

[First Reprint]

SENATE, No. 3277

STATE OF NEW JERSEY
216th LEGISLATURE

INTRODUCED DECEMBER 10, 2015

Sponsored by:

Senator NILSA CRUZ-PEREZ

District 5 (Camden and Gloucester)

Assemblyman JOHN J. BURZICHELLI

District 3 (Cumberland, Gloucester and Salem)

Co-Sponsored by:

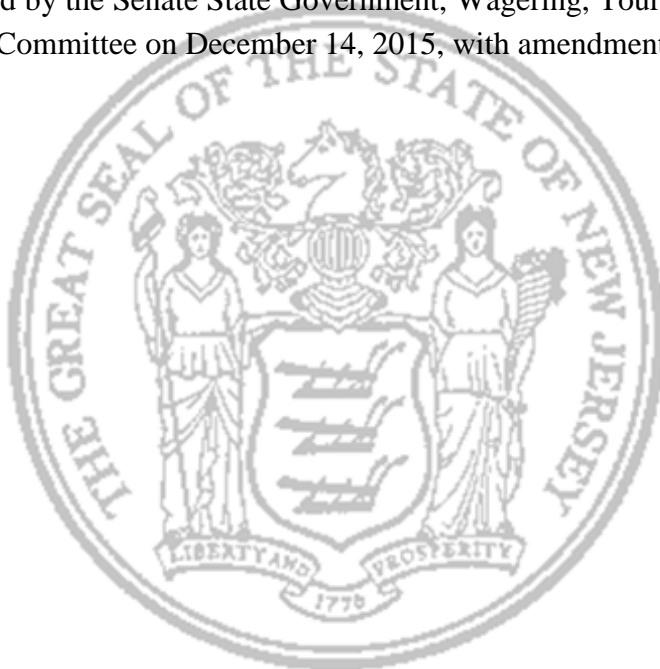
Assemblyman Coughlin

SYNOPSIS

Expands municipal authority to license and inspect residential rental property.

CURRENT VERSION OF TEXT

As reported by the Senate State Government, Wagering, Tourism & Historic Preservation Committee on December 14, 2015, with amendments.



(Sponsorship Updated As Of: 1/12/2016)

1 AN ACT concerning municipal licenses and amending R.S.40:52-1,
2 P.L.1974, c.50, and P.L.1967, c.76.

3

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

6

7 1. R.S.40:52-1 is amended to read as follows:

8 40:52-1. The governing body may make, amend, repeal and
9 enforce ordinances to license and regulate:

10 a. All vehicles used for the transportation of passengers,
11 baggage, merchandise, and goods and chattels of every kind, and
12 the owners and drivers of all such vehicles; and the places and
13 premises in which or at which the different kinds of business or
14 occupations mentioned herein are carried on and conducted.
15 Nothing herein contained shall be construed as modifying or
16 repealing any of the provisions of chapter 4 of Title 48 of the
17 Revised Statutes (R.S.48:4-1 et seq.);

18 b. Autobuses, and the owners and drivers of all such vehicles,
19 and to fix the fees for such licenses, which may be imposed for
20 revenue, and to prohibit the operation of all such vehicles in the
21 public streets or places of such municipality, unless such ordinances
22 are complied with, whether such vehicles are operated over routes
23 wholly or partly within the territorial limits of such municipality;
24 the powers conferred by this section shall not be in substitution of
25 but in addition to whatever other right, power and authority any
26 such municipality may at any time have as to licensing, regulating,
27 or control of the operation of such autobuses, commonly called
28 jitneys, and this section shall not be construed as modifying or
29 repealing any of the provisions of chapter 4 (R.S.48:4-1 et seq.) or
30 article 3 of chapter 16 (R.S.48:16-23 et seq.) of Title 48 of the
31 Revised Statutes;

32 c. Cartmen, expressmen, baggagemen, porters, common criers,
33 hawkers, peddlers, employment agencies, pawnbrokers, junk shop-
34 keepers, junk dealers, motor vehicle junk dealers, street sprinklers,
35 bill posters, bill tackers, sweeps, scavengers, itinerant vendors of
36 merchandise, medicines and remedies; and the places and premises
37 in which or at which the different kinds of business or occupations
38 mentioned herein are conducted and carried on;

39 d. Hotels, boardinghouses, lodging and rooming houses, trailer
40 camps and camp sites, motels, furnished and unfurnished rented
41 housing or living units and all other places and buildings used for
42 sleeping and lodging purposes, and the occupancy thereof,
43 restaurants and all other eating places, and the keepers thereof;

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 SSG committee amendments adopted December 14, 2015.

