

ASSEMBLY, No. 490

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman JAY WEBBER

District 26 (Essex, Morris and Passaic)

Assemblyman JAMEL C. HOLLEY

District 20 (Union)

Assemblywoman ANNETTE CHAPARRO

District 33 (Hudson)

SYNOPSIS

Permits landlords to take actions after death of tenant in certain situations.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning deceased tenants and amending P.L.1974, c.49
2 and P.L.1999, c.340.

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.1974, c.49 (C.2A:18-61.1) is amended to
8 read 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
14 units or a hotel, motel or other guest house or part thereof rented to
15 a transient guest or seasonal tenant; (2) a dwelling unit which is
16 held in trust on behalf of a member of the immediate family of the
17 person or persons establishing the trust, provided that the member
18 of the immediate family on whose behalf the trust is established
19 permanently occupies the unit; and (3) a dwelling unit which is
20 permanently occupied by a member of the immediate family of the
21 owner of that unit, provided, however, that exception (2) or (3) shall
22 apply only in cases in which the member of the immediate family
23 has a developmental disability, except upon establishment of one of
24 the following grounds as good cause:

25 a. The person fails to pay rent due and owing under the lease
26 whether the same be oral or written; provided that, for the purposes
27 of this section, any portion of rent unpaid by a tenant to a landlord
28 but utilized by the tenant to continue utility service to the rental
29 premises after receiving notice from an electric, gas, water or sewer
30 public utility that such service was in danger of discontinuance
31 based on nonpayment by the landlord, shall not be deemed to be
32 unpaid rent.

33 b. The person has continued to be, after written notice to cease,
34 so disorderly as to destroy the peace and quiet of the occupants or
35 other tenants living in said house or neighborhood.

36 c. The person has willfully or by reason of gross negligence
37 caused or allowed destruction, damage or injury to the premises.

38 d. The person has continued, after written notice to cease, to
39 substantially violate or breach any of the landlord's rules and
40 regulations governing said premises, provided such rules and
41 regulations are reasonable and have been accepted in writing by the
42 tenant or made a part of the lease at the beginning of the lease term.

43 e. (1) The person has continued, after written notice to cease,
44 to substantially violate or breach any of the covenants or
45 agreements contained in the lease for the premises where a right of

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.

1 reentry is reserved to the landlord in the lease for a violation of such
2 covenant or agreement, provided that such covenant or agreement is
3 reasonable and was contained in the lease at the beginning of the
4 lease term.

5 (2) In public housing under the control of a public housing
6 authority or redevelopment agency, the person has substantially
7 violated or breached any of the covenants or agreements contained
8 in the lease for the premises pertaining to illegal uses of controlled
9 dangerous substances, or other illegal activities, whether or not a
10 right of reentry is reserved to the landlord in the lease for a
11 violation of such covenant or agreement, provided that such
12 covenant or agreement conforms to federal guidelines regarding
13 such lease provisions and was contained in the lease at the
14 beginning of the lease term.

15 f. The person has failed to pay rent after a valid notice to quit
16 and notice of increase of said rent, provided the increase in rent is
17 not unconscionable and complies with any and all other laws or
18 municipal ordinances governing rent increases.

19 g. The landlord or owner (1) seeks to permanently board up or
20 demolish the premises because he has been cited by local or State
21 housing inspectors for substantial violations affecting the health and
22 safety of tenants and it is economically unfeasible for the owner to
23 eliminate the violations; (2) seeks to comply with local or State
24 housing inspectors who have cited him for substantial violations
25 affecting the health and safety of tenants and it is unfeasible to so
26 comply without removing the tenant; simultaneously with service of
27 notice of eviction pursuant to this clause, the landlord shall notify
28 the Department of Community Affairs of the intention to institute
29 proceedings and shall provide the department with such other
30 information as it may require pursuant to rules and regulations. The
31 department shall inform all parties and the court of its view with
32 respect to the feasibility of compliance without removal of the
33 tenant and may in its discretion appear and present evidence; (3)
34 seeks to correct an illegal occupancy because he has been cited by
35 local or State housing inspectors or zoning officers and it is
36 unfeasible to correct such illegal occupancy without removing the
37 tenant; or (4) is a governmental agency which seeks to permanently
38 retire the premises from the rental market pursuant to a
39 redevelopment or land clearance plan in a blighted area. In those
40 cases where the tenant is being removed for any reason specified in
41 this subsection, no warrant for possession shall be issued until
42 P.L.1967, c.79 (C.52:31B-1 et seq.) and P.L.1971, c.362 (C.20:4-1
43 et seq.) have been complied with.

