

ASSEMBLY, No. 3502

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 25, 2020

Sponsored by:

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

Assemblywoman ELIANA PINTOR MARIN

District 29 (Essex)

SYNOPSIS

Strengthens provisions of child-protection window guard law.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning child-protection window guards and amending
2 P.L.1995, c.120.

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.1995, c.120 (C.55:13A-7.13) is amended to
8 read as follows:

9 2. a. (1) Except as provided in subsection b. of this section, the
10 owner, lessor, agent or other person who manages or controls a
11 multiple dwelling, other than a multiple dwelling which is part of a
12 common interest community, shall **【**, upon the written request of a
13 tenant of a **】** provide, install, and maintain approved child-protection
14 window guards on the windows of each rental unit in which a child
15 or children 10 years of age or under reside or will reside or are
16 regularly present for a substantial period of time, and shall provide,
17 install, and maintain approved child-protection window guards on
18 the windows **【**of the dwelling unit and on any windows**】** in the
19 public halls of a multiple dwelling in which any child or children of
20 such age reside or are regularly present for a substantial period of
21 time.

22 (2) (a) Except as provided in subsection b. of this section, the
23 owner, lessor, agent or other person who controls a unit of dwelling
24 space in a multiple dwelling within a common interest community
25 **【**, upon the written request of a tenant of a **】** shall provide, install,
26 and maintain approved child-protection window guards on the
27 windows of each rental unit **【**in which**】** if a child or children 10
28 years of age or under reside or will reside or are regularly present
29 for a substantial period of time **【**, shall provide, install and maintain
30 child-protection window guards on the windows of the unit**】**.

31 (b) The owner, lessor, agent or other person who controls a unit
32 of dwelling space in a multiple dwelling within a common interest
33 community shall provide written notice to the unit owners'
34 association whenever a **【**tenant of a unit, in which a**】** child or
35 children 10 years of age or under reside or will reside or are
36 regularly present for a substantial period of time, **【**has requested**】** to
37 inform the association that child-protection window guards are
38 required to be provided, installed, and maintained on the windows
39 in the common areas of the common interest community.

40 (3) (a) Except as provided in subsection b. of this section, upon
41 receiving the written **【**request**】** notice of an owner, lessor, agent, or
42 other person who controls a unit of dwelling space in a multiple
43 dwelling within a common interest community, or an occupant of a
44 dwelling unit of a multiple dwelling within a common interest

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 community, **【in which dwelling unit】** or upon receiving notice that
2 a child or children 10 years of age or under reside or will reside or
3 are regularly present for a substantial period of time within the
4 common interest community, the unit owners' association shall
5 provide, install, and maintain approved child-protection window
6 guards on the windows which are determined to be in common
7 areas of the **【community property】** common interest community
8 and maintained by the association.

9 (b) A unit owners' association shall not adopt or seek to enforce
10 any restrictions or architectural controls which would prohibit or
11 impede the installation of a window guard in compliance with
12 P.L.1995, c.120 (C.55:13A-7.12 et seq.).

13 b. (1) The requirements of subsection a. of this section shall
14 apply to all windows, except those windows which give access to a
15 fire escape, which are not designed to open, or which are on the
16 first floor and are a required means of emergency egress from the
17 dwelling unit; provided, however, that the requirements of
18 subsection a. of this section shall apply to first floor windows in
19 such circumstances as the commissioner may provide by rule.

20 (2) **【The requirements of subsection a. of this section shall not**
21 **apply to seasonal rental units. "Seasonal rental unit" means a**
22 **dwelling unit rented for a term of not more than 125 consecutive**
23 **days for residential purposes by a person having a permanent**
24 **residence elsewhere, but shall not include use or rental of living**
25 **quarters by migrant, temporary or seasonal workers in connection**
26 **with any work or place where work is being performed. The owner,**
27 **lessor, agent or other person who controls a dwelling unit shall have**
28 **the burden of proving that the rental is seasonal.】** (Deleted by
29 amendment, P.L. , c.) (pending before the Legislature as this bill)

30 (3) (a) The requirements of subsection a. of this section shall
31 not apply to a unit of dwelling space during the period of time the
32 unit is occupied by a tenant who has waived, in writing, the right to
33 have the owner, lessor, agent, or other person who controls the unit
34 of dwelling space provide, install, and maintain child-protection
35 window guards.