- 1 e. Automobile garages, dealers in second-hand motor vehicles
2 and parts thereof, bathhouses, swimming pools, and the keepers
3 thereof;
- 4 f. Theatres, cinema and show houses, opera houses, concert
5 halls, dance halls, pool or billiard parlors, bowling alleys, exhibition
6 grounds, and all other places of public amusement, circuses and
7 traveling or other shows, plays, dances, exhibitions, concerts,
8 theatrical performances, and all street parades in connection
9 therewith;
- 10 g. Lumber and coal yards, stores for the sale of meats,
11 groceries and provisions, dry goods and merchandise, and goods
12 and chattels of every kind, and all other kinds of business conducted
13 in the municipality other than herein mentioned, and the places and
14 premises in or at which the business is conducted and carried on;
15 street stands for the sale or distribution of newspapers, magazines,
16 periodicals, books, and goods and merchandise or other articles;
- 17 h. Street signs and other objects projecting beyond the building
18 line, into or over any public street or highway;
- 19 i. Auctioneers and their business, whether the auctioneers be
20 real estate brokers engaged in selling at auction or real estate
21 auctioneers licensed by the New Jersey Real Estate Commission;
22 fix their fees, and license and regulate public auctions; make such
23 regulations as the governing body of the municipality shall deem
24 necessary, to protect the public against fraud at public auction sales,
25 and for the safety and protection of the property of the municipality
26 and its inhabitants, including the power to require from auctioneers
27 a bond to the municipality, not exceeding the penal sum of
28 \$5,000.00, conditioned as the governing body shall require;
- 29 j. Sales of goods, wares and merchandise to be advertised, held
30 out or represented, or which are advertised, held out or represented,
31 to the public, by any means, directly or by implication, as forced
32 sales at reduced prices or as insurance, bankruptcy, mortgage
33 foreclosure, insolvency, removal, loss or expiration of lease or
34 closing out sales, or as assignees', receivers' or trustees' sales or as
35 sales of goods distrained or as sales of goods damaged by fire,
36 smoke or water, except any sale which is to be held under a judicial
37 order, judgment or decree or a writ issuing out of any court or to
38 enforce any lawful lien or power of sale whether by judicial process
39 or not or by a licensed auctioneer; to make such regulations
40 governing the advertisement, holding out or representing to the
41 public of such sales, and the conduct thereof, as the governing body
42 of the municipality shall deem necessary to protect the public
43 against fraud; to prohibit the advertising, holding out or
44 representing to the public of any sale as being of the character
45 above described which is not of such character and to fix license
46 fees for the conduct of such sales and to impose penalties for the
47 violation of any such ordinance;
- 48 k. (Deleted by amendment, P.L.1997, c.320.)

1 l. (Deleted by amendment, P.L.1984, c.205.)

2 m. The rental of real property for commercial purposes wherein
3 the lease is for a term less than 175 consecutive days. No ordinance
4 adopted pursuant to this subsection shall apply to any lease or
5 occupancy which results from a tenant holding over at the
6 expiration or early termination of a lease with an original term in
7 excess of 175 consecutive days, regardless of whether the holdover
8 is month-to-month or for some other term of less than 175
9 consecutive days; and

