

ASSEMBLY, No. 170

STATE OF NEW JERSEY 208th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 1998 SESSION

Sponsored by:

Assemblyman JOHN V. KELLY

District 36 (Bergen, Essex and Passaic)

Assemblyman LOUIS A. ROMANO

District 33 (Hudson)

SYNOPSIS

Eliminates dual municipal and State licensing fees for rooming and boarding houses.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning the licensing of rooming and boarding homes and
2 amending P.L.1993, c.290 and P.L.1979, c.496.

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.1993, c.290 (C.40:52-10) is amended to read
8 as follows:

9 2. The governing body of a municipality may, by ordinance, elect
10 to license rooming and boarding houses located in the municipality in
11 accordance with the provisions of this act. If the governing body
12 elects to license such facilities, the governing body shall so notify the
13 Commissioner of Community Affairs or his designee. An owner or
14 operator of a rooming or boarding house licensed by a municipality
15 pursuant to this act shall not be required to pay an annual licensing fee
16 to the Department of Community Affairs pursuant to the "Rooming
17 and Boarding House Act of 1979," P.L.1979, c.496 (C.55:13B-1 et
18 seq.) if such owner or operator does not own any other rooming or
19 boarding house that is not licensed by a municipality. The governing
20 body of a municipality that elects to license rooming and boarding
21 houses may adopt, by ordinance, such regulations as it deems
22 appropriate and necessary to enforce the provisions of P.L.1993,
23 c.290, provided that those regulations shall not be inconsistent with
24 and shall be at least as restrictive as the rules and regulations
25 promulgated by the commissioner pursuant to P.L.1979, c.496
26 (C.55:13B-1 et seq.), to which all rooming and boarding houses shall
27 remain subject.

28 (cf: P.L.1993, c.290, s.2.)

29

30 2. Section 5 of P.L.1993, c.290 (C.40:52-13) is amended to read
31 as follows:

32 5. It shall be the duty of the licensing authority to receive
33 applications made pursuant to section 4 of this act and to conduct such
34 investigations as may be necessary to establish:

35 a. With respect to the premises for which a license is sought (1)
36 that they are in compliance with all applicable building, housing, health
37 and safety codes and regulations; (2) that the location of the premises
38 will not, in conjunction with the proximity of other rooming and
39 boarding houses, lead to an excessive concentration of such facilities
40 in the municipality or a particular section thereof;

41 b. With respect to the owner or owners of the premises: (1) if a
42 natural person or persons, that he or they are 21 years of age or older,
43 **[**citizens of the United States and residents of the State of New

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 Jersey,] and never convicted, in this State or elsewhere, of a crime
2 involving moral turpitude, or of any crime under any law of this State
3 licensing or regulating a rooming or boarding house, and have never
4 had a license required pursuant to P.L.1979, c.496 (C.55:13B-1 et al.)
5 revoked; (2) if a corporation, that all officers and members of the
6 board of directors, and every stockholder holding 10% or more of the
7 stock of the corporation, directly or indirectly having a beneficial
8 interest therein, have the same qualifications as set forth in this
9 subsection for an applicant who is a natural person;

10 c. With respect to the operator or proposed operator, that he meets
11 the requirements for licensure by the Department of Community
12 Affairs; and

13 d. That the owner and operator, either individually or jointly, have
14 established sufficient guarantee of financial and other responsibility to
15 assure appropriate relocation of the residents of the rooming or
16 boarding house to suitable facilities in the event that the license is
17 subsequently revoked or its renewal denied. The Department of
18 Community Affairs shall determine, in the case of each type of
19 rooming and boarding house under its jurisdiction, what constitutes
20 suitable facilities for this purpose.

21 (cf: P.L.1993, c.290, s.5)

22

23 3. Section 7 of P.L.1979, c.496 (C.55:13B-7) is amended to read
24 as follows:

25 a. No person shall own or operate a rooming or boarding house,
26 hold out a building as available for rooming or boarding house
27 occupancy, or apply for any necessary construction or planning
28 approvals related to the establishment of a rooming or boarding house
29 without a valid license to own or operate such a facility, issued by the
30 commissioner unless the facility is licensed by the municipality, if the
31 rooming or boarding house is located in a municipality which has
32 elected to issue such licenses pursuant to P.L.1993, c.290 (C.40:52-9
33 et seq.).

34 Any person found to be in violation of this subsection shall be liable
35 for a civil penalty of not more than \$5,000.00 for each building so
36 owned or operated, which penalty shall be payable to the appropriate
37 licensing entity.

38 b. The commissioner shall establish separate categories of licensure
39 for owning and for operating a rooming or boarding house, provided,
40 however, that an owner who himself operates such a facility need not
41 also possess an operator's license.

