# ASSEMBLY, No. 5521

# STATE OF NEW JERSEY

## 219th LEGISLATURE

INTRODUCED MARCH 22, 2021

**Sponsored by:**
**Assemblyman RAJ MUKHERJI**
**District 33 (Hudson)**
**Assemblywoman ANGELA V. MCKNIGHT**
**District 31 (Hudson)**

**SYNOPSIS**

Establishes confidentiality of court records of landlord-tenant disputes after five years.

**CURRENT VERSION OF TEXT**

As introduced.

**(Sponsorship Updated As Of: 5/5/2021)**

**AN ACT** concerning the confidentiality of court records of landlord-tenant disputes after five years and supplementing Title 2A of the New Jersey Statutes.

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

1. As used in P.L. , c. (C. ) (pending before the Legislature as this bill):

"Landlord" means the business entity, person, or persons which own, purport to own, or exercise control of a residential dwelling, building, project, or mobile home park in which there is rented or offered for rent housing or mobile home pad space for living or dwelling purposes under either a written or oral lease.

"Landlord-tenant court record" means any record containing information regarding a landlord-tenant action, and any record of the filing of a landlord-tenant action, including but not limited to:

a. any information maintained by a court in any form in connection with a case or judicial proceeding associated with the landlord-tenant action, including but not limited to pleadings, motions, briefs and their respective attachments, evidentiary exhibits, indices, calendars, and dockets;

b. any order, judgment, opinion, or decree related to the landlord-tenant action;

c. any official transcript or recording of the landlord-tenant action, in any form;

d. any information in a computerized case management system created or prepared by the court associated with the landlord-tenant action; and

e. any record associated with the landlord-tenant action made or maintained by a judicial officer.

"Landlord-tenant action" means any action initiated by a landlord, and any action initiated by or on behalf of a tenant in response to the landlord's action, in the Superior Court of New Jersey, including the Special Civil part of the Superior Court, to evict or otherwise obtain possession of a tenant's primary residence, or to recover unpaid rent.

2. A landlord-tenant court record shall be made and remain confidential and unavailable to the public indefinitely beginning no later than the first day of the sixth year next following the date of the filing of the eviction action associated with the record, unless a court orders the publication of a landlord-tenant court record. A court shall only permit the continued publication of a landlord-tenant court record following this date if the court: (1) determines that the publication is necessary to serve the public interest; and (2) to the greatest extent feasible, removes all information from the court record that could be used to identify the tenant.

3. a. Any New Jersey public entity that maintains a written or automated record or file of landlord-tenant court records shall take appropriate actions to ensure that those records or files are kept confidential and unavailable to the public beginning on the first day of the sixth year next following the date of the filing of the landlord-tenant action associated with the record.

b. This act shall not prohibit the courts or other New Jersey public entities from retaining or distributing demographic information from landlord-tenant court records for the purpose of understanding eviction trends, or for other public purposes, so long as personally-identifiable information on tenants involved in landlord-tenant actions remains confidential in compliance with this act.

c. The Supreme Court of New Jersey may adopt rules, and the Administrative Director of the Courts may issue directives and guidelines, to implement the purposes of P.L. , c. (C. ) (pending before the Legislature as this bill).

4. a. When evaluating a prospective tenant, a landlord shall not consider a landlord-tenant action beginning on the first day of the sixth year next following the date of the filing of the landlord-tenant action associated with the record.

b. A person, tenant screening service, or other entity, shall not knowingly provide court filing information or information contained in a landlord-tenant court record to a landlord or other entity involved in the rental of a dwelling unit beginning on the first day of the sixth year next following the date of the filing of the landlord-tenant action associated with the record.

5. a. Any person who violates section 4 of P.L. , c. (C. ) (pending before the Legislature as this bill) 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. This penalty shall be exclusive of, and in addition to, any moneys or property ordered to be paid or restored to any person whose information has been wrongly considered or distributed.

b. In addition to any other remedies provided by law, a residential tenant or applicant for rental housing may bring an action in Superior Court for a violation of section 4 of P.L. , c. (C. ) (pending before the Legislature as this bill).

6. This act shall take effect immediately and shall apply retroactively landlord-tenant actions initiated subsequent to March 9, 2020.

STATEMENT

This bill would establish confidentiality standards for court records concerning the eviction of a tenant or the recovery of unpaid rent, beginning at the start of the sixth year following the initiation of the action. The bill defines a "landlord-tenant court record" to include any record containing information regarding a landlord-tenant action, and any record of the filing of that action.

The bill would require a landlord-tenant court record to be made confidential and unavailable to the public beginning on the first day of the sixth year following the filing of the landlord-tenant action associated with the record. Specifically, the bill prohibits a court from permitting the continued publication of a landlord-tenant court record following this date unless the court: (1) determines that the publication is necessary to serve the public interest; and (2) to the greatest extent feasible, removes all information from the record that could be used to identify the tenant.

Additionally, the bill would require any New Jersey public entity that maintains a record or a file of landlord-tenant court records to take appropriate actions to ensure that these records are kept confidential and unavailable to the public beginning on the first day of the sixth year following the date of the filing of the eviction action associated with the record.

The bill provides that it would not prohibit the courts or other New Jersey public entities from retaining or distributing demographic information from nonpayment court records for the purpose of understanding eviction trends, or for other public purposes, so long as personally-identifiable information on tenants involved in landlord-tenant actions remains confidential in accordance with the bill.

When evaluating a prospective tenant, the bill prohibits a landlord from considering a landlord-tenant action beginning on the first day of the sixth year following the date when the action associated with the record was filed. The bill also expressly prohibits a person from providing court filing information or information contained in a nonpayment court record to a landlord or other entity involved in the rental of a dwelling unit beginning on the first day of the sixth year following the date when the action associated with the record was filed. Any person who violates either of these prohibitions would, 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. In addition to any other remedies provided by law, the bill authorizes a residential tenant or applicant for rental housing to bring an action in Superior Court for a violation of either of these prohibitions.

This bill would take effect immediately and would apply retroactively to landlord-tenant actions initiated subsequent to March 9, 2020, the date when the public health emergency began, as declared by the Governor in Executive Order No. 103 of 2020.