SENATE, No. 1320

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 10, 2020

Sponsored by:
Senator SHIRLEY K. TURNER
District 15 (Hunterdon and Mercer)

SYNOPSIS

Enhances penalties upon certain violators of housing codes.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning municipal housing code violations, amending R.S.40:49-5 and P.L.1950, c.210, and supplementing chapter 33 of Title 2C of the New Jersey Statutes.

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

1. R.S.40:49-5 is amended to read as follows:

40:49-5. The governing body may prescribe penalties for the violation of ordinances it may have authority to pass, by one or more of the following: imprisonment in the county jail or in any place provided by the municipality for the detention of prisoners, for any term not exceeding 90 days; or by a fine not exceeding $2,000; or by a period of community service not exceeding 90 days.

The governing body may prescribe that for the violation of any particular ordinance at least a minimum penalty shall be imposed which shall consist of a fine which may be fixed at an amount not exceeding $100.

The governing body may prescribe that for the violation of an ordinance pertaining to unlawful solid waste disposal at least a minimum penalty shall be imposed which shall consist of a fine which may be fixed at an amount not exceeding $2,500 or a maximum penalty by a fine not exceeding $10,000.

The governing body may prescribe that for the continuing flagrant violations of an ordinance pertaining to housing or zoning code enforcement at least a minimum penalty shall be imposed which shall consist of a fine which may be fixed at an amount not less than $10 or a maximum penalty not exceeding $4,000. The owner of the property subject to such fines shall be afforded the opportunity for a hearing prior to the imposition of fines in excess of $1,250.

The court before which any person is convicted of violating any ordinance of a municipality shall have power to impose any fine, term of imprisonment, or period of community service not less than the minimum and not exceeding the maximum fixed in such ordinance.

Any person who is convicted of violating an ordinance within one year of the date of a previous violation of the same ordinance and who was fined for the previous violation, shall be sentenced by a court to an additional fine as a repeat offender. The additional fine imposed by the court upon a person for a repeated offense shall not be less than the minimum or exceed the maximum fine fixed for a violation of the ordinance, but shall be calculated separately from the fine imposed for the violation of the ordinance.

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.

Any municipality which chooses not to impose an additional fine upon a person for a repeated violation of any municipal ordinance may waive the additional fine by ordinance or resolution.

Any person convicted of the violation of any ordinance may, in the discretion of the court by which he was convicted, and in default of the payment of any fine imposed therefore, be imprisoned in the county jail or place of detention provided by the municipality, for any term not exceeding 90 days, or be required to perform community service for a period not exceeding 90 days.

Any municipality that chooses to impose a fine in an amount greater than $1,250 upon an owner for violations of housing or zoning codes shall provide a 30-day period in which the owner shall be afforded the opportunity to cure or abate the condition and shall also be afforded an opportunity for a hearing before a court of competent jurisdiction for an independent determination concerning the violation. Subsequent to the expiration of the 30-day period, a fine greater than $1,250 may be imposed if a court has not determined otherwise or, upon reinspection of the property, it is determined that the abatement has not been substantially completed.

(cf: P.L.2005, c.269, s.1)

2. Section 2-4 of P.L.1950, c.210 (C.40:69A-29) is amended to read as follows:

2-4. Each municipality governed by an optional form of government pursuant to this act shall, subject to the provisions of this act or other general laws, have full power to:

(a) Organize and regulate its internal affairs, and to establish, alter, and abolish offices, positions and employments and to define the functions, powers and duties thereof and fix their terms, tenure and compensation;

(b) Adopt and enforce local police ordinances of all kinds and impose one or more of the following penalties: fines not exceeding $2,000 or imprisonment for any term not exceeding 90 days, or a period of community service not exceeding 90 days for the violation thereof; prescribe that for the violation of particular ordinances at least a minimum penalty shall be imposed which shall consist of a fine which may be fixed at an amount not exceeding $100; prescribe that for the violation of an ordinance pertaining to unlawful solid waste disposal at least a minimum penalty shall be imposed which shall consist of a fine which may be fixed at an amount not exceeding $2,500 or a maximum penalty by a fine not exceeding $10,000; to construct, acquire, operate or maintain any and all public improvements, projects or enterprises for any public purpose, subject to referendum requirements otherwise imposed by law, and to exercise all powers of local government in such manner as its governing body may determine;

