

SENATE, No. 2341

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED APRIL 9, 2020

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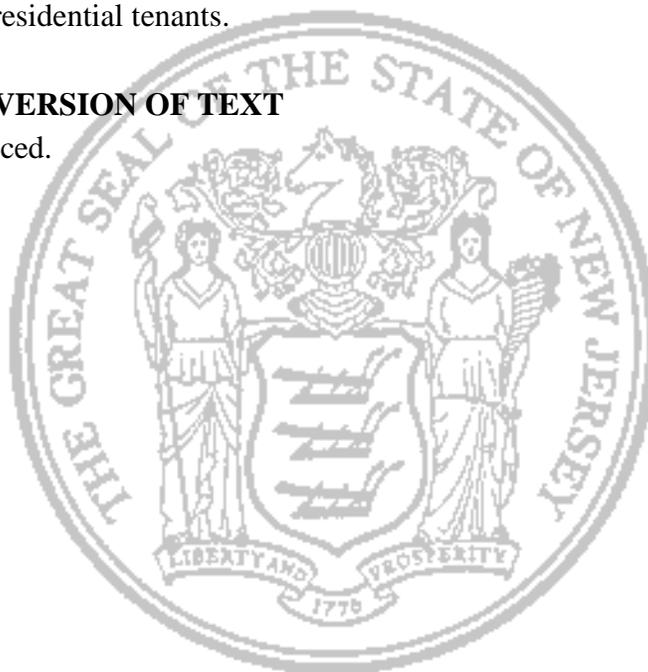
Senators Addiego and Singleton

SYNOPSIS

Authorizes Governor to restrict rent increases on certain commercial tenants during emergency circumstances; enhances similar existing authority over rent increases on residential tenants.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 4/13/2020)

S2341 VITALE, VITALE

2

1 AN ACT concerning protections for commercial and residential
2 tenants during emergency circumstances and amending
3 P.L.2002, c.133.

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

7
8 1. Section 1 of P.L.2002, c.133 (C.2A:18-61.62) is amended to
9 read as follows:

10 1. a. The Governor shall be empowered, whenever declaring a
11 state of emergency pursuant to P.L.1942, c.251 (C.App.A.9-33 et
12 seq.), or a public health emergency pursuant to the “Emergency
13 Health Powers Act,” P.L.2005, c.222 (C.26:13-1 et seq.), or both, to
14 determine whether the emergency will, or is likely to, significantly
15 affect the availability and pricing of rental housing, or the viability
16 of small businesses operating for retail purposes, or both, in the
17 areas included in the declaration. If the Governor determines that
18 unconscionable rental practices are likely to occur unless the
19 protections afforded under P.L.2002, c.133 (C.2A:18-61.62 et seq.)
20 are invoked, the Governor may issue a "Notice of Rent Protection
21 Emergency" at any time during the declared state of emergency.

22 b. As used in P.L.2002, c.133 (C.2A:18-61.62 et seq.), “small
23 business operating for retail purposes” means a business that
24 employed fewer than 20 people immediately prior to the state of
25 emergency or public health emergency declaration, and that
26 functions primarily to serve consumers directly in the distribution
27 of food, beverages, goods, or services, at one or more physical
28 locations.

29 (cf: P.L.2002, c.133, s.1)

30
31 2. Section 2 of P.L.2002, c.133 (C.2A:18-61.63) is amended to
32 read as follows:

33 2. Whenever the Governor declares a state of emergency
34 pursuant to P.L.1942, c.251 (C.App.A.9-33 et seq.), or a public
35 health emergency pursuant to the “Emergency Health Powers Act,”
36 P.L.2005, c.222 (C.26:13-1 et seq.), or both, within certain areas of
37 the State, or throughout the entire State, and issues a "Notice of
38 Rent Protection Emergency," the following shall apply if directed in
39 the notice:

40 a. Within a zone which includes the area declared to be in a
41 state of emergency and, if so indicated in the Notice of Rent
42 Protection Emergency extending a distance within the State and not
43 to exceed 10 miles in all directions from the outward boundaries
44 thereof, there shall be a presumption of unreasonableness given to a
45 notice of increase in rental charges provided subsequent to the date

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 of the declaration by a landlord to a tenant occupying premises
2 which are utilized either:

3 (1) as a residence, when:

4 (a) the proposed percentage increase in rent is greater than twice
5 the rate of inflation as indicated by increases in the CPI for the
6 immediately preceding nine-month period. For the purposes of this
7 section, "CPI" means the annual average over a 12-month period
8 beginning September 1 and ending August 31 of the Consumer
9 Price Index for Urban Wage Earners and Clerical Workers (CPI-W),
10 All Items Series A, of the United States Department of Labor
11 (1957-1959 = 100), for the New York, NY-Northeastern New
12 Jersey region;

13 (b) if expressly directed in the notice, when there is any
14 increase, regardless of the rate of inflation; or

15 (2) as commercial space by a small business operating for retail
16 purposes, when:

17 (a) the proposed percentage increase is greater than the rate
18 permitted for a residence by subparagraph (a) of paragraph (1) of
19 this subsection; or

20 (b) if expressly directed in the notice, when there is any
21 increase, regardless of the rate of inflation.