10 n. The rental of real property **【for a term less than 175**
11 **consecutive days】** for residential purposes **【by a person having a**
12 **permanent place of residence elsewhere】** and to fix the fees for such
13 licenses. ¹**【Fees】** Notwithstanding the provisions of R.S.40:52-2 to
14 the contrary, fees¹ established pursuant to this subsection shall be
15 dedicated to meeting the costs of implementing and enforcing this
16 subsection and shall not be used for any other purpose. A
17 municipality that licenses the rental of residential real property
18 pursuant to this subsection shall require the landlord of each
19 licensed property to file with the clerk of the municipality, or with
20 such other municipal official as is designated by the clerk, a
21 certificate of registration in accordance with section 2 of P.L.1974,
22 c.50 (C.46:8-28) ¹; provided, however, that no additional
23 registration shall be required for a licensed property for which a
24 registration certificate with current ownership information has been
25 filed with either the clerk of the municipality, or with such other
26 municipal official as is designated by the clerk, or, in the case of a
27 multiple dwelling, with the Bureau of Housing Inspection in the
28 Department of Community Affairs, in accordance with section 2 of
29 P.L.1974, c.50 (C.46:8-28). The power of a municipality to license
30 and regulate residential rental property under this subsection shall
31 include the power to inspect said property as a condition of
32 licensure; provided, however, that a municipality shall not inspect
33 residential rental property more than once per calendar year, except
34 when prompted by complaints, evidence of code violations, or
35 patently unsound conditions on the property¹.

36 Nothing in this chapter contained shall be construed to authorize
37 or empower the governing body of any municipality to license or
38 regulate any person holding a license or certificate issued by any
39 department, board, commission, or other agency of the State;
40 provided, however, that the governing body of a municipality may
41 make, amend, repeal and enforce ordinances to license and regulate
42 real estate auctioneers or real estate brokers engaged in selling at
43 auction and their business as provided in this section despite the
44 fact that such real estate auctioneers or brokers may be licensed by
45 the New Jersey Real Estate Commission and notwithstanding the
46 provisions of this act or any other act.

47 (cf: P.L.1997, c.320, s.1)

1 ¹ [2. Section 2 of P.L.1974, c.50 (C.46:8-28) is amended to read
2 as follows:

3 2. **【Every】** a. Except as provided in subsection b. of this
4 section, every landlord shall, within 30 days following the effective
5 date of this act, or at the time of the creation of the first tenancy in
6 any newly constructed or reconstructed building, file with the clerk
7 of the municipality, or with such other municipal official as is
8 designated by the clerk, in which the residential property is situated,
9 in the case of a one-dwelling unit rental or a two-dwelling unit non-
10 owner occupied premises, or with the Bureau of Housing Inspection
11 in the Department of Community Affairs in the case of a multiple
12 dwelling as defined in section 3 of the "Hotel and Multiple
13 Dwelling Law" (C.55:13A-3), a certificate of registration on forms
14 prescribed by the Commissioner of Community Affairs, which
15 shall contain the following information:

16 **【a.】** (1) The name and address of the record owner or owners
17 of the premises and the record owner or owners of the rental
18 business if not the same persons. In the case of a partnership the
19 names of all general partners shall be provided;

20 **【b.】** (2) If the record owner is a corporation, the name and
21 address of the registered agent and corporate officers of said
22 corporation;

23 **【c.】** (3) If the address of any record owner is not located in the
24 county in which the premises are located, the name and address of
25 a person who resides in the county in which the premises are
26 located and is authorized to accept notices from a tenant and to
27 issue receipts therefor and to accept service of process on behalf of
28 the record owner;

29 **【d.】** (4) The name and address of the managing agent of the
30 premises, if any;

31 **【e.】** (5) The name and address, including the dwelling unit,
32 apartment or room number of the superintendent, janitor, custodian
33 or other individual employed by the record owner or managing
34 agent to provide regular maintenance service, if any;

35 **【f.】** (6) The name, address and telephone number of an
36 individual representative of the record owner or managing agent
37 who may be reached or contacted at any time in the event of an
38 emergency affecting the premises or any unit of dwelling space
39 therein, including such emergencies as the failure of any essential
40 service or system, and who has the authority to make emergency
41 decisions concerning the building and any repair thereto or
42 expenditure in connection therewith and shall, at all times, have
43 access to a current list of building tenants that shall be made
44 available to emergency personnel as required in the event of an
45 emergency;

46 **【g.】** (7) The name and address of every holder of a recorded
47 mortgage on the premises;

1 **【h.】** (8) If fuel oil is used to heat the building and the landlord
2 furnishes the heat in the building, the name and address of the fuel
3 oil dealer servicing the building and the grade of fuel oil used.