36 (b) A tenant who has waived the right to have the owner, lessor,
37 agent, or other person who controls the unit of dwelling space
38 provide, install, and maintain child-protection window guards may
39 rescind the waiver by delivering a written notice to the owner,
40 lessor, agent, or other person who controls the unit of dwelling
41 space requesting the installation of window guards.

42 (c) The requirements of subsection a. of this section shall apply
43 to the common areas of a common interest community whenever the
44 unit owners' association has received notice that a child or children
45 10 years of age or under reside or will reside or are regularly
46 present for a substantial period of time within the common interest
47 community.

1 c. Any child-protection window guard installed pursuant to
2 P.L.1995, c.120 (C.55:13A-7.12 et seq.) shall conform to the
3 requirements of the State Uniform Construction Code with respect
4 to means of emergency egress, and a window guard installed on an
5 emergency egress window shall be releasable or removable from the
6 inside without use of a key, tool or excessive force. Window
7 guards installed on all other windows shall be designed,
8 constructed, and installed so that they may not deliberately or
9 through accident, ignorance or inadvertence, be removed, opened,
10 or dislodged without the use of a key or tool.

11 d. (1) Upon installation of a child-protection window guard in a
12 dwelling unit, and annually thereafter, the owner, lessor, agent or
13 other person who manages and controls that dwelling unit shall
14 provide the tenant with an orientation concerning the safe use and
15 manipulation of window guards in accordance with guidelines
16 established by the Commissioner of Community Affairs pursuant to
17 section 5 of P.L.1995, c.120 (C.55:13A-7.16).

18 (2) Upon installation of a child-protection window guard in the
19 common areas of a multiple dwelling, and annually thereafter, the
20 owner, lessor, unit owners' association, agent or other person who
21 manages and controls the common areas of the multiple dwelling
22 shall provide the occupants of the multiple dwelling with an
23 orientation concerning the safe use and manipulation of window
24 guards in accordance with guidelines established by the
25 Commissioner of Community Affairs pursuant to section 5 of
26 P.L.1995, c.120 (C.55:13A-7.16).

27 e. (1) **【At least twice annually】** Semi-annually, once between
28 February 1 and May 1 and once between September 1 and
29 December 1, the owner, lessor, unit owners' association, agent or
30 other person who manages and controls a unit of dwelling space in a
31 multiple dwelling, the common areas of the multiple dwelling, or
32 both, in which child protection window guards have been installed,
33 shall inspect each **【such】** window guard under their control to
34 ensure that **【it】** each window guard remains sound and in
35 conformance with the provisions of P.L.1995, c.120 (C.55:13A-7.12
36 et seq.) **【, and】**.

37 (2) The owner, lessor, unit owners' association, agent or other
38 person who manages and controls a unit of dwelling space in a
39 multiple dwelling, the common areas of the multiple dwelling, or
40 both, shall enter a record of **【such】** each inspection in a log, which
41 shall be maintained as a permanent record so long as the window
42 guard remains installed, and for five years thereafter, and which
43 shall be available upon request to the department or its duly
44 authorized representative.

45 f. (1) A tenant or unit owner may file a complaint with the
46 commissioner for the failure to comply with the provisions of
47 P.L.1995, c.120 (C.55:13A-7.12 et seq.). The commissioner shall

1 investigate complaints within a reasonable time period. The
2 commissioner may impose penalties authorized under the "Hotel
3 and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.)
4 for violations concerning the installation of child-protection
5 window guards and may institute a criminal complaint for a repeat
6 conviction after the imposition of a \$5,000 civil penalty for a
7 continuing violation pursuant to section 19 of P.L.1967, c.76
8 (C.55:13A-19).