44 h. The owner seeks to retire permanently the residential
45 building or the mobile home park from residential use or use as a
46 mobile home park, provided this subsection shall not apply to
47 circumstances covered under subsection g. of this section.

1 i. The landlord or owner proposes, at the termination of a
2 lease, reasonable changes of substance in the terms and conditions
3 of the lease, including specifically any change in the term thereof,
4 which the tenant, after written notice, refuses to accept; provided
5 that in cases where a tenant has received a notice of termination
6 pursuant to subsection g. of section 3 of P.L.1974, c.49 (C.2A:18-
7 61.2), or has a protected tenancy status pursuant to the "Senior
8 Citizens and Disabled Protected Tenancy Act," P.L.1981, c.226
9 (C.2A:18-61.22 et al.), or pursuant to the "Tenant Protection Act of
10 1992," P.L.1991, c.509 (C.2A:18-61.40 et al.), the landlord or
11 owner shall have the burden of proving that any change in the terms
12 and conditions of the lease, rental or regulations both is reasonable
13 and does not substantially reduce the rights and privileges to which
14 the tenant was 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
18 is converting from the rental market to a condominium, cooperative
19 or fee simple ownership of two or more dwelling units or park sites,
20 except as hereinafter provided in subsection l. of this section.
21 Where the tenant is being removed pursuant to this subsection, no
22 warrant for possession shall be issued until this act has been
23 complied with. No action for possession shall be brought pursuant
24 to this subsection against a senior citizen tenant or disabled tenant
25 with protected tenancy status pursuant to the "Senior Citizens and
26 Disabled Protected Tenancy Act," P.L.1981, c.226 (C.2A:18-61.22
27 et al.), or against a qualified tenant under the "Tenant Protection
28 Act of 1992," P.L.1991, c.509 (C.2A:18-61.40 et al.), as long as the
29 agency has not terminated the protected tenancy status or the
30 protected tenancy period has not 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
34 initial tenancy began after the master deed, agreement establishing
35 the cooperative or subdivision plat was recorded, because the owner
36 has contracted to sell the unit to a buyer who seeks to personally
37 occupy it and the contract for sale calls for the unit to be vacant at
38 the time of closing. However, no action shall be brought against a
39 tenant under paragraph (1) of this subsection unless the tenant was
40 given a 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
46 to personally occupy the unit, or has contracted to sell the unit to a
47 buyer who seeks to personally occupy it and the contract for sale
48 calls for the unit to be vacant at the time of closing;

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

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

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

1 p. The person has been found, by a preponderance of the
2 evidence, liable in a civil action for removal commenced under this
3 act for an offense under N.J.S.2C:20-1 et al. involving theft of
4 property located on the leased premises from the landlord, the
5 leased premises or other tenants residing in the leased premises, or
6 N.J.S.2C:12-1 or N.J.S.2C:12-3 involving assault or terroristic
7 threats against the landlord, a member of the landlord's family or an
8 employee of the landlord, or under the "Comprehensive Drug
9 Reform Act of 1987," N.J.S.2C:35-1 et al., involving the use,
10 possession, manufacture, dispensing or distribution of a controlled
11 dangerous substance, controlled dangerous substance analog or drug
12 paraphernalia within the meaning of that act within or upon the
13 leased premises or the building or complex of buildings and land
14 appurtenant thereto, or the mobile home park, in which those
15 premises are located, and has not in connection with his sentence
16 for that offense either (1) successfully completed or (2) been
17 admitted to and continued upon probation while completing a drug
18 rehabilitation program pursuant to N.J.S.2C:35-14; or, being the
19 tenant or lessee of such leased premises, knowingly harbors or
20 harbored therein a person who committed such an offense, or
21 otherwise permits or permitted such a person to occupy those
22 premises for residential purposes, whether continuously or
23 intermittently, except that this subsection shall not apply to a person
24 who harbors or permits a juvenile to occupy the premises if the
25 juvenile has been adjudicated delinquent upon the basis of an act
26 which if committed by an adult would constitute the offense of use
27 or possession under the said "Comprehensive Drug Reform Act of
28 1987."

