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STATE OF NEW JERSEY

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Sponsored by:
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District 28 (Essex)

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SYNOPSIS

Establishes procedures to prevent and eradicate bedbug infestations in certain residential property.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 10/22/2020)

AN ACT concerning bedbug infestations in residential dwellings and supplementing and amending Title 26 of the Revised Statutes.

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

1. (New section) The Legislature finds and declares that:

a. Populations of the common bedbug, Cimex lectularius, have increased by 500 percent in the past few years.

b. A bedbug infestation is a uniquely hard to exterminate threat to the health and habitability of a dwelling because tiny adult bedbugs are able to hide deep in mattresses and walls, and their food source is the occupants of a dwelling.

c. Bedbugs leave signs of their presence in bedding and in a dwelling that are visible to the naked eye, making education of a dwelling occupant a critical aspect of prevention.

d. Bedbugs feed on the blood of humans and domestic animals, and present a public welfare risk.

e. Bedbugs travel through the ventilation systems in multi-unit establishments, causing the presence of bedbugs in exponential numbers.

f. The owner of a multiple dwelling , with the cooperation of tenants, is in the best position to coordinate the extermination of bedbug populations in that multiple dwelling.

g. The common bedbug is a public nuisance and it is a matter of public welfare to protect New Jersey citizens' health from this pest.

h. Tenants of multiple dwellings should be educated and vigilant about preventing the presence of bedbugs in their homes.

2. (New section) For purposes of this act:

"Bedbug" means an insect of the species "Cimex lectularius," commonly referred to as a bedbug.

"Commissioner" means the Commissioner of Health.

"Common interest community" means a horizontal property regime, condominium, cooperative, or mutual housing corporation in which some of the property, known as common elements or common areas, is owned as tenants-in-common or otherwise owned by all of the property owners.

"Department" means the Department of Health.

"Dwelling" or "multiple dwelling" means a multiple dwelling as defined in section 3 of the "Hotel and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-3), except that this definition shall not include any common interest community.

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.

"Eradicate" means the process that shall be undertaken by a commercial pesticide applicator, licensed pursuant to the "Pesticide Control Act of 1971," P.L.1971, c.176 (C.13:1F-1 et seq.) and the rules and regulations promulgated by the New Jersey Department of Environmental Protection to effectuate that act, to eliminate the presence of bedbugs by poisoning, spraying, fumigating, trapping, or by any other recognized and lawful pest-elimination methods, including repeated applications of any treatment, particularly to areas where bedbugs are likely to congregate. An eradication shall be deemed completed if there has been no evidence of bedbug activity for 50 days after the last application of any treatment.

"Local board" or "local board of health" means the board of health of any municipality or the boards, bodies or officers in such municipality lawfully exercising any of the powers of a local board of health under the laws governing such municipality.

"Local health officer" means any duly appointed health officer employed by the local board of health as described in R.S.26:3-19.

"Owner" means the owner as defined in section 3 of the "Hotel and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-3), except that this definition shall not include any ownership interest in any common interest community.

"Risk factors" means tenant behaviors that increase the possibility of the presence of bedbugs in a unit and include, but are not limited to, living with a domestic pet, furnishing with older furniture that has not been properly sanitized, and travel to tropical climates without proper precautions.

"Seasonal use" means use or rental of a unit for a term of not more than 125 consecutive days for residential purposes by a person having a permanent place of residence elsewhere. "Seasonal use" does not mean use or rental of living quarters for seasonal, temporary or migrant farm workers in connection with any work or place where work is being performed. The owner shall have the burden of proving that the use or rental of the residential property is seasonal.