4 **b.** A landlord of property licensed by a municipality pursuant to
5 subsection n. of R.S.40:52-1 shall be exempt from the 30-day
6 registration requirement set forth in subsection a. of this section.

7 (cf: P.L.2003, c.56, s.2)】¹

8
9 ¹**【3.** Section 12 of P.L.1967, c.76 (C.55:13A-12) is amended to
10 read as follows:

11 12. (a) The owner of each hotel, or of each multiple dwelling
12 occupied or intended to be occupied by three or more persons living
13 independently of each other, shall file with the commissioner, upon
14 forms provided by the commissioner, a certificate of registration.
15 Each such certificate of registration shall be accompanied by a fee
16 of \$10.00 and shall include such information as the commissioner
17 shall prescribe to enforce the provisions of this law; provided,
18 however, that in the case of a multiple dwelling, the information
19 required shall be at least that required pursuant to section 2 of
20 P.L.1974, c.50 (C. 46:8-28). A multiple dwelling licensed by a
21 municipality pursuant to subsection n. of R.S.40:52-1 shall be
22 exempt from the registration requirements set forth in this section.
23 Upon the receipt of said certificate of registration and fee, the
24 commissioner shall forthwith validate and issue to the owner of
25 such hotel or multiple dwelling a validated copy of the certificate of
26 registration, which validated copy shall be kept posted by the owner
27 of such hotel or multiple dwelling at all times in the lobby or other
28 conspicuous place on the premises. The posted certificate shall be
29 reasonably protected from removal, alteration, defacement or
30 damage by the elements in such manner as the commissioner may
31 prescribe.

32 (b) The owner of each hotel, or of each multiple dwelling
33 occupied or intended to be occupied by three or more persons living
34 independently of each other shall appoint an agent for the purpose
35 of receiving service of process and such orders or notices as may be
36 issued by the commissioner pursuant to this act. Each such agent so
37 appointed shall be a resident of the county in which the hotel or
38 multiple dwelling is located or shall have an office in the county. If
39 the agent is a corporation, it shall be licensed to do business in this
40 State.

41 (c) In the case of any transfer of the ownership in any hotel, or
42 of any multiple dwelling occupied or intended to be occupied by
43 three or more persons living independently of each other, whether
44 by sale, assignment, gift, intestate succession, testate devolution,
45 reorganization, receivership, foreclosure or execution process, it
46 shall be the duty of the new owner thereof to file with the
47 commissioner, within 20 days of said transfer, a certificate of
48 registration pursuant to subsection (a) of this section, and to appoint

1 an agent for the service of process pursuant to subsection (b) of this
2 section.

3 (d) In any case whether the owner of a hotel or multiple
4 dwelling subject to the provisions of this act has not fulfilled the
5 requirements of this section, he commissioner shall notify the
6 owner of the violation of this section and order that registration be
7 accomplished within 30 days. The notice and order shall include an
8 accurate restatement of the subsection with which the owner has not
9 complied. If the owner has not complied with the order of the
10 commissioner within 30 days, he shall be liable for a penalty of
11 \$200.00 for each registration which the commissioner shall have
12 ordered. The commissioner may issue a certificate to the clerk of
13 the superior court that an owner is indebted for the payment of such
14 penalty and thereupon the clerk shall immediately enter upon his
15 record of docketed judgments the name of such owner, and of the
16 State, a designation of the statute under which the penalty is
17 imposed, the amount of the penalty so certified and the date such
18 certification was made. The making of the entry shall have the
19 same force and effect as the entry of the docketed judgment in the
20 office of such clerk, and the commissioner shall have all of the
21 remedies and maintain all of the proceedings for the collection
22 thereof which may be had or taken upon the recovery of a
23 judgment in a civil action, but without prejudice to the owner's right
24 of appeal.

25 (cf: P.L.1981, c.442, s.6)]¹

26

27 ¹[4.] 2.¹ This act shall take effect immediately and shall be
28 retroactive to August 6, 2015; provided, however, that a
29 municipality shall not collect fees authorized by section 1 of this act
30 or refund fees collected by the municipality for property licensed
31 prior to the effective date of this act.