

LEGISLATIVE HISTORY CHECKLIST

NJSA: 46:8-21.1 et al

(Leases--conditions for termination due to death or disability of tenant)

LAWS OF: 1985

CHAPTER: 317

Bill No: A588

Sponsor(s): Bocchini, Patero and Pelly

Date Introduced: Pre-filed

Committee: Assembly: Commerce and Industry

Senate: Judiciary

Amended during passage: Yes

Amendments during passage denoted by asterisks.

Date of Passage: Assembly: September 13, 1984

Senate: May 2, 1985

Date of Approval: August 28, 1985

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly Yes

Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: No

Following were printed:

Reports: No

Hearings: No

Sponsors' statement:

This bill establishes certain rights of tenants with respect to termination of residential leases, before expiration of term, as a result of the death or disability of the lessee or lessee's spouse.

(OVER)

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See newspaper clipping--attached.

"Kean signs law giving disabled tenants chance to end leases. . ." 8-30-85
Trenton Times.

-8-28-85

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ASSEMBLY, No. 588

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1984 SESSION

By Assemblymen BOCCHINI, PATERO and PELLY

AN ACT concerning the termination of leases in certain cases and amending P. L. 1971, c. 223, P. L. 1971, c. 318, and P. L. 1976, c. 63, and supplementing chapter 8 of Title 46 of the Revised Statutes.

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

1 1. Section 3 of P. L. 1971, c. 223 (C. 46:8-21.1) is amended to
2 read as follows:

3 3. Within 30 days after the **[expiration of the term]** *termination*
4 *of the tenant's lease or licensee's agreement, the owner or lessee*
5 *shall return by personal delivery, registered or certified mail the*
6 *sum so deposited plus the tenant's portion of the interest*
7 ****[earned]*** *or earnings accumulated** thereon, less any charges ex-*
8 *pended in accordance with the terms of a contract, lease, or agree-*
9 *ment to the tenant or licensee, or, in the case of a lease terminated*
10 *pursuant to P. L. 1971, c. 318 (C. 46:8-9.1), the executor or admin-*
11 *istrator of the estate of the tenant or licensee or the surviving*
12 *spouse of the tenant or licensee so terminating the lease. The in-*
13 *terest *or earnings** and any such deductions shall be itemized and*
14 *the tenant **[or]**, licensee, executor, administrator or surviving*
15 *spouse notified thereof by personal delivery, registered or certified*
15A *mail.*

16 Within five business days after a. the tenant is caused to be dis-
17 placed by fire, flood, condemnation, or evacuation, and b. an au-
18 thorized public official posts the premises with a notice prohibit-
19 ing occupancy, or c. any building inspector, in consultation with a

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 printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Senate committee amendments adopted February 25, 1985.

20 relocation officer where applicable, has certified within 48 hours
21 that displacement is expected to continue longer than seven days
22 and has so notified the owner or lessee in writing, the owner or
23 lessee shall have available and return to the tenant or the tenant's
24 designated agent upon his demand the sum so deposited plus the
25 tenant's portion of the interest *~~earned~~* *or earnings accumu-*
26 *lated** thereon, less any charges expended in accordance with the
27 terms of the contract, lease or agreement and less any rent due and
28 owing at the time of displacement.

29 Such net sum shall continue to be available to be returned upon
30 demand during normal business hours for a period of 30 days at
31 a location in the same municipality in which the subject leased
32 property is located and shall be accompanied by an itemized state-
33 ment of the interest *or earnings** and any deductions. The owner
34 or lessee may, by mutual agreement with the municipal clerk, have
35 the municipal clerk of the municipality in which the subject leased
36 property is located return said net sum in the same manner. Within
37 three business days after receiving notification of the displace-
38 ment, the owner or lessee shall provide written notice to a displaced
39 tenant by personal delivery or mail to the tenant's last known ad-
40 dress. Such notice shall include, but not be limited to, the location
41 at which and the hours and days during which said net sum shall be
42 available to him. The owner or lessee shall provide a duplicate
43 notice in the same manner to the relocation officer. Where a relo-
44 cation officer has not been designated, the duplicate notice shall be
45 provided to the municipal clerk. When the last known address of
46 the tenant is that from which he was displaced and the mailbox of
47 that address is not accessible during normal business hours, the
48 owner or lessee shall also post such notice at each exterior public
49 entrance of the property from which the tenant was displaced. Any
50 such net sum not demanded by and returned to the tenant or the
51 tenant's designated agent within the period of 30 days shall be re-
52 deposited *or reinvested** by the owner or lessee in an appropriate
53 interest bearing *or dividend yielding** account in the same *~~bank-~~
54 ~~ing institution~~* *investment company, State or federally char-*
54A *tered bank, savings bank** or savings and loan association from
54B which it was withdrawn.

