

ASSEMBLY, No. 1688

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman JOHN J. BURZICHELLI
District 3 (Cumberland, Gloucester and Salem)
Assemblyman CLINTON CALABRESE
District 36 (Bergen and Passaic)
Assemblywoman ANGELA V. MCKNIGHT
District 31 (Hudson)

SYNOPSIS

Expands municipal authority to license and inspect residential rental property.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 3/1/2021)

1 **AN ACT** concerning municipal licenses and amending R.S.40:52-1.

2

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

5

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

7 40:52-1. The governing body may make, amend, repeal and
8 enforce ordinances to license and regulate:

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

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

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

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

43 e. Automobile garages, dealers in second-hand motor vehicles
44 and parts thereof, bathhouses, swimming pools, and the keepers
45 thereof;

46 f. Theatres, cinema and show houses, opera houses, concert
47 halls, dance halls, pool or billiard parlors, bowling alleys, exhibition

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 grounds, and all other places of public amusement, circuses and
- 2 traveling or other shows, plays, dances, exhibitions, concerts,
- 3 theatrical performances, and all street parades in connection
- 4 therewith;
- 5 g. Lumber and coal yards, stores for the sale of meats,
- 6 groceries and provisions, dry goods and merchandise, and goods
- 7 and chattels of every kind, and all other kinds of business conducted
- 8 in the municipality other than herein mentioned, and the places and
- 9 premises in or at which the business is conducted and carried on;
- 10 street stands for the sale or distribution of newspapers, magazines,
- 11 periodicals, books, and goods and merchandise or other articles;
- 12 h. Street signs and other objects projecting beyond the building
- 13 line, into or over any public street or highway;
- 14 i. Auctioneers and their business, whether the auctioneers be
- 15 real estate brokers engaged in selling at auction or real estate
- 16 auctioneers licensed by the New Jersey Real Estate Commission;
- 17 fix their fees, and license and regulate public auctions; make such
- 18 regulations as the governing body of the municipality shall deem
- 19 necessary, to protect the public against fraud at public auction sales,
- 20 and for the safety and protection of the property of the municipality
- 21 and its inhabitants, including the power to require from auctioneers
- 22 a bond to the municipality, not exceeding the penal sum of
- 23 \$5,000.00, conditioned as the governing body shall require;
- 24 j. Sales of goods, wares and merchandise to be advertised, held
- 25 out or represented, or which are advertised, held out or represented,
- 26 to the public, by any means, directly or by implication, as forced
- 27 sales at reduced prices or as insurance, bankruptcy, mortgage
- 28 foreclosure, insolvency, removal, loss or expiration of lease or
- 29 closing out sales, or as assignees', receivers' or trustees' sales or as
- 30 sales of goods distrained or as sales of goods damaged by fire,
- 31 smoke or water, except any sale which is to be held under a judicial
- 32 order, judgment or decree or a writ issuing out of any court or to
- 33 enforce any lawful lien or power of sale whether by judicial process
- 34 or not or by a licensed auctioneer; to make such regulations
- 35 governing the advertisement, holding out or representing to the
- 36 public of such sales, and the conduct thereof, as the governing body
- 37 of the municipality shall deem necessary to protect the public
- 38 against fraud; to prohibit the advertising, holding out or
- 39 representing to the public of any sale as being of the character
- 40 above described which is not of such character and to fix license
- 41 fees for the conduct of such sales and to impose penalties for the
- 42 violation of any such ordinance;
- 43 k. (Deleted by amendment, P.L.1997, c.320.)
- 44 l. (Deleted by amendment, P.L.1984, c.205.)
- 45 m. The rental of real property for commercial purposes wherein
- 46 the lease is for a term less than 175 consecutive days. No ordinance
- 47 adopted pursuant to this subsection shall apply to any lease or
- 48 occupancy which results from a tenant holding over at the

1 expiration or early termination of a lease with an original term in
2 excess of 175 consecutive days, regardless of whether the holdover
3 is month-to-month or for some other term of less than 175
4 consecutive days; and

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

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

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

43
44 2. This act shall take effect immediately and shall be
45 retroactive to August 6, 2015; provided, however, that a
46 municipality shall not collect fees authorized by section 1 of this act
47 or refund fees collected by the municipality for property licensed
48 prior to the effective date of this act.

STATEMENT

This bill would expand the authority of a municipality to inspect, license, and regulate the rental of residential real property. Under current law, a municipality has the authority to license and regulate commercial and residential leases of less than 175 days. This bill would authorize municipalities to inspect, license, and regulate rentals of residential real property regardless of the duration of the lease agreement.

The power of a municipality to license and regulate residential rental property under this bill includes the power to inspect rental property as a condition of licensure. Under the bill, a municipality cannot inspect residential rental property more than once per calendar year, except when prompted by complaints, evidence of code violations, or patently unsound conditions on the property. In addition, the bill would require property owners to register the property with the municipality at the time the municipality issues a license. Under the bill, no additional registration will be required for a licensed property for which a registration certificate with current ownership information has been filed with either the clerk of the municipality or, in the case of a multiple dwelling, with the Bureau of Housing Inspection in the Department of Community Affairs. The municipality would have the authority to charge fees for the license, but the fees must be dedicated to meeting the costs of implementing and enforcing the licensing scheme and cannot be used for any other purpose.

This bill would be effective immediately and retroactive to August 6, 2015. The bill, however, would prohibit municipalities from collecting fees for licenses issued prior to the effective date of this bill, which the municipality has not yet collected. Municipalities would not be responsible for returning any fees collected prior to the effective date of this bill.