ASSEMBLY, No. 3528

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 25, 2020

Sponsored by:
Assemblyman RAJ MUKHERJI
District 33 (Hudson)

SYNOPSIS

Prohibits landlord from considering certain actions in tenant screening; clarifies that rent receivership action does not require rent deposit and may be based on implied warranty of habitability.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning residential tenant protections, supplementing chapter 42 of Title 2A of the New Jersey Statutes, and amending P.L.1971, c.224.

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

1. (New section) a. When evaluating a prospective residential tenant, a landlord shall not consider a housing court record unless:

(1) the applicable case resulted in a judgment for possession;

(2) the decision in the case is not under appeal; and

(3) the judgment for possession was entered no more than three years prior to the prospective tenant's rental application.

b. If a landlord rejects a rental application from a prospective tenant, approves a rental application with conditions that exceed reasonable conditions routinely imposed upon a prospective tenant, or takes any other adverse action on a rental application, the landlord shall provide a written notice of the adverse action to the prospective tenant that states the reasons for the adverse action. The adverse action notice shall disclose any screening information about the prospective tenant accessed by the landlord, and shall append any screening report or documentation about the prospective tenant that was accessed by the landlord.

c. A landlord who violates subsection a. or b. of this section shall, in addition to any other penalty provided by law, be liable for a penalty of not less than $1,000 for the first offense, and not less than $5,000 for the second and each subsequent offense, plus reasonable attorney fees.

d. As used in this section, "housing court record" means any record containing information regarding a past or current action brought by or against a landlord or tenant in the Superior Court, Law Division, Special Civil Part, and any record of the filing of the action, including but not limited to:

(1) information maintained by a court in any form in connection with a case or judicial proceeding, including but not limited to pleadings, motions, briefs and their respective attachments, evidentiary exhibits, indices, calendars, and dockets;

(2) order, judgment, opinion, or decree related to a judicial proceeding;

(3) official transcript or recording of a public judicial proceeding, in any form;

(4) information in a computerized case management system created or prepared by the court in connection with a case or judicial proceeding; and

(5) record made or maintained by a judicial officer.

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 <u>thus</u> is new matter.

2. Section 3 of P.L.1971, c.224 (C.2A:42-87) is amended to read as follows:

3. A proceeding by a public officer, tenant, or tenants of a dwelling for a judgment directing the deposit of rents into court and their use for the purpose of remedying conditions in substantial violation of the standards of fitness for human habitation established under the State or local housing codes or regulations or the implied warranty of habitability, or a proceeding by a public officer, a tenant whose utility service has been diverted or a utility company for a judgment directing the deposit of rents into court and their use for correcting any wrongful diversion of utility service in a dwelling may be maintained in a court of competent jurisdiction. The place of trial of the proceeding shall be within the county in which the real property or a portion thereof from which the rents issue is situated. In cases involving real property located in municipalities in counties of the first class that have established full-time municipal housing courts, the proceedings may be brought in the municipal housing court of the municipality in which the property is located.

(cf: P.L.1986, c.125, s.4)

3. Section 4 of P.L.1971, c.224 (C.2A:42-88) is amended to read as follows:

4. a. The public officer or any tenant occupying a dwelling may maintain a proceeding as provided in **[**this act**]** P.L.1971, c.224 (C.2A:42-85 et seq.), upon the grounds that there exists in such dwellings or in housing space thereof a lack of heat or of running water or of light or of electricity or of adequate sewage disposal facilities, or any other condition or conditions in substantial violation of the standards of fitness for human habitation established under the State or local housing or health codes or regulations or the implied warranty of habitability, or any other condition dangerous to life, health or safety.

b. A public officer, a tenant whose utility service has been diverted or a utility company providing electric, gas or water utility service to a dwelling may maintain a proceeding as provided in **[**this act**]** P.L.1971, c.224 (C.2A:42-85 et seq.) upon the grounds (1) that there exists in these dwellings or in housing space thereof a wrongful diversion of electric, gas or water utility service by the owner or owners or other party from a tenant of the dwelling without the consent of the tenant, or the use by the owner or other party in the dwelling without the tenant's consent of electric, gas or water utility service that is being charged to the tenant, and (2) that the owner has been notified by either a public officer, a tenant whose utility service has been diverted or a utility company of the wrongful diversion or unconsented use by certified mail and has failed to take necessary action to correct or eliminate the wrongful diversion or unconsented use within 30 days of receipt of such

notice. If an owner fails or refuses to accept a notice sent by certified mail, the date of receipt shall be deemed to be the third day after mailing, provided the notice was sent to the owner at an address to which the owner's utility bills or municipal tax bills are sent.