3. (New section) a. The department, in consultation with the Department of Community Affairs, shall, as soon as practicable and annually thereafter, prepare a pamphlet that describes bedbugs and explains how the presence of bedbugs spreads. This pamphlet may contain any information that the commissioner deems necessary and may be revised by the department whenever new information concerning bedbugs becomes available. The pamphlet shall be included as an integral part of the Truth in Renting booklet published by the Department of Community Affairs, shall be provided by a landlord to a tenant, and posted on the rental

property, in accordance with section 4 of P.L.1975, c.310 (C.46:8-46), and shall contain the following information:

(1) Measures that may be taken to prevent and control the presence of bedbugs in a residential setting, including professional extermination, cleaning the dwelling space and mattresses, and laundering bedclothes, and clothing;

(2) Specific facts about the bedbug, including its appearance and breeding habits;

(3) The State's guidelines and regulations for disinfecting, labeling, and reselling mattresses;

(4) Tenant behaviors that are risk factors for attracting and supporting the presence of bedbugs; and

(5) A statement describing the legal rights and responsibilities imposed on tenants and owners of multiple dwellings by this act, including, but not limited to the owner's duty to keep the premises free of the presence of bedbugs, a tenant's duty to notify the owner of the presence of bedbugs, and the potential financial liability of a tenant for repeated eradications caused by either a failure to properly maintain the unit or for interfering with the owner's access to the unit for inspection or eradication purposes.

b. The pamphlet shall not be deemed to be medical advice.

c. The pamphlet shall contain, in a conspicuous form, the following statement:

"If you notice or suspect the presence of bedbugs in your unit, you are required by law to promptly notify the owner or manager of your unit. You may be responsible for the costs of exterminating bedbugs if you do not notify your owner or manager."

d. The pamphlet shall contain a separate written statement as follows:

"Upon reasonable notice, you must grant the owner of your apartment access to the apartment for purposes of an inspection for or the eradication of the presence of bedbugs. This inspection may include a visual inspection and manual inspection of your personal belongings, limited to bedding or furniture. If bedbugs are found in the unit, additional access and measures may be required. If you do not grant your landlord access for purposes of an inspection for or the eradication of the presence of bedbugs or if you obstruct access for purposes of visual inspection, your landlord may not be responsible for any costs and damages relating to and arising from bedbugs in your unit. You may also be responsible for the costs of repeated eradication of bedbugs if you fail to properly maintain your dwelling."

e. The pamphlet shall contain a separate written statement notifying the tenant that,

(1) upon termination of the lease and move out, the owner may inspect the unit for the presence of bedbugs, and

(2) The presence of bedbugs in the unit may constitute damages to the unit beyond normal wear and tear and actual eradication costs may be itemized and deducted from the tenant's security deposit pursuant to section of 3 of P.L.1971, c.223 (C.46:8-21.1).

4. (New section) a. Every owner of a multiple dwelling shall be responsible, at his own expense, for maintaining the multiple dwelling free of the presence of bedbugs except pursuant to section 7 of P.L. , c. (C.) (pending before the Legislature as this bill).

b. Any tenant who has knowledge of the presence of bedbugs, or who suspects the presence of bedbugs based on the presence of characteristic bite marks, shall notify the owner in writing of the presence of bedbugs in the dwelling unit.

c. Upon written notice from a tenant, or from the local board pursuant to R.S.26:3-49, of the presence of bedbugs in any dwelling unit, an owner shall, within 10 days following that written notice, at his own expense,

(1) begin the process of eradicating bedbugs in the dwelling unit;

(2) ascertain the presence of bedbugs in other dwelling units or common areas; and

(3) following written notice to the tenants of those units where bedbugs are present, eradicate any remaining presence of bedbugs in other dwelling units or common areas.

The provisions of this subsection to the contrary notwithstanding, an owner shall, within seven days following written notice to all affected tenants, at his own expense, eradicate the presence of bedbugs in a dwelling unit leased, occupied, or rented for seasonal use.

d. (1) When the owner of a multiple dwelling requires access to a unit for purposes of ascertaining the presence of bedbugs or eradicating the presence of bedbugs, the owner shall provide at least 48 hours' notice to the tenants, in writing, that the owner requires access for purposes of ascertaining or eradicating the presence of bedbugs.