9 (2) (a) Failure to provide, install, or maintain an approved
10 child-protection window guard as required under this section is
11 hereby declared to constitute a nuisance and a condition dangerous
12 to life and health.

13 (b) A person required to provide, install, and maintain an
14 approved child-protection window guard pursuant to this section
15 shall abate a nuisance by providing, installing, and maintaining
16 child-protection window guards as required pursuant to this section.

17 (c) Whenever a nuisance or condition is found to exist in
18 violation of this section, the department may order the person or
19 persons obligated to provide, install, and maintain child-protection
20 window guards to do so. In the event an order is not complied with
21 within five days after service of the order, the department may
22 execute the order and shall be entitled to reimbursement of
23 expenses incurred thereby.

24 g. To the extent that a violation of P.L.1995, c.120 (C.55:13A-
25 7.12 et seq.) has occurred within a rental unit in a common interest
26 community, such violation shall be noticed to, and resultant
27 penalties imposed upon, the unit owner of such rental unit **【and not**
28 **the unit owners' association】**.

29 h. To the extent that a violation of P.L.1995, c.120 (C.55:13A-
30 7.12 et seq.) has occurred within the common areas of a common
31 interest community, such violation shall be noticed to, and resultant
32 penalties imposed upon, the unit owners' association.
33 (cf: P.L.2006, c.55, s.2)
34

35 2. Section 3 of P.L.1995, c.120 (C.55:13A-7.14) is amended to
36 read as follows:

37 3. a. (1) All leases offered to tenants in multiple dwellings
38 shall contain, as a rider to the lease, a notice, **【conspicuously set**
39 forth therein in prominent **】** in the form prepared by the department,
40 informing the tenant of the requirements concerning the installation
41 of window guards. The notice shall be printed in not less than 12
42 point type, underlined, and, as provided in paragraph (3) of this
43 subsection, in boldface type **【**, advising tenants and prospective
44 tenants of the availability of window guards under P.L.1995, c.120
45 (C.55:13A-7.12 et seq.) and the need for a tenant to request in
46 writing the installation of window guards. In the case of a
47 cooperative, as defined in P.L.1987, c.381 (C.46:8D-1 et seq.),

1 formed prior to the effective date of P.L.2006, c.55 (C.55:13A-
2 7.12a et al.), the notice required by this subsection shall not be
3 required in proprietary leases】.

4 (2) The notice shall be separately signed and dated by the tenant
5 who signed the lease indicating clearly whether a child 10 years of
6 age or under is, or will be, residing in the leased premises.

7 (3) The department shall prepare forms of the notice required
8 under this subsection in English and in Spanish, and make the forms
9 available on the department's website for download and printing.
10 The notice forms shall provide the following content:

11
12 **WINDOW GUARDS REQUIREMENT**

13
14 **LEASE NOTICE TO TENANT**

15
16 **If a child 10 years of age or younger lives in your apartment,**
17 **you are required by law to have window guards installed or**
18 **indicate in writing that you do not want window guards**
19 **installed.**

20
21 **Your Landlord is required by law to install window guards in**
22 **your apartment:**

23
24 **• if you ask your landlord to put in window guards at any time (you**
25 **need not give a reason)**

26
27 **OR**

28
29 **• if a child 10 years of age or younger lives in your apartment,**
30 **unless you indicate in writing that you do not want window**
31 **guards installed.**

32
33 **It is a violation of law to interfere with installation of window**
34 **guards or remove window guards yourself.**

35
36 **CHECK ONE**

37
38 **☐ A CHILD 10 YEARS OF AGE OR YOUNGER LIVES IN MY**
39 **APARTMENT AND I WANT WINDOW GUARDS**

40
41 **☐ A CHILD 10 YEARS OF AGE OR YOUNGER LIVES IN MY**
42 **APARTMENT AND I DO NOT WANT WINDOW GUARDS**

43
44 **☐ NO CHILDREN 10 YEARS OF AGE OR YOUNGER LIVE IN**
45 **MY APARTMENT AND I WANT WINDOW GUARDS**

1 ☐ NO CHILDREN 10 YEARS OF AGE OR YOUNGER LIVE IN
2 MY APARTMENT AND I DO NOT WANT WINDOW
3 GUARDS

4
5
6 _____
7 TENANT (PRINT)