55 In the event that said displaced tenant resumes occupancy of the
56 premises, said tenant shall redeliver to the owner or lessee one-
57 third of the security deposit immediately, one-third in 30 days and
58 one-third 60 days from the date of reoccupancy. Upon the failure
59 of said tenant to make such payments of the security deposit, the
60 owner or lessee may institute legal action for possession of the

61 premises in the same manner that is authorized for nonpayment
62 of rent.

63 In any action by a tenant [or], licensee, *executor, administrator*
64 *or surviving spouse* for the return of moneys due under this section,
65 the court upon finding for the tenant [or], licensee, *executor,*
66 *administrator or surviving spouse* shall award recovery of double
67 the amount of said moneys, together with full costs of any action
68 and, in the court's discretion, reasonable attorneys' fees.

1 2. Section 1 of P. L. 1971, c. 318 (C. 46:8-9.1) is amended to read
2 as follows:

3 1. Any lease for a term of one or more years of a property that
4 has been leased and used by the lessee solely for the purpose of
5 providing a dwelling place for himself, or for himself and his
6 family, may be terminated prior to the expiration date thereof, in
7 the event of the death of such lessee or in the event of the death of
8 such lessee or his spouse, as the case may be, upon notice duly given
9 by such lessee or by the executor or administrator of his estate or
10 by the surviving spouse in the event that such lease was executed
11 jointly by husband and wife. Such termination shall take effect on
12 the [ninetieth] *fortieth* day following the receipt by the lessor of
13 written notice thereof, and the rent shall be paid up to the time of
14 such termination, whereupon the lease shall cease and come to an
15 end[; provided, however, that the]. *The property shall be vacated*
16 *and possession shall be turned over to the lessor at least five*
17 *working days prior to the fortieth day following receipt by the*
18 *lessor of written notice.* The provisions of this act shall not apply
19 to any lease the terms whereof shall explicitly provide otherwise.

1 3. Section 6 of P. L. 1976, c. 63 (C. 54:4-6.7) is amended to read
2 as follows:

3 6. The property tax rebate or credit for each dwelling unit shall
4 be paid to the tenant in residence of such unit at the time each
5 rent payment is made. Such property tax reduction shall, at the
6 option of the owner either be credited as a rent reduction or paid
7 directly to the tenant. The amount of each property tax rebate
8 or credit shall be equal to the annual amount of the rebate or credit
9 multiplied by the percentage of annual rent payable at such time;
10 provided, however, that the amount of the rebate or credit due the
11 tenant at the time the rent is paid shall be rounded off such that
12 any amount less than \$0.50 shall be reduced to the next lower dollar
13 and any amount \$0.50 or higher shall be increased to the next
14 higher dollar.

15 *In the case of a lease terminated pursuant to P. L. 1971, c. 318*
16 *(C. 46:8-9.1), any property tax rebate or credit due and owing*

17 *prior to that termination of the lease shall be paid to the executor*
 18 *or administrator of the estate of the tenant or the surviving spouse*
 19 *of the tenant terminating the lease.*

1 4. Section 10 of P. L. 1976, c. 63 (C. 54:4-6.11) is amended to
 2 read as follows:

3 10. Any property owner of qualified real rental property who
 4 fails to provide a tenant *or, in the case of a lease terminated*
 5 *pursuant to P. L. 1971, c. 318 (C. 46:8-9.1), the executor or*
 6 *administrator of the estate of the tenant or the surviving spouse*
 7 *of the tenant so terminating the lease, with a property tax rebate*
 8 *in accordance with the provisions of this act shall be liable to the*
 9 *tenant executor, administrator or surviving spouse for twice the*
 10 *amount of the property tax rebate to which the tenant was entitled*
 11 *or \$100.00, whichever is greater.*