22 b. Within a zone which includes the area declared to be in a
23 state of emergency and, if so indicated in the Notice of Rent
24 Protection Emergency extending a distance within the State and not
25 to exceed 10 miles in all directions from the outward boundaries
26 thereof, there shall be a limitation on the amount of rent which may
27 be charged a tenant undertaking a new lease for residential premises
28 during the duration of the declaration of a "Notice of Rent
29 Protection Emergency" made pursuant to section 1 of
30 P.L.2002, c.133 (C.2A:18-61.62). The amount of rent which may
31 be charged shall be limited to the product of the fair market rental
32 value of the premises prior to the emergency conditions and two
33 times the rate of inflation as determined by the increase in the CPI
34 for the immediately preceding nine month period. For the purposes
35 of this section, "CPI" means the annual average over a 12-month
36 period beginning September 1 and ending August 31 of the
37 Consumer Price Index for Urban Wage Earners and Clerical
38 Workers (CPI-W), All Items Series A, of the United States
39 Department of Labor (1957-1959 = 100), for the New York, NY-
40 Northeastern New Jersey region.

41 c. In the event that a landlord believes that the limitations on
42 increases in rental charges imposed by a "Notice of Rent Protection
43 Emergency" prevent the landlord from realizing a just and
44 reasonable rate of return on the landlord's investment, the landlord
45 may file an application with the Director of the Division of
46 Consumer Affairs in the Department of Law and Public Safety for
47 the purpose of requesting permission to increase rental charges in
48 excess of the increases otherwise authorized under the "Notice of

1 Rent Protection Emergency". In evaluating such an application, the
2 director shall take into consideration the purposes intended to be
3 achieved by P.L.2002, c.133 (C.2A:18-61.62 et seq.), and the
4 "Notice of Rent Protection Emergency" and the amount of rental
5 charges required to provide the landlord with a just and reasonable
6 return. The Director shall promulgate rules and regulations in
7 accordance with the "Administrative Procedure Act,"
8 P.L.1968, c.410 (C.52:14B-1 et seq.) to effectuate the purposes of
9 this act.

10 d. The provisions of subsections a. and b. of this section will
11 serve to supplement, not replace, any existing local, State, or
12 federal restrictions on rent increases for any dwelling units in
13 residential buildings and small businesses operating for retail
14 purposes located within the zone described in subsections a. and b.
15 of this section, and will only apply to those dwelling units and
16 commercial properties where they cause a lowering of the
17 maximum allowable rent increase or of the maximum reasonable
18 rent increase.

19 e. The provisions of subsections a. and b. of this section shall
20 cease to apply upon the expiration of the state of emergency or
21 public health emergency, or both, or upon the rescission of [the]
22 either (1) the declaration of the state of emergency or public health
23 emergency, or both, or (2) the "Notice of Rent Protection
24 Emergency."

25 (cf: P.L.2002, c.133, s.2)

26

27 3. The Director of the Division of Consumer Affairs shall,
28 pursuant to the provisions of the "Administrative Procedure Act,"
29 P.L.1968, c.410 (C.52:14B-1 et seq.), adopt such rules and
30 regulations as shall be necessary to implement the provisions of this
31 act no later than one month following the effective date of this act.

32

33 4. This act shall take effect immediately.

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35

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STATEMENT

37

38 This bill would authorize the Governor to restrict rent increases
39 on certain commercial tenants during emergency circumstances, and
40 would enhance similar existing authority over rent increases on
41 residential tenants.

42 Under current law, whenever a state of emergency is declared by
43 the Governor and is in effect, the Governor may issue a "Notice of
44 Rent Protection Emergency" ("NRPE") to prohibit certain large rent
45 increases on residential tenants in the area of the emergency, if it is
46 determined that unconscionable rental practices are likely to occur.
47 This bill would expand these powers by authorizing the Governor to
48 issue the NRPE during a public health emergency, and apply rent

1 increase restrictions on commercial properties rented by certain
2 retail businesses, in addition to residential properties.

3 Under existing law, a residential landlord would violate an
4 NRPE issuance if the proposed percentage increase in rent is greater
5 than twice the rate of inflation as indicated by increases in the
6 consumer price index for the immediately preceding nine-month
7 period. This bill would allow the Governor to apply the same
8 restrictions on rent increases on commercial properties rented by
9 small retail businesses. However, under the bill, if expressly
10 provided in the NRPE, the Governor would be able to prohibit any
11 rent increase on residential properties, or commercial properties
12 rented by small retail businesses, regardless of the rate of inflation.
13 Regarding small retail businesses, these rent protections would
14 specifically apply to those that employed fewer than 20 people
15 immediately prior to the emergency declaration, and that function
16 primarily to serve consumers directly in the distribution of food,
17 beverages, goods, or services, at one or more physical locations.

18 Rent restrictions under the NRPE would expire either upon
19 expiration of the state of emergency or public health emergency, or
20 upon the rescission of the state of emergency, the public health
21 emergency, or the NRPE itself.

22 A violation of the provisions of an NRPE would constitute a
23 violation of the New Jersey consumer fraud act. The Division of
24 Consumer Affairs would hold investigative and enforcement
25 authority regarding NRPE declarations.

26 The bill provides the Director of the Division of Consumer
27 Affairs with the authority to promulgate any necessary rules and
28 regulations regarding any NRPE declarations.