(cf: P.L.1985, c.411, s.4)

4. Section 5 of P.L.1971, c.224 (C.2A:42-89) is amended to read as follows:

5. a. A proceeding prescribed by **[**this act**]** P.L.1971, c.224 (C.2A:42-85 et seq.) shall be commenced by the service of a petition and notice of a petition. A notice of petition may be issued only by a judge or a clerk of the court.

b. Notice of the proceeding shall be given to the nonpetitioning tenant occupying the dwelling by affixing a copy of the petition upon a conspicuous part of the subject dwelling.

c. A deposit of rent shall not be required to commence a proceeding prescribed by P.L.1971, c.224 (C.2A:42-85 et seq.).

(cf: P.L.1971, c.224, s.5)

5. Section 6 of P.L.1971, c.224 (C.2A:42-90) is amended to read as follows:

6. The petition shall:

a. Set forth material facts showing that there exists in such dwelling or any housing space thereof one or more of the following: (1) a lack of heat or of running water or of light or electricity or of adequate sewage disposal facilities; (2) a wrongful diversion of electric, gas, or water utility service by the owner or other party from the tenant of the dwelling without the consent of the tenant; (3) the use by the owner or other party in the dwelling without the tenant's consent of electric, gas, or water utility service that is being charged to the tenant; (4) any other condition or conditions in substantial violation of the standards of fitness for human habitation established under the State or local housing or health codes or regulations or the implied warranty of habitability; or (5) any other condition dangerous to life, health or safety.

b. Set forth that the facts shown in subsection a. of this section have been brought to the attention of the owner or any individual designated by him as the manager of said dwelling and that he has failed to take any action thereon within a reasonable period.

c. Set forth that the petitioner is a tenant of the subject dwelling or is the public officer of the municipality in which the subject dwelling is located, or, in a case involving wrongful diversion or unconsented use of utility services, that the petitioner is a public officer, a tenant whose utility service has been wrongfully diverted or a utility company providing utility services to the dwelling.

d. Set forth a brief description of the nature of the work required to remove or remedy the condition and an estimate as to the cost thereof.

e. Set forth the amount of rent due from each petitioning tenant, if any, monthly.

f. State the relief sought.

(cf: P.L.1985, c.411, s.5)

6. This act shall take effect immediately.

STATEMENT

This bill would prohibit a landlord from considering certain landlord-tenant case histories when screening tenants. The bill also would clarify that tenants may pursue a rent receivership action against a landlord without first having to make a rent deposit with the court and that the action may be made on the ground that the implied warranty of habitability has been violated. These measures would serve to protect prospective tenants from being unfairly turned away from rental housing due to prior landlord-tenant case histories, and would make it easier for tenants to pursue relief in the courts if the rental housing is not fit for habitation.

With respect to tenant screening, the bill provides that a landlord may not consider a landlord-tenant court record unless: (1) the case resulted in a judgment for possession; (2) the decision in the case is not under appeal; and (3) the judgment for possession was entered no more than three years prior to the prospective tenant's rental application. If a landlord takes any adverse action on a rental application, the landlord would be required to provide a written notice of the adverse action to the prospective tenant that states the reasons for the adverse action, and the notice would have to disclose and contain any screening information about the prospective tenant accessed by the landlord. A landlord that violates either of these provisions of the bill would be liable for a penalty of not less than $1,000 for the first offense, and not less than $5,000 for the second and each subsequent offense.

With respect to rent receivership actions, the bill clarifies that a tenant is not required to place a rent deposit with a court in order to initiate the action. The bill also would make explicit that this action may be based on a claim that the implied warranty of habitability has been violated. The implied warranty of habitability is a court-created doctrine that requires a landlord to ensure rental housing is fit for human habitation and for the uses reasonably intended by the parties, and that the occupants are not subject to conditions that are dangerous, hazardous, or detrimental to their life, health, or safety.