8
9 _____
10 TENANT SIGNATURE DATE

11
12
13 _____
14 Tenant's Address

15
16 FOR FURTHER INFORMATION CALL:
17
18 New Jersey Department of Community Affairs
19 Bureau of Housing Inspection
20 101 South Broad Street
21 PO Box 800
22 Trenton, New Jersey 08625-0800
23 609-633-6216

24
25 b. (1) **【At the time of lease signing,】** (a) Except as otherwise
26 provided in subparagraph (c) of this paragraph, each year, no earlier
27 than January 1 and no later than January 16, and within 30 days of a
28 change in occupancy not involving a written lease, the owner,
29 lessor, agent, or other person who manages or controls a unit of
30 dwelling space in a multiple dwelling shall 【verbally inform the
31 tenant of the tenant's right to request the installation of window
32 guards under P.L.1995, c.120 (C.55:13A-7.12 et seq.)】 deliver to
33 each dwelling unit a notice, in the form prepared by the department
34 pursuant to this paragraph, informing the tenant of the requirements
35 concerning the installation of window guards.

36 (b) The notice shall be printed in not less than 12 point type,
37 underlined, and, as provided in subparagraph (d) of this paragraph,
38 in boldface type. 【Verification that this verbal notice was provided
39 and understood shall be set forth. in a written document, aside from
40 the lease document itself, which written document shall
41 acknowledge that the tenant was made aware of the right to request
42 the installation of window guards and which shall be signed by both
43 the tenant and the owner, lessor, agent or other person who manages
44 or controls the unit of dwelling space.】 The owner, lessor, agent, or
45 other person who manages or controls a unit of dwelling space in a
46 multiple dwelling shall deliver the notice by:

47 (i) first class mail addressed to the tenant at the dwelling unit;

1 (ii) hand delivery to the tenant at the dwelling unit;

2 (iii) enclosure with the rent bill, in which case, the notice may
3 be delivered at the time the rent bill for the month of January is
4 delivered; or

5 (iv) electronic means, if the applicable written lease provides
6 that the owner, lessor, agent, or other person who manages or
7 controls a unit of dwelling space in a multiple dwelling may deliver
8 official notices to the tenant by electronic means.

9 (c) The owner, lessor, agent, or other person who manages or
10 controls a unit of dwelling space in a multiple dwelling shall not be
11 required to deliver the notice required under this paragraph to a
12 tenant if the tenant has signed and dated the notice required under
13 subsection a. of this section on or after August 1 of the immediately
14 previous year.

15 (d) The department shall prepare forms of the notice required
16 under this subsection in English and in Spanish, and make the forms
17 available on the department's website for download and printing.
18 The notice forms shall provide the following content:

19
20 DEPARTMENT OF COMMUNITY AFFAIRS

21 STATE OF NEW JERSEY

22 NOTICE TO TENANT OR OCCUPANT
23

24 **Annual Notice – Window Guards**

25
26 New Jersey law requires that tenants living in buildings with 3 or
27 more apartments complete this form and return it to their landlord
28 before **February 15**, each year. **If you do not return this form,**
29 **your landlord is required to go to your apartment and ask you**
30 **to complete and return this form.**

31
32 **By law,** your landlord must install window guards in your
33 apartment, unless you indicate in writing that you do not want
34 window guards installed.

35
36 **By law,** your landlord must install window guards in your
37 apartment if you request them, even if no children live with you.

38
39 • **It is against the law** to interfere with installation of window
40 guards, or remove window guards yourself. Air conditioners in
41 windows must be securely installed.

42
43 • Window guards must be installed so there is no space greater than
44 4 inches above or below the guard, on the side of the guard, or
45 between the bars.