(2) Upon reasonable notice pursuant to paragraph (1) of this subsection, a tenant shall grant an owner access to the affected unit for purposes of inspection or eradication. If the tenant, after receiving reasonable notice of an inspection or eradication pursuant to this subsection, interferes with, obstructs, or actively inhibits access to the unit for purposes of a visual inspection for, or eradication of, the presence of bedbugs, the owner shall not be liable to the tenant of the unit for any damages relating to and arising from the presence of bedbugs.

5. (New section) a. If the owner does not act, within 10 days, pursuant to section 4 of P.L. , c. (C.) (pending before the Legislature as this bill), the tenant may notify, in writing, the local board or local health officer of any failure of the multiple dwelling to be kept in a condition free of bedbugs.

b. If, following written notice from a tenant, or from the local board pursuant to R.S.26:3-49, or from the Department of Community Affairs, pursuant to an inspection conducted pursuant to section 7 of P.L.1967, c.76 (C.55:13A-7) the owner of a multiple dwelling does not eradicate the bedbugs pursuant to section 4 of P.L. , c. (C.) (pending before the Legislature as this bill), the local health officer shall act as an agent for the owner of a multiple dwelling to inspect for the presence of bedbugs and, if required, to engage a commercial pesticide applicator at a usual and customary price in the area to eradicate the bedbugs, within 10 days following written notice to all affected tenants, as described in subsection c. of section 4 of P.L. , c. (C.) (pending before the Legislature as this bill).

c. Any commercial pesticide applicator who provides services to eradicate the presence of bedbugs in accordance with subsection a. of this section may bill the owner of a multiple dwelling directly. The municipality or a local board may adopt an ordinance, similar to an ordinance adopted pursuant to section 6 of P.L.1962, c.66 (C.40:48-2.12f), providing that the municipality shall pay the costs of eradication of the presence of bedbugs, and that the costs shall be charged against the multiple dwelling premises, and may be a lien against the premises. In the event that a landlord fails to pay the costs pursuant to this section, the municipality or local board may serve written notice of the failure to pay, and shall demand that the deficiency be cured within 10 days. Judicial notice or hearing shall be required to enforce the lien. The owner of the multiple dwelling shall reimburse the local health officer or local board for the actual costs incurred for any eradication of the presence of bedbugs.

6. (New section) a. An owner shall visually inspect the unit no more than 30 days prior to the date a new lease term commences or a new tenant commences occupancy of a dwelling unit, except for a dwelling unit rented, occupied, or leased for seasonal use. The owner shall visually inspect any dwelling unit rented, occupied, or leased for seasonal use that has been unoccupied for 30 days or more prior to the date a new lease term commences or a new tenant commences occupancy of a dwelling unit. The owner shall include a provision in the lease certifying that the owner has visually inspected the dwelling unit for the presence of bedbugs.

b. An owner may visually inspect a dwelling unit for evidence of the presence of bedbugs when a tenant terminates occupancy of

the unit. If the owner ascertains the presence of bedbugs, of which the owner has not received notice pursuant to section 4 of P.L. , c. (C.) (pending before the Legislature as this bill), the presence of bedbugs may constitute damages to the unit beyond normal wear and tear, and the owner may itemize and deduct from the tenant's security deposit pursuant to section 3 of P.L.1971, c.223 (C.46:8-21.1), provided that the landlord has complied with the procedures set forth in section 4 of P.L.1975, c.310 (C.46:8-46).

c. The owner may also deduct from the security deposit any costs for eradication services for which the tenant is responsible pursuant to section 7 of P.L. , c. (C.) (pending before the Legislature as this bill) and that are due and owing to the landlord, provided that the landlord has complied with the procedures set forth in section 4 of P.L.1975, c.310 (C.46:8-46).

7. (New section) If repeated eradications are necessary due to the tenant's failure to properly maintain the dwelling, the costs of eradication may be charged to the tenant, provided that the landlord has complied with the procedures set forth in subsection c. of section 3 of P.L. , c. (C.) (pending before the Legislature as this bill).

