

**SENATE, No. 4191**

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**STATE OF NEW JERSEY**

**219th LEGISLATURE**

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INTRODUCED NOVEMBER 22, 2021

**Sponsored by:**

**Senator SANDRA B. CUNNINGHAM**

**District 31 (Hudson)**

**SYNOPSIS**

Requires DOH approval for adverse possessory action against hospitals.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning hospitals and supplementing Title 26 of the  
2 Revised Statutes.

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

6  
7 1. The Legislature finds and declares that it is essential to  
8 establish certain fundamental rights of hospital operators with  
9 respect to the management of hospitals in order to maintain quality  
10 health care services for patients and to promote greater efficiency in  
11 the health care delivery system in New Jersey.

12  
13 2. As used in this act:

14 “Adverse possessory action” means terminating a lease with an  
15 operator or successor, evicting or otherwise initiating a unilateral or  
16 non-mutual possessory action to dispossess or remove an operator  
17 or successor from the real property on which a hospital is located,  
18 any other interference with the quiet enjoyment of the premises  
19 that are subject to the lease, or any other direct or indirect  
20 interference with the operation of a hospital.

21 “Affiliate” means any person that directly or indirectly, through  
22 one or more intermediaries, controls, is controlled by, or is under  
23 common control with, another person.

24 “Control” means the possession, directly or indirectly, of the  
25 power to direct or cause the direction of the management of a  
26 person, whether through the ownership of voting securities, by  
27 contract or otherwise.

28 “Department” means the Department of Health.

29 “Hospital” means a general acute care hospital licensed pursuant  
30 to P.L.1971, c.136 (C.26:2H-1 et seq.).

31 “Landlord” means the owner or lessor of the real property on  
32 which a hospital is located.

33 “Lease” means an agreement granting a leasehold interest in the  
34 real property on which a hospital is principally located.

35 “Operator” means the person approved by the department that is  
36 responsible for the maintenance, supervision, and operation of a  
37 hospital, including any affiliates of the person.

38 “Person” means any individual, general or limited partnership,  
39 corporation, limited liability company, business trust, joint stock  
40 company, trust, unincorporated organization, joint venture, firm,  
41 association, or other entity or organization.

42 “Successor” means a person that succeeds in interest to an  
43 operator with respect to the maintenance, supervision, or operation  
44 of a hospital.

45  
46 3. a. A landlord shall not initiate an adverse possessory action  
47 against an operator or successor without the written approval of the  
48 department as provided in subsection b. of this section. An adverse

1 possessory action initiated without the written approval of the  
2 department shall be deemed invalid.

3 b. A landlord may submit a request to the department, in a form  
4 and manner as shall be required by the department, to take an  
5 adverse possessory action for just cause against an operator or  
6 successor. The department may approve a request to take an  
7 adverse possessory action upon finding just cause exists for the  
8 adverse possessory action.

9 c. Upon department approval of a successor, based on a finding  
10 that the transition of hospital maintenance, supervision, or operation  
11 responsibilities from the operator to the successor is in the best  
12 interest of the hospital patients and the public, the successor shall  
13 also be deemed to succeed in interest to the lease.

14 d. A landlord that initiates an adverse possessory action against  
15 an operator or successor without written approval by the department  
16 shall be liable to a civil penalty of up to \$1,000,000, which shall be  
17 collected by and in the name of the department in summary  
18 proceedings before a court of competent jurisdiction pursuant to the  
19 provisions of the "Penalty Enforcement Law of 1999," P.L.1999,  
20 c.274 (C.2A:58-10 et seq.). In addition, the department shall  
21 suspend or revoke any license or permit granted by the department  
22 to the landlord due to violation of this act. To the extent an adverse  
23 possessory action taken without department approval results in the  
24 loss of revenue to a hospital, the operator or successor, as  
25 applicable, shall be entitled to financial recovery from the landlord  
26 to the extent necessary to place the hospital in as good a position as  
27 if such adverse possessory action had not occurred, as determined  
28 by court appointed arbitration. Any willful violation of this act by a  
29 landlord which: (1) results in the closure of a hospital; or (2)  
30 interferes with the transition of the maintenance, supervision, or  
31 operation of a hospital from an operator to a successor as approved  
32 by the department, shall be subject to criminal penalties imposed  
33 for disorderly persons offenses (C.2C:43-8).

34  
35 4. This act shall take effect 30 days after the date of enactment,  
36 and shall apply to operators, successors and landlords prior to and  
37 subsequent to, the effective date of this act.

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40 **STATEMENT**

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42 This bill prohibits landlords from initiating adverse possessory  
43 actions against an operator of a hospital, or a successor to the  
44 operator, without first obtaining written approval for the action  
45 from the department. An adverse possessory action initiated without  
46 the written approval of the department will be deemed invalid.  
47 The department is to establish a process for landlords to submit  
48 requests to initiate adverse possessory actions, and will have the

**S4191 CUNNINGHAM**

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1 authority to approve requests upon finding that just cause exists  
2 for the adverse possessory action.

3 A landlord that initiates an adverse possessory action against an  
4 operator or successor without written approval by the department  
5 will be liable to a civil penalty of up to \$1,000,000. The  
6 department shall also suspend or revoke any license or permit  
7 granted by the department to the landlord due to violation of the act.  
8 To the extent an adverse possessory action taken without  
9 department approval results in the loss of revenue to a hospital, the  
10 operator or successor, as applicable, shall be entitled to financial  
11 recovery from the landlord to the extent necessary to place the  
12 hospital in as good a position as if such adverse possessory action  
13 had not occurred, as determined by court appointed arbitration. A  
14 landlord that willfully violates this act in a manner which results in  
15 the closure of a hospital or that interferes with the transition of the  
16 maintenance, supervision, or operation of a hospital from an  
17 operator to a successor as approved by the department, shall be  
18 subject to criminal penalties imposed for disorderly persons  
19 offenses.

20 The bill will take effect 30 days after the date of enactment  
21 and will apply to operators, successors and landlords prior to and  
22 subsequent to, the effective date of this act.