- 1 • ONLY windows that open to fire escapes, and one window in each
2 first floor apartment which is an emergency exit from the
3 apartment, are legally exempt from this requirement.
4

5 Please check all boxes that apply:
6

7 **A child 10 years of age or younger lives in my apartment and:**
8

9 ☐ Window guards are installed in all windows as required.
10

11 ☐ Window guards need repair.
12

13 ☐ Window guards are NOT installed in all windows as required.

14 ☐ I do not want window guards installed.
15

16 **No children 10 years of age or younger live in my apartment**
17 **and:**
18

19 ☐ I want window guards installed anyway.
20

21 ☐ I have window guards, but they need repair.
22

23 Tenant's Name:

24 (Print)(Address/Apt. No.)

25 Date:

26 (Signature)
27

28 RETURN THIS FORM TO (NAME AND ADDRESS OF
29 OWNER OR MANAGING AGENT)
30

31 FOR FURTHER INFORMATION CALL:
32

33 New Jersey Department of Community Affairs

34 Bureau of Housing Inspection

35 101 South Broad Street

36 PO Box 800

37 Trenton, New Jersey 08625-0800

38 (609) 633-6216
39

40 (2) (a) **【**The owner, lessor, agent or other person who manages
41 or controls a multiple dwelling unit or a rental unit within a
42 common interest community shall cause to be delivered to each
43 dwelling unit so managed or controlled, twice annually, a notice, in
44 form and manner prescribed by the commissioner, advising
45 occupants of the obligation of the said owner, lessor, agent or other
46 person to install child-protection window guards pursuant to section
47 2 of P.L.1995, c.120 (C.55:13A-7.13). For the purposes of this
48 section, an owner of a rental unit located within a common interest

1 community, and not the unit owners' association, shall be deemed to
2 be the managing agent of that rental unit. A lease provision
3 notifying a tenant of the availability of window guards may satisfy
4 one of the notice requirements of this subparagraph.】 If by
5 February 15th of the year for which the notice was sent, an owner,
6 lessor, agent, or other person who manages or controls a unit of
7 dwelling space in a multiple dwelling does not have a written
8 communication signed by the tenant, and does not otherwise have
9 actual knowledge of the need or desire for window guards, then the
10 person shall, at a reasonable time, go to the dwelling unit and ask
11 the tenant whether a child 10 years of age or younger resides in the
12 dwelling and if so, inform the tenant that State law requires the
13 installation of window guards unless the tenant indicates in writing
14 not to install window guards.

15 (b) 【The owner, lessor, unit owners' association, agent or other
16 person who manages or controls the common areas of a multiple
17 dwelling shall cause to be delivered to each dwelling unit, twice
18 annually, a notice, in form and manner prescribed by the
19 commissioner, advising occupants of the obligation of the said
20 owner, lessor, unit owners' association, agent or other person to
21 install child-protection window guards pursuant to section 2 of
22 P.L.1995, c.120 (C.55:13A-7.13). A lease provision notifying a
23 tenant of the availability of window guards may satisfy one of the
24 notice requirements of this subparagraph.】 If by March 1 an owner,
25 lessor, agent, or other person who manages or controls a unit of
26 dwelling space in a multiple dwelling who has fully complied with
27 this section has been unable to ascertain the need or desire for
28 window guards in a dwelling unit or units, then the person shall
29 notify, in writing, the Bureau of Housing Inspection in the
30 Department of Community Affairs for the purpose of requesting
31 assistance in regard to further compliance. The written notice shall
32 provide the name and telephone number of the person, inform the
33 bureau of the person's inability to ascertain the need or desire for
34 window guards in the dwelling unit or units, and describe the efforts
35 undertaken by the person to comply with this section.