1 5. (New section) A lease for a term of one or more years of a
 2 property that has been leased and used by the lessee, solely for the
 3 purpose of providing a dwelling place for himself, or himself and
 4 his family, may be terminated prior to the expiration date thereof
 5 if the lessee or his spouse, or both, suffer a disabling illness or
 6 accident, upon notice duly given by the lessee or his spouse, on a
 7 form to be provided by the Director of the Division of Housing in
 8 the Department of Community Affairs, which form shall include:
 9 a. certification of a treating physician that the lessee or spouse is
 10 unable to continue to engage in gainful employment; b. proof of
 11 loss of income; and c. proof that any pension, insurance or other
 12 subsidy to which the lessee or his spouse is entitled, is insufficient
 13 to supplement the income of the lessee or his spouse so that the
 14 rent on the property in question can be paid and that the income is
 15 necessary for payment of the rent. The termination shall take effect
 16 on the fortieth day following the receipt by the lessor of written
 17 notice thereof, and the rent shall be paid up to the time of ter-
 18 mination, whereupon the lease shall cease and come to an end.
 19 The property shall be vacated and possession shall be turned over
 20 to the lessor at least five working days prior to the fortieth day
 21 following receipt by the lessor of written notice. The provisions of
 22 this section shall not apply to any lease the terms whereof shall
 23 explicitly provide otherwise.

1 6. (New section) The Director of the Division of Housing in the
 2 Department of Community Affairs shall, pursuant to the "Adminis-
 3 trative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.),
 4 promulgate rules and regulations necessary to effectuate the
 5 purposes of this act.

1 7. This act shall take effect immediately.

ASSEMBLY COMMERCE AND INDUSTRY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 588

STATE OF NEW JERSEY

DATED: JUNE 25, 1984

This bill would establish certain rights of tenants in connection with the termination of residential leases, before expiration of term, as a result of the death or disability of the lessee or his spouse.

This bill provides for the payment of security deposits to the executor or administrator of an estate or surviving spouse of a deceased tenant within 30 days of the termination of the lease if the lease has been terminated as a result of the death of the lessee or his spouse. The bill reduces the period in which a lease is terminated by reason of the death of the lessee from 90 days after notice of the death to 40 days. The bill also provides that in the event of termination of a lease by reason of the death of the lessee, the property must be vacated and possession returned to the lessor at least five working days before the termination date.

The bill would make landlords who fail to return the monies due to estates or spouses of lessees subject to double payment of security deposit monies, plus legal costs. In cases where leases are terminated involving deceased tenants, the bill directs payment of any property tax rebates/credits which are due and owing, to the estate or spouse of the deceased tenant. Owners who fail to provide property tax rebates would be subject to a penalty of two times the rebate or \$100.00, whichever is greater, payable to the estate or spouse of the deceased tenant.

The bill also permits the termination of residential leases in cases where the lessee and/or his spouse suffers a disabling illness or accident which impairs the ability to pay rent. These terminations would be conditioned on the giving of a proper notice to the Department of Community Affairs on a form which would include:

- a. medical certification of the inability of the lessee or spouse to engage in gainful employment; and
- b. proof of loss of income; and
- c. proof that any income subsidy being received is insufficient in combination with the income of the lessee and his spouse to pay the rent, as well as proof that such income is necessary to pay the rent.

The bill further requires that in these lease terminations, rent must be paid to the date of termination after which vacation of the premises and possession by the lessor would take place.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 588

STATE OF NEW JERSEY

DATED: FEBRUARY 25, 1985

Presently, residential leases of one or more years may be terminated prior to the expiration of the term in the event of the death of the lessee or the lessee's spouse. Assembly Bill No. 588 clarifies this statute as follows:

1. Presently, the termination of the lease becomes effective 90 days following the receipt of notice by the lessor. Assembly Bill No. 588 would reduce this period to 40 days.

2. Adds language indicating the property must be vacated and possession turned over to the lessor at least five days prior to the termination going into effect.

3. Adds language providing that in the event that a property tax rebate or credit is due prior to the termination of the lease that the rebate or credit be paid to either the decedent's estate or to the surviving spouse terminating the lease. Failure to pay the rebate would result in liability for twice the amount