8. (New section) a. Any owner of a multiple dwelling whose negligence or failure to act results in action by the local health officer pursuant to section 5 of P.L. , c. (C.) (pending before the Legislature as this bill) shall be liable for a civil penalty of not more than $300 for each affected dwelling unit and not more than $1000 for each affected common area in the multiple dwelling. Such penalty shall be recovered by and in the name of the local board of health, if one exists. If no local board exists, the penalty shall be paid into the treasury of the municipality in which the violation occurred for the general uses of the municipality.

b. The local board or local health officer may bring an action in a summary manner pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), and the Rules Governing the Courts of the State of New Jersey governing actions for the collection of civil penalties, in the municipal court or the Superior Court to recover a penalty imposed pursuant to subsection a. of this section. The court is empowered to issue any appropriate injunctive orders, and to authorize immediate collection of reimbursable costs due the local board.

9. (New section) The commissioner, in consultation with the Department of Community Affairs, pursuant to the "Administrative

Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate the purposes of this act.

10. R.S.26:3-46 is amended to read as follows:

26:3-46. The local board, within its jurisdiction, shall examine into and prohibit any nuisance, offensive matter, foul or noxious odors, gases or vapors, water in which mosquito larvae breed, and all causes of ill health or disease, including bedbugs, which may be known to the board or brought to its attention, which, in its opinion, are injurious to the health of the inhabitants therein, and shall cause the same to be removed and abated at the expense of the owner.

(cf: R.S.26:3-46)

11. R.S.26:3-49 is amended to read as follows:

26:3-49. Whenever any nuisance, noxious gases or vapors, water in which mosquito larvae breed, or cause of ill health or disease is found on private property, the local board shall notify the owner to remove and abate the same, at his own expense, within such time as the board may specify. A duplicate of the notice shall be left with one or more of the tenants or occupants. Whenever any infestation of bedbugs is found in a multiple dwelling, the local board shall notify the owner to eradicate the infestation, at his own expense, immediately.

If the owner resides out of the state or cannot be so notified speedily, a notice left at the house or premises with the tenant or occupant, or posted on the premises, shall suffice.

In the event that an owner does not eradicate an infestation of bedbugs immediately following notice pursuant to this section, the local board of health is authorized to act as an a agent for the landlord, pursuant to section 5 of P.L. , c. (C.), for purposes of eradicating the infestation.

(cf: R.S.26:3-49)

12. R.S.26:3-54 is amended to read as follows:

26:3-54. The local board may recover, by a civil action, the expenses incurred in such removal and abatement from any person who shall have caused or allowed such nuisance, source of foulness, water in which mosquito larvae breed, or cause of sickness, hazardous to the public health to exist, or from any owner, tenant, or occupant of premises who, after notice as herein provided, shall fail to remove and abate the same within the time specified in the notice. The local board may recover, by a civil action, the expenses incurred in eradication of an infestation of bedbugs, pursuant to section 5 of P.L. , c. (C.), from the owner of a

multiple dwelling who, after notice, failed to eradicate the infestation of bedbugs.

(cf: P.L.1953, c.26, s.14)

13. Section 7 of P.L.1967, c.76 (C.55:13A-7) is amended to read as follows:

7. The commissioner shall issue and promulgate, in the manner specified in section 8 of P.L.1967, c.76 (C.55:13A-8), such regulations as the commissioner may deem necessary to assure that any hotel or multiple dwelling will be maintained in such manner as is consistent with, and will protect, the health, safety and welfare of the occupants or intended occupants thereof, or of the public generally.