(c) Sue and be sued, to have a corporate seal, to contract and be contracted with, to buy, sell, lease, hold and dispose of real and

personal property, to appropriate and expend moneys, and to adopt, amend and repeal such ordinances and resolutions as may be required for the good government thereof;

(d) Exercise powers of condemnation, borrowing and taxation in the manner provided by general law.

Any person who is convicted of violating an ordinance within one year of the date of a previous violation of the same ordinance and who was fined for the previous violation, shall be sentenced by a court to an additional fine as a repeat offender. The additional fine imposed by the court upon a person for a repeated offense shall not be less than the minimum or exceed the maximum fine fixed for a violation of the ordinance, but shall be calculated separately from the fine imposed for the violation of the ordinance.

Any municipality which chooses not to impose an additional fine upon a person for a repeated violation of any municipal ordinance may waive the additional fine by ordinance or resolution.

Any municipality that chooses to impose a fine in an amount greater than $1,250 upon an owner for violations of housing or zoning codes shall provide a 30-day period in which the owner shall be afforded the opportunity to cure or abate the condition and shall also be afforded an opportunity for a hearing before a court of competent jurisdiction for an independent determination concerning the violation. Subsequent to the expiration of the 30-day period, a fine greater than $1,250 may be imposed if a court has not determined otherwise or, upon reinspection of the property, it is determined that the abatement has not been substantially completed.

<u>The governing body may prescribe that for continuing flagrant violations of an ordinance pertaining to housing or zoning code enforcement a penalty shall be imposed in the form of a fine which may be imposed in an amount not less than $10 or more then $4,000. The owner of the property subject to such fines shall be afforded the opportunity for a hearing prior to the imposition of fines in excess of $1,250.</u>

(cf: P.L.2005, c.269, s.2)

3. (New Section) A person is guilty of a disorderly persons offense when he knowingly fails to respond, after receiving proper notice, to more than three notices issued within a 30 day period by code enforcement agents concerning housing or zoning code violations which involve issues of habitability against real property to which the person holds title. This section shall apply to an agent of a corporation while acting within the scope of the agent's employment and on behalf of the corporation, and the provisions of N.J.S.2C:2-7 shall be applicable.

4. This act shall take effect immediately.

STATEMENT

This bill would allow municipalities to impose fines of up to $4,000 upon continuing, flagrant violators of housing or zoning codes. While laws governing municipal fines were amended at the end of the 2005 Legislative Session to increase the maximum amounts that can be imposed from $1,250 to $2,000, a provision of that law set forth procedures that must be followed before fines above $1,250 can be imposed for violations of housing or zoning codes.

Specifically, current law provides that prior to imposing a fine in an amount greater than $1,250 upon an owner for violations of housing or zoning codes, a municipality must provide the owner a 30-day period to cure or abate the condition and provide an opportunity for a judicial hearing for an independent determination concerning the violation. Once the 30-day period has run, a municipality may impose a fine greater than $1,250 if the abatement has not been substantially completed unless a court has determined otherwise.

While allowing the provisions of current law to remain in place, this bill would clarify that continuing, flagrant violators of housing or zoning codes could be subjected to penalties of as much as $4,000, after having been afforded opportunities to cure and a hearing.

The bill also provides that a person who holds title to property and who fails to respond to more than three notices of housing or zoning code violations concerning issues of habitability within a 30 day period may be charged with a disorderly persons offense. The bill also specifies that, as permitted under N.J.S.2C:2-7, a corporate agent acting within the scope of his employment and on behalf of the corporation who knowingly fails to respond to such notices may be charged individually as a disorderly person.