42 If an owner seeking to be licensed is other than an individual, the
43 application shall state the name of an individual who is a member,
44 officer or stockholder in the corporation or association seeking to be
45 licensed, and the same shall be designated the primary owner of the
46 rooming or boarding house.

1 Each application for licensure shall contain such information as the
2 commissioner may prescribe and unless the license is to be used solely
3 to own or operate a rooming or boarding house licensed by a
4 municipality pursuant to P.L.1993, c.290 (C.40:52-9 et seq.), shall be
5 accompanied by a fee established by the commissioner which shall not
6 be less than \$75.00 nor more than \$150.00. If, upon receipt of the fee
7 and a review of the application, the commissioner determines that the
8 applicant will operate, or provide for the operation of, a rooming or
9 boarding house in accordance with the provisions of this act, he shall
10 issue a license to him.

11 Each license shall be valid for one year from the date of issuance,
12 but may be renewed upon application by the owner or operator and
13 upon payment of the same fee required for initial licensure.

14 c. Only one license shall be required to own a rooming or boarding
15 house, but an endorsement thereto shall be required for each separate
16 building owned and operated or intended to be operated as a rooming
17 or boarding house. Each application for licensure or renewal shall
18 indicate every such building for which an endorsement is required. If,
19 during the term of a license, an additional endorsement is required or
20 an existing one is no longer required, an amended application for
21 licensure shall be submitted.

22 d. A person making application for, or who has been issued, a
23 license to own or operate a rooming or boarding house who conceals
24 the fact that the person has been denied a license to own or operate a
25 residential facility, or that the person's license to own or operate a
26 residential facility has been revoked by a department or agency of state
27 government in this or any other state is liable for a civil penalty of not
28 more than \$5,000.00, and any license to own or operate a rooming or
29 boarding house which has been issued to that person shall be
30 immediately revoked.

31 (cf: P.L.1988, c.113, s.1)

32

33 4. Section 9 of P.L.1979, c.496 (C.55:13B-9) is amended to read
34 as follows:

35 9. The commissioner shall ensure that each rooming or boarding
36 house whose owner possesses a valid license is inspected and its
37 records reviewed at least once each year for the purpose of
38 determining whether the owner or operator is complying with
39 standards promulgated pursuant to the provisions of this act. If the
40 commissioner determines, as a result of any such inspection and review
41 of records, that an owner or operator is in violation of such standards,
42 he shall serve the owner or operator of the facility with a written
43 notice thereof, which shall fix a date by which the owner or operator
44 shall enter into compliance. The commissioner shall not be required
45 to perform annual inspections of facilities licensed and inspected by a
46 municipality pursuant to P.L.1993, c.290 (C.40:52-9 et seq.), but shall

1 have the authority to oversee and ensure the enforcement of the
2 "Rooming and Boarding House Act of 1979," P.L.1979, c.496
3 (C.55:13B-1 et seq.), and the rules and regulations adopted pursuant
4 thereto in those facilities.

5 (cf: P.L.1979, c.496, s.9)

6
7 5. This act shall take effect immediately.

8
9
10 STATEMENT

11
12 This bill would eliminate the dual fees for licensing of rooming and
13 boarding houses by the Commissioner of Community Affairs and
14 municipalities, in those municipalities which have elected, pursuant to
15 P.L.1993, c.290 (C.40:52-9 et seq.), to license such establishments.

16 Under the bill's provisions, owners of rooming and boarding houses
17 which are located in municipalities which have elected to license them
18 shall only be required to obtain a municipal facility license and will not
19 be required to pay a license fee to the Department of Community
20 Affairs.

21 The bill also clarifies the rights of a municipality to regulate by
22 ordinance those rooming and boarding houses it licenses, as long as the
23 ordinance does not conflict with the regulations of the Department of
24 Community Affairs governing rooming and boarding houses. All
25 rooming and boarding houses will remain subject to State regulations,
26 however, regardless of the licensing entity.

27 The bill also deletes a requirement in the municipal licensing
28 statutes that rooming and boarding house owners be United States
29 Citizens and New Jersey residents. State regulations on rooming and
30 boarding homes have never contained such requirements, and their
31 inclusion in the municipal licensing statutes raised issues of fairness
32 and constitutionality.

33 Under the bill, an owner or operator of a rooming or boarding house
34 will still be required to follow DCA licensing procedures, but if the
35 facility or facilities will be licensed by a municipality, then the
36 licensing fee will only be payable to the municipality. In addition, the
37 commissioner will not be required to perform annual inspections of
38 those facilities which are municipally licensed.