Any such regulations issued and promulgated by the commissioner pursuant to this section shall provide standards and specifications for such maintenance materials, methods and techniques, fire warning and extinguisher systems, elevator systems, emergency egresses, and such other protective equipment as the commissioner shall deem reasonably necessary to the health, safety and welfare of the occupants or intended occupants of any units of dwelling space in any hotel or multiple dwelling, including but not limited to:

(a) Structural adequacy ratings;

(b) Methods of egress, including fire escapes, outside fireproof stairways, independent stairways, and handrails, railings, brackets, braces and landing platforms thereon, additional stairways, and treads, winders, and risers thereof, entrances and ramps;

(c) Bulkheads and scuttles, partitions, walls, ceilings and floors;

(d) Garbage and refuse collection and disposal, cleaning and janitorial services, repairs, and extermination services;

(e) Electrical wiring and outlets, and paints and the composition thereof;

(f) Doors, and the manner of opening thereof;

(g) Transoms, windows, shafts and beams;

(h) Chimneys, flues and central heating units;

(i) Roofing and siding materials;

(j) Lots, yards, courts and garages, including the size and location thereof;

(k) Intakes, open ducts, offsets and recesses;

(l) Windows, including the size and height thereof;

(m) Rooms, including the area and height thereof, and the permissible number of occupants thereof;

(n) Stairwells, skylights and alcoves;

(o) Public halls, including the lighting and ventilation thereof;

(p) Accessory passages to rooms;

(q) Cellars, drainage and air space;

(r) Water-closets, bathrooms and sinks;

(s) Water connections, including the provision of drinking and hot and cold running water;

(t) Sewer connections, privies, cesspools, and private sewers;

(u) Rain water and drainage conductors;

(v) Entrances and ramps; **[**and**]**

(w) Presence of lead-based paint hazards in multiple dwellings and in single-family and two-family dwellings, exclusive of owner-occupied dwelling units, subject to P.L.2003, c.311 (C.52:27D-437.1 et al.). In a common interest community, any inspection fee for and violation found within a unit which is solely related to this subsection shall be the responsibility of the unit owner and not the homeowners' association, unless the association is the owner of the unit; and

(x) Presence of bedbugs, as defined in section 2 of P.L. , c. (C.) (pending before the Legislature as this bill), or the presence of other vermin and pests in multiple dwellings.

(cf: P.L.2007, c.251, s.5)

14. This act shall take effect immediately.

STATEMENT

This bill would require owners of multiple dwellings to maintain a safe and clean living environment free of the presence of bedbugs. This legislation provides that property owners are responsible for maintaining multiple dwellings free of bedbug infestations, and must remove bedbugs at their own expense when they become aware of an infestation in a multiple dwelling. This bill provides that a landlord who does not take prompt action upon written notice that bedbugs have infested a property is financially liable for the consequences.

The Department of Health is charged with preparing and publishing a bedbug education document in pamphlet form. The legislation would require multiple dwelling owners to provide tenants with this pamphlet within 90 days after the department makes it available to the public. Owners of multiple dwellings would be required to deliver this pamphlet to tenants, who would be required to sign an acknowledgment that they received this document. If an owner is unable to obtain a signature, the owner shall be deemed in compliance with the delivery requirement if two attempts are made to deliver the pamphlet, one of which shall be by certified or registered mail.

This publication would set forth the legal rights and responsibilities of both owners and tenants imposed by this legislation. The pamphlet would advise tenants that their units may be subject to

inspection for bedbugs and that the tenants may be responsible for certain costs related to bedbug eradication. If enacted, this legislation would require the owner to deliver the pamphlet before charging certain expenses to tenants or deducting certain expenses from tenants' security deposits.

This bill requires owners to act to eradicate bedbugs within 10 days of receiving written notice of the presence of bedbugs in a unit. When a unit is rented for seasonal use, the owner would have only seven days to act. This bill also requires the owner of a multiple dwelling to provide the tenant with 48 hours' notice that access is required to a unit for purposes of eradicating the presence of bedbugs prior to entering the unit for purposes of inspecting for or eradicating bedbugs.

This legislation imposes a duty on tenants to notify the owner of the presence of bedbugs in the unit. This legislation also would require a local board of health to act on the owner's behalf to eradicate the presence bedbugs when an owner does not do so. This bill has no financial impact on taxpayers because the property owner is required to reimburse the board when it acts on the owner's behalf.