

[First Reprint]

SENATE, No. 4191

STATE OF NEW JERSEY
219th LEGISLATURE

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Sponsored by:

Senator SANDRA B. CUNNINGHAM

District 31 (Hudson)

SYNOPSIS

Requires DOH approval for adverse possessory action against hospitals.

CURRENT VERSION OF TEXT

As reported by the Senate Health, Human Services and Senior Citizens Committee on December 6, 2021, with amendments.



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

3
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.

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:

¹Senate SHH committee amendments adopted December 6, 2021.

1 3. a. A landlord shall not initiate an adverse possessory action
2 against an operator or successor without the written approval of the
3 department as provided in subsection b. of this section. An adverse
4 possessory action initiated without the written approval of the
5 department shall be deemed invalid.

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

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

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

37
38 ¹4. The Commissioner of Health shall adopt rules and
39 regulations, pursuant to the "Administrative Procedure Act,"
40 P.L.1968, c.410 (C.52:14B-1 et seq.), as shall be necessary to
41 effectuate the provisions of this act.¹

42
43 ¹[4.] 5.¹ This act shall take effect 30 days after the date of
44 enactment ¹[, and shall apply to operators, successors and landlords
45 prior to and subsequent to, the effective date of this act]¹ .