36 (3) The owner, lessor, unit owners' association, agent or other
37 person who manages or controls the common areas of a multiple
38 dwelling shall cause to be conspicuously posted and prominently
39 displayed in the common areas of that multiple dwelling a notice
40 advising the occupants of the obligation of the owner, lessor, unit
41 owners' association, agent or other person to install child-protection
42 window guards pursuant to section 2 of P.L.1995, c.120 (C.55:13A-
43 7.13) and advising tenants to check 【their】 window guards on a
44 regular basis and to report any problems or concerns to the owner,
45 lessor, unit owners' association, agent or other person who manages
46 or controls the dwelling unit or the common areas of the multiple
47 dwelling, as may be applicable.

1 c. Notwithstanding any municipal ordinance to the contrary,
2 expenditures not exceeding \$20 per window guard installed in a
3 dwelling unit that are made pursuant to P.L.1995, c.120 (C.55:13A-
4 7.12 et seq.) may be passed on to the tenant **【who requested**
5 **installation of the window guard】**. The commissioner shall adjust
6 the amount per window guard that may be passed on to a tenant
7 pursuant to this subsection no more frequently than once every 36
8 months, as the commissioner deems appropriate, to reflect the
9 cumulative increases or decreases in the components of the
10 Consumer Price Index, All Urban Consumers (CPI-U) for the
11 Northeast Region, and the adjusted amount shall apply to window
12 guards installed at least 90 days after the effective date of the
13 adjustment.

14 (cf: P.L.2006, c.55, s.3)

15
16 3. This act shall take effect on the first day of the fourth month
17 next following the date of enactment, except the commissioner may
18 take any anticipatory administrative action in advance as shall be
19 necessary for the implementation of this act.

20 21 22 STATEMENT

23
24 This bill would amend the law governing the requirements to
25 install and maintain child-protection window guards. This bill was,
26 unfortunately, motivated by reports of a four-year-old boy who fell
27 to his death through an apartment window that did not have window
28 guards installed. Although current law requires landlords to install
29 window guards upon the request of a tenant of an apartment unit
30 where a child 10 years of age or younger resides, greater protections
31 for small children are necessary. The bill would replace the current
32 “opt-in” system with a system requiring landlords to install window
33 guards in apartments of tenants with children unless the tenant
34 “opts-out” of the window guard requirement.

35 New Jersey law currently provides that leases must contain a
36 notice advising tenants that, upon written request by the tenant, the
37 owner is required to provide, install, and maintain window guards
38 in dwelling units with children 10 years of age or younger. This bill
39 would require landlords to install window guards in any apartment
40 in which a child 10 years of age or younger resides, and in
41 apartments where the tenant requests window guards, even if a child
42 10 years of age or younger does not reside in the apartment.
43 However, the bill allows tenants with children to waive the right to
44 have their landlords install window guards in their apartments.

45 The bill requires landlords to provide each tenant with a form at
46 the time of signing a lease, and annually thereafter, informing the
47 tenant of the landlord’s obligation to install and maintain window
48 guards, and of the ability of the tenant to waive the right to have the

1 landlord install window guards in the tenant's apartment. The bill
2 requires the Department of Community Affairs to prepare forms for
3 this purpose in English and Spanish, and to make the forms
4 available on the department's website. Under the bill, if a tenant
5 waives the right to have the landlord install window guards, the
6 tenant can later change his or her mind by providing the landlord a
7 written notice requesting window guards.

8 Current law requires landlords to inspect window guards at least
9 twice a year to ensure that each window guard remains sound and
10 conforms with legal requirements. The bill specifies that landlords
11 must inspect window guards once between February 1 and May 1
12 and once between September 1 and December 1.

13 Current law excepts first floor windows from window guard
14 requirements. The bill would require the installation of window
15 guards in first floor apartment windows unless the window is a
16 required means of egress from the apartment.

17 The New Jersey window guard law does not currently apply to
18 seasonal rental units. The bill will end that exception. Current law
19 allows a landlord to charge a tenant no more than \$20 for each
20 window guard installed in a tenant's apartment. The bill retains the
21 reimbursement provision, however, requires the commissioner to
22 adjust the amount per window guard that may be passed on to a
23 tenant no more frequently than once every 36 months to account for
24 inflation.