29 q. The person has been convicted of or pleaded guilty to, or if a
30 juvenile, has been adjudicated delinquent on the basis of an act
31 which if committed by an adult would constitute an offense under
32 N.J.S.2C:20-1 et al. involving theft of property from the landlord,
33 the leased premises or other tenants residing in the same building or
34 complex; or, being the tenant or lessee of such leased premises,
35 knowingly harbors therein a person who has been so convicted or
36 has so pleaded, or otherwise permits such a person to occupy those
37 premises for residential purposes, whether continuously or
38 intermittently.

39 r. The person is found in a civil action, by a preponderance of
40 the evidence, to have committed a violation of the human
41 trafficking provisions set forth in section 1 of P.L.2005, c.77
42 (C.2C:13-8) within or upon the leased premises or the building or
43 complex of buildings and land appurtenant thereto, or the mobile
44 home park, in which those premises are located; or, being the tenant
45 or lessee of such leased premises, knowingly harbors or harbored
46 therein a person who has been engaged in human trafficking, or
47 otherwise permits or permitted such a person to occupy those
48 premises for residential purposes, whether continuously or

1 intermittently. No action for removal may be brought pursuant to
2 this subsection more than two years after the alleged violation has
3 terminated. A criminal conviction or a guilty plea to a crime of
4 human trafficking under section 1 of P.L.2005, c.77 (C.2C:13-8)
5 shall be considered prima facie evidence of civil liability under this
6 subsection.

7 s. The tenant has died and no executor, administrator, or
8 representative of the estate has contacted the landlord as of the date
9 of the landlord's filing for removal, which shall be no sooner than
10 21 days after the death of the tenant.

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

20 (cf: P.L.2013, c.51, s.7)

21
22 2. Section 3 of P.L.1974, c.49 (C.2A:18-61.2) is amended to
23 read as follows:

24 3. No judgment of possession shall be entered for any premises
25 covered by section 2 of this act, except in the nonpayment of rent
26 under subsection a. or f. of section 2, or in the case of a deceased
27 tenant under subsection i. of this section, unless the landlord has
28 made written demand and given written notice for delivery of
29 possession of the premises. The following notice shall be required:

30 a. For an action alleging disorderly conduct under subsection b.
31 of section 2, or injury to the premises under subsection c. of section
32 2, or any grounds under subsection m., n., o., p., q., or r. of section
33 2, three days' notice prior to the institution of the action for
34 possession;

35 b. For an action alleging continued violation of rules and
36 regulations under subsection d. of section 2, or substantial breach of
37 covenant under subsection e. of section 2, or habitual failure to pay
38 rent, one month's notice prior to the institution of the action for
39 possession;

40 c. For an action alleging any grounds under subsection g. of
41 section 2, three months' notice prior to the institution of the action;

42 d. For an action alleging permanent retirement under
43 subsection h. of section 2, 18 months' notice prior to the institution
44 of the action and, provided that, where there is a lease in effect, no
45 action may be instituted until the lease expires;

46 e. For an action alleging refusal of acceptance of reasonable
47 lease changes under subsection i. of section 2, one month's notice
48 prior to institution of action;

1 f. For an action alleging any grounds under subsection l. of
2 section 2, two months' notice prior to the institution of the action
3 and, provided that where there is a written lease in effect no action
4 shall be instituted until the lease expires;

5 g. For an action alleging any grounds under subsection k. of
6 section 2, three years' notice prior to the institution of action, and
7 provided that where there is a written lease in effect, no action shall
8 be instituted until the lease expires;

9 h. In public housing under the control of a public housing
10 authority or redevelopment agency, for an action alleging
11 substantial breach of contract under paragraph (2) of subsection e.
12 of section 2, the period of notice required prior to the institution of
13 an action for possession shall be in accordance with federal
14 regulations pertaining to public housing leases.

