

SENATE, No. 115

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator NIA H. GILL

District 34 (Essex and Passaic)

Senator SANDRA B. CUNNINGHAM

District 31 (Hudson)

Co-Sponsored by:

Senators Ruiz, Pou and Stack

SYNOPSIS

“Immigrant Tenant Protection Act.”

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 3/5/2020)

1 **AN ACT** concerning the immigration status of residential tenants,
2 supplementing chapter 42 of Title 2A of the New Jersey Statutes,
3 and amending P.L.1970, c.210.

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

7
8 1. (New section) This act shall be known and may be cited as
9 the “Immigrant Tenant Protection Act.”

10
11 2. (New section) a. (1) A landlord shall not threaten to
12 disclose, or actually disclose, information relating to the
13 immigration or citizenship status of a tenant, occupant, or other
14 person known to the landlord to be associated with a tenant or
15 occupant, for the purpose of influencing the person to vacate a
16 dwelling unit.

17 (2) A landlord shall not bring an action to recover possession of
18 a dwelling unit based solely or partially on the immigration or
19 citizenship status of a tenant.

20 (3) A landlord shall not cause a tenant or occupant to quit
21 involuntarily, or bring an action to recover possession, because of
22 the immigration or citizenship status of a tenant, occupant, or other
23 person known to the landlord to be associated with a tenant or
24 occupant, unless the landlord’s action is in compliance with a legal
25 obligation under a federal government program that provides for
26 rent limitations or rental assistance to a qualified tenant.

27 b. If a landlord violates subsection a. of this section, a tenant
28 may bring a civil action to seek one or more of the following
29 remedies:

30 (1) actual damages, as reasonably determined by the court, for
31 injury or loss suffered;

32 (2) a civil penalty in an amount not to exceed \$2,000 for each
33 violation, payable to the tenant;

34 (3) reasonable attorney’s fees and court costs; and

35 (4) other equitable relief as the court may deem appropriate and
36 just.

37 c. The immigration or citizenship status of a person shall not be
38 relevant to any issue of liability or remedy in a civil action
39 involving a tenant’s housing rights. In proceedings or discovery
40 undertaken in a civil action involving a tenant’s housing rights, no
41 inquiry shall be permitted into the tenant’s immigration or
42 citizenship status, unless:

43 (1) the tenant’s claims or defenses raised place a person’s
44 immigration or citizenship status directly in contention; or

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 (2) the person seeking to make the inquiry demonstrates by clear
2 and convincing evidence that the inquiry is necessary in order to
3 comply with federal law.

4 d. The assertion of an affirmative defense to an eviction action
5 shall not constitute cause for discovery or other inquiry into a
6 person's immigration or citizenship status.

7 e. As used in this section, "immigration or citizenship status"
8 includes a perception that a person has a particular immigration
9 status or citizenship status, or that a person is associated with a
10 person who has, or is perceived to have, a particular immigration
11 status or citizenship status.

12
13 3. (New section) a. It shall be an affirmative defense to an
14 action for the removal of a tenant if the court finds that:

15 (1) the landlord's demand for possession is based solely or
16 partially on the citizenship or immigration status of the tenant; or

17 (2) if the lease with the tenant has commenced and the tenant
18 has taken possession, the landlord's demand for possession is based
19 solely or partially on the tenant's failure to provide a social security
20 number, information required to obtain a consumer credit report, or
21 a form of identification deemed acceptable by the landlord.

22 b. In an unlawful detainer action, a tenant or occupant may
23 raise, as an affirmative defense, that the landlord violated the
24 provisions of P.L. , c. (C.) (pending before the Legislature as
25 this bill).

26 c. There shall be a rebuttable presumption that a tenant or
27 occupant has established an affirmative defense under this section
28 in an unlawful detainer action if the landlord did the following:

29 (1) approved the tenant or occupant to take possession of a unit
30 before filing an unlawful detainer action; and

31 (2) included in the unlawful detainer action a claim based on
32 one of the following:

33 (a) the failure of a previously approved tenant or occupant to
34 provide a valid social security number;

35 (b) the failure of a previously approved tenant or occupant to
36 provide information required to obtain a consumer credit report; or

37 (c) the failure of a previously approved tenant or occupant to
38 provide a form of identification deemed acceptable by the landlord.

39 d. Nothing in this section shall be construed as prohibiting a
40 landlord from:

41 (1) complying with a subpoena, warrant, court order, or legal
42 obligation including, but not limited to, a legal obligation under a
43 government program that provides for rent limitations or rental
44 assistance to a qualified tenant;

45 (2) requesting information or documentation necessary to
46 determine or verify the financial qualifications of a prospective
47 tenant, or to determine or verify the identity of a prospective tenant
48 or prospective occupant;

(3) notifying a tenant that the tenant's conduct violates the terms of a lease, rental agreement, rule, or regulation.

e. This section shall not be construed as enlarging or diminishing a landlord's right to terminate a tenancy pursuant to State or local law.

f. This section shall not be construed as enlarging or diminishing the ability of a municipality to regulate or enforce a prohibition against a landlord's harassment of a tenant.

