a part of the lease at the beginning of the lease term.
- 8 e. The person has continued, after written notice to cease, to
9 substantially violate or breach any of the covenants or agreements
10 contained in the lease for the premises where a right of reentry is
11 reserved to the landlord in the lease for a violation of such covenant
12 or agreement, provided that such covenant or agreement is reasonable
13 and was contained in the lease at the beginning of the lease term.
- 14 f. The person has failed to pay rent after a valid notice to quit and
15 notice of increase of said rent, provided the increase in rent is not
16 unconscionable and complies with any and all other laws or municipal
17 ordinances governing rent increases.
- 18 g. The landlord or owner (1) seeks to permanently board up or
19 demolish the premises because he has been cited by local or State
20 housing inspectors for substantial violations affecting the health and
21 safety of tenants and it is economically unfeasible for the owner to
22 eliminate the violations; (2) seeks to comply with local or State
23 housing inspectors who have cited him for substantial violations
24 affecting the health and safety of tenants and it is unfeasible to so
25 comply without removing the tenant; simultaneously with service of
26 notice of eviction pursuant to this clause, the landlord shall notify the
27 Department of Community Affairs of the intention to institute
28 proceedings and shall provide the department with such other
29 information as it may require pursuant to rules and regulations. The
30 department shall inform all parties and the court of its view with
31 respect to the feasibility of compliance without removal of the tenant
32 and may in its discretion appear and present evidence; (3) seeks to
33 correct an illegal occupancy because he has been cited by local or
34 State housing inspectors or zoning officers and it is unfeasible to
35 correct such illegal occupancy without removing the tenant; or (4) is
36 a governmental agency which seeks to permanently retire the premises
37 from the rental market pursuant to a redevelopment or land clearance
38 plan in a blighted area. In those cases where the tenant is being
39 removed for any reason specified in this subsection, no warrant for
40 possession shall be issued until P.L.1967, c.79 (C.52:31B-1 et seq.)
41 and P.L.1971, c.362 (C.20:4-1 et seq.) have been complied with.
- 42 h. The owner seeks to retire permanently the residential building
43 or the mobile home park from residential use or use as a mobile home
44 park, provided this subsection shall not apply to circumstances
45 covered under subsection g. of this section.

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

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

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

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

42 (2) The owner of three or less condominium or cooperative units
43 seeks to evict a tenant whose initial tenancy began by rental from an
44 owner of three or less units after the master deed or agreement
45 establishing the cooperative was recorded, because the owner seeks to
46 personally occupy the unit, or has contracted to sell the unit to a buyer

1 who seeks to personally occupy it and the contract for sale calls for
2 the unit to be vacant at the time of closing;

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

7 m. The landlord or owner conditioned the tenancy upon and in
8 consideration for the tenant's employment by the landlord or owner as
9 superintendent, janitor or in some other capacity and such employment
10 is being terminated.

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

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 or harbored therein a person who has been so
43 convicted or has so pleaded, or otherwise permits or permitted such
44 a person to occupy those premises for residential purposes, whether
45 continuously or intermittently. No action for removal may be brought
46 pursuant to this subsection more than two years after the adjudication

1 or conviction or more than two years after the person's release from
2 incarceration whichever is the later.

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

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

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

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36 2. This act shall take effect on the first day of the fourth month
37 next following enactment.

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STATEMENT

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42 This bill would permit a landlord, under exigent circumstances, to
43 decline to renew a lease of or to evict a tenant from certain rental
44 premises. The bill applies to premises which contain no more than
45 four rental units, and requires that the vacated units will be occupied

1 on a permanent basis by the owner's immediate family member who
2 otherwise would be homeless.

3 The term "immediate family member" is currently defined in the
4 statute to mean a person's spouse, parent, child or sibling, or a spouse,
5 parent, child or sibling of any of them. The term "permanently
6 occupies or occupied" means that the occupant maintains no other
7 domicile at which the occupant votes, pays rent or property taxes or
8 at which rent or property taxes are paid on the occupant's behalf.

9 Currently an owner of any size rental premises may decline to
10 renew a lease or evict a tenant in order to create an occupancy by an
11 immediate family member only if that family member has a
12 developmental disability.

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18 Permits landlords of certain premises to evict tenants under exigent
circumstances involving housing need by immediate family.