15 The notice in each of the foregoing instances shall specify in
16 detail the cause of the termination of the tenancy and shall be
17 served either personally upon the tenant or lessee or such person in
18 possession by giving him a copy thereof, or by leaving a copy
19 thereof at his usual place of abode with some member of his family
20 above the age of 14 years, or by certified mail; if the certified letter
21 is not claimed, notice shall be sent by regular mail.

22 i. If a lease is terminated based upon the death of a tenant, and
23 no executor, administrator, or representative of the estate has
24 contacted the landlord, then the landlord may apply for a warrant of
25 removal in a summary process no sooner than the 21st day next
26 following the death of the tenant. A summary application for a
27 warrant for removal under this subsection shall include an affidavit
28 from the landlord affirming that there has been no contact with an
29 executor, administrator, or representative of the estate, and that no
30 known executor, administrator, or representative exists. The
31 application shall also include an official copy of the tenant's death
32 certificate. If the landlord has been contacted by an executor,
33 administrator, or representative of the estate and proceeds with a
34 summary process under this subsection, bad faith shall be presumed
35 and the landlord may be held liable for treble damages and
36 reasonable attorneys fees for any property wrongfully disposed.
37 The landlord shall not be required to accept any new occupants who
38 were not approved in the original lease without the new occupants
39 going through the same approval process as any other tenant signing
40 a lease.

41 (cf: P.L.2013, c.51, s.8)

42
43 3. Section 1 of P.L.1999, c.340 (C.2A:18-72) is amended to
44 read as follows:

45 1. A landlord of commercial or residential property, in the
46 manner provided by P.L.1999, c.340 (C.2A:18-72 et al.), may
47 dispose of any tangible goods, chattels, manufactured or mobile
48 homes or other personal property left upon a premises by a tenant

1 after giving notice as required by section 2 of P.L.1999, c.340
 2 (C.2A:18-73), only if the landlord reasonably believes under all the
 3 circumstances that the tenant has left the property upon the
 4 premises with no intention of asserting any further claim to the
 5 premises or the property and:

6 a. A warrant for removal has been executed and possession of
 7 the premises has been restored to the landlord; **[or]**

8 b. The tenant has given written notice that he or she is
 9 voluntarily relinquishing possession of the premises; or

10 c. The tenant has died and landlord has not been contacted by
 11 the executor, representative, or administer of the estate within 21
 12 days of the death.

13 The provisions of P.L.1999, c.340 (C.2A:18-72 et al.) shall not
 14 apply to the disposal of tenant property left on nonresidential rental
 15 property if there is a lease in effect which has been duly executed
 16 by all parties which contains specific terms and conditions for the
 17 disposal of tenant property.

18 (cf: P.L.2001, c.51, s.1)

19

20 4. Section 2 of P.L.1999, c.340 (C.2A:18-73) is amended to
 21 read as follows

22 2. a. To dispose of a tenant's property under this act, a landlord
 23 shall first give written notice to the tenant, which shall be sent by
 24 certified mail, return receipt requested or by receipted first class
 25 mail addressed to the tenant, at the tenant's last known address
 26 (which may be the address of the premises) and at any alternate
 27 address or addresses known to the landlord, in an envelope
 28 endorsed "Please Forward."

29 b. In the case of a deceased tenant, written notice shall be sent,
 30 by certified mail, to any executor, administrator, or representative
 31 of the estate, any cosigner for the apartment, or any previously
 32 known occupant listed by the deceased tenant who has contacted the
 33 landlord.

34 "Receipted first class mail" for purposes of this section means
 35 first class mail for which a certificate of mailing has been obtained
 36 by the sender but does not include certified or registered mail.

37 When the property subject to disposal is a manufactured or
 38 mobile home, a copy of the notice required pursuant to this section
 39 shall also be sent to the Director of the Division of Motor Vehicles
 40 and to any lienholders with security interests in the property which
 41 have been recorded with the Division of Motor Vehicles.

42 (cf: P.L.1999, c.340, s.2)

43

44 5. Section 4 of P.L.1999, c.340 (C.2A:18-75) is amended to
 45 read as follows:

46 4. After notifying a tenant, or the executor, administrator, or
 47 representative of a deceased tenant's estate, as required by sections
 48 2 and 3 of P.L.1999, c.340 (C.2A:18-73 and C.2A:18-74), a

landlord shall store all goods, chattels, manufactured or mobile homes and other personal property of the tenant in a place of safekeeping and shall exercise reasonable care for the property, except that the landlord may promptly dispose of perishable food and shall allow an animal control agency or humane society to remove any abandoned pets or livestock. A landlord may store a tenant's manufactured dwelling or residential vehicle on the space previously rented, elsewhere on the premises or in a safe location off the premises. A landlord shall be entitled to reasonable storage charges and costs incidental to storage. A landlord may store property in a commercial storage facility, in which case the storage cost shall include the actual storage charge plus the reasonable cost of removal of the property to the place of storage.

(cf: P.L.1999, c.340, s.4)

6. Section 5 of P.L.1999, c.340 (C.2A:18-76) is amended to read as follows:

5. a. If a tenant responds in writing or orally to the landlord, on or before the day specified in the required notice, that the tenant intends to remove the property from the premises, or from the place of safekeeping if the landlord has stored the property as provided in section 4 of P.L.1999, c.340 (C.2A:18-75), and does not do so within the time specified in the notice or within 15 days after the written response, whichever is later, the tenant's property shall be conclusively presumed to be abandoned.

b. If a lienholder responds in writing to the landlord concerning a security interest in any manufactured or mobile home, and the lienholder indicates an intent to remove the property from the premises, or from the place of safekeeping, or to pay rent as a condition of leaving the property on the premises, but fails to remove the property or make rental payments within the time specified in the notice or within 15 days after the written response, whichever is later, then the landlord may proceed as if the lienholder had not responded.

c. If no response is received from a tenant or lienholder within the time period provided under section 3 of P.L.1999, c.340 (C.2A:18-74), then the tenant's property shall be conclusively presumed to be abandoned.

d. The tenant who is the sole occupant of the dwelling unit has died and landlord has not been contacted by the executor, representative, or administer of the estate, or by a person intending to apply for letters of administration, within 21 days of the death, then the tenant's property shall be conclusively presumed to be abandoned.

(cf: P.L.1999, c.340, s.5)

7. Section 11 of P.L.1999, c.340 (C.2A:18-80) is amended to read as follows:

11. A landlord may deduct from the proceeds of any sale the reasonable costs of notice, storage and sale and any unpaid rent and charges not covered by a security deposit. After deducting these amounts, the landlord shall remit to the tenant the remaining proceeds, if any, together with an itemized accounting. If the tenant, after due diligence, cannot be found the remaining proceeds shall be deposited into the Superior Court and, if not claimed within 10 years, shall escheat to the State. In the case of a deceased tenant, the remaining proceeds shall be provided to an executor, administrator, or representative of the estate who has contacted the landlord prior to the date of the sale. In the case of a deceased tenant where no executor, administrator, or representative has contacted the landlord, the remaining proceeds shall be deposited into the Superior Court and, if not claimed within 10 years, shall escheat to the State.

(cf: P.L.1999, c.340, s.11)

8. This act shall take effect immediately.

STATEMENT

Current law does not address the issue of property left by a deceased tenant who has no executor, administrator, or representative. This bill establishes that there is good cause for the removal of a tenant where the tenant has died and no executor, administrator, or representative has come forward to make decisions on behalf of the estate. The bill also establishes grounds for a landlord to remove property from a unit after the death of a tenant under certain circumstances. The bill provides that property will be considered abandoned after the death of a tenant if no executor, administrator, or representative contacts the landlord within 21 days of the tenant's death. The removal of property would be authorized if the landlord has not been contacted by an executor, administrator, or representative of the estate within 21 days of the death of the tenant. If an executor, administrator, or representative of the estate contacts the landlord and the situation is not resolved, the landlord would need to obtain a warrant of removal from a court and notify the executor, administrator, or representative, by certified mail, that the property will be removed pursuant to the warrant of removal. The bill requires written notice to be sent by certified mail to any cosigner for the apartment, or any previously known occupant listed by the deceased tenant, in addition to any executor, administrator, or representative of the estate.