4. Section 1 of P.L.1970, c.210 (C.2A:42-10.10) is amended to read as follows:

1. No landlord of premises or units to which **[this act]** P.L.1970, c.210 (C.2A:42-10.10 et seq.) is applicable shall serve a notice to quit upon any tenant or institute any action against a tenant to recover possession of premises, whether by summary dispossession proceedings, civil action for the possession of land, or otherwise:

a. As a reprisal for the tenant's efforts to secure or enforce any rights under the lease or contract, or under the laws of the State of New Jersey or its governmental subdivisions, or of the United States; or

b. As a reprisal for the tenant's good faith complaint to a governmental authority of the landlord's alleged violation of any health or safety law, regulation, code or ordinance, or State law or regulation which has as its objective the regulation of premises used for dwelling purposes; or

c. (1) As a reprisal for the tenant's being an organizer of, a member of, or involved in any activities of, any lawful organization; or

(2) As a reprisal for or on the basis of the tenant's immigration or citizenship status; or

d. On account of the tenant's failure or refusal to comply with the terms of the tenancy as altered by the landlord, if the landlord shall have altered substantially the terms of the tenancy as a reprisal for any actions of the tenant set forth in subsection a, b, and c of this section **[1 of this act]**. Substantial alteration shall include the refusal to renew a lease or to continue a tenancy of the tenant without cause.

Under subsection b of this section the tenant shall originally bring his good faith complaint to the attention of the landlord or his agent and give the landlord a reasonable time to correct the violation before complaining to a governmental authority.

A landlord shall be subject to a civil action by the tenant for damages and other appropriate relief, including injunctive and other equitable remedies, as may be determined by a court of competent jurisdiction in every case in which the landlord has violated the provisions of this section.

(cf: P.L.1970, c.210, s.1)

1 5. This act shall take effect immediately.

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STATEMENT

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6 This bill would add legal protections for tenants against
7 landlords who might otherwise try to use immigration status as a
8 way of intimidating tenants who have exercised, or who are about to
9 exercise, their housing rights. The bill would prohibit a landlord
10 from evicting a tenant as a reprisal for or on the basis of the tenant's
11 immigration or citizenship status. Under the bill, the term
12 "immigration or citizenship status" would include a perception that
13 a person has a particular immigration status or citizenship status, or
14 that a person is associated with a person who has, or is perceived to
15 have, a particular immigration status or citizenship status.

16 The bill would prohibit a landlord from threatening to disclose,
17 or actually disclosing, information relating to the immigration or
18 citizenship status of a tenant, occupant, or other person known to
19 the landlord to be associated with a tenant or occupant, for the
20 purpose of influencing the person to vacate a dwelling unit.
21 Additionally, the bill would prohibit a landlord from bringing an
22 action to recover possession of a dwelling unit based solely or
23 partially on the immigration or citizenship status of a tenant. The
24 bill would also prohibit a landlord from bringing an action to
25 recover possession, or otherwise causing a tenant or occupant to
26 quit involuntarily, because of the immigration or citizenship status
27 of a tenant, occupant, or other person known to the landlord to be
28 associated with a tenant or occupant. This prohibition would not
29 apply if a landlord's action is in compliance with a legal obligation
30 under a federal government program that provides for rent
31 limitations or rental assistance to a qualified tenant.

32 The bill would enable a tenant to bring an action seeking
33 damages, penalties, court costs and attorney's fees, and other
34 equitable relief against a landlord that engages in prohibited
35 conduct.

36 The bill also provides that the immigration or citizenship status
37 of a person is irrelevant to any issue of liability or remedy in a civil
38 action involving a tenant's housing rights. The bill would prohibit
39 inquiry into a tenant's immigration or citizenship status in a civil
40 action involving a tenant's housing rights, unless the tenant places a
41 person's immigration or citizenship status directly in contention, or
42 the person seeking to make the inquiry demonstrates by clear and
43 convincing evidence that the inquiry is necessary in order to comply
44 with federal law. Under the bill, a tenant's assertion of an
45 affirmative defense to an eviction action would not constitute cause
46 for discovery or other inquiry into a person's immigration or
47 citizenship status.

1 The bill would establish an affirmative defense for a tenant to
2 raise against an eviction action if the eviction action is commenced
3 after the start of the lease term, and after the tenant has moved in,
4 and if the action is based, in whole or in part, either on the
5 citizenship or immigration status of the tenant, or on the tenant's
6 failure to provide a social security number, credit information, or a
7 form of identification acceptable to the landlord.

8 The bill would establish an affirmative defense for a tenant
9 against an unlawful detainer action if a tenant can prove that a
10 landlord has violated provisions of this bill. The bill would
11 establish a rebuttable presumption that a tenant or occupant has an
12 affirmative defense against an unlawful detainer action if the
13 landlord:

- 14 • approved the tenant or occupant to take possession of a unit
15 before filing an unlawful detainer action; and
- 16 • included in the unlawful detainer action a claim based on
17 one of the following:
 - 18 ○ the failure of a previously approved tenant or occupant to
19 provide a valid social security number;
 - 20 ○ the failure of a previously approved tenant or occupant to
21 provide information required to obtain a consumer credit
22 report; or
 - 23 ○ the failure of a previously approved tenant or occupant to
24 provide a form of identification deemed acceptable by
25 the landlord.

26 The bill specifically provides that it's provisions do not prohibit
27 a landlord from:

- 28 • complying with a subpoena, warrant, court order, or legal
29 obligation including, but not limited to, a legal obligation
30 under a government program that provides for rent
31 limitations or rental assistance to a qualified tenant;
- 32 • requesting information or documentation necessary to
33 determine or verify the financial qualifications of a
34 prospective tenant, or to determine or verify the identity of a
35 prospective tenant or prospective occupant;
- 36 • notifying a tenant that the tenant's conduct violates the terms
37 of a lease, rental agreement, rule, or regulation.

38 The bill does not enlarge or diminish a landlord's right to
39 terminate a tenancy nor enlarge or diminish the ability of a
40 municipality to regulate or enforce a prohibition against a
41 landlord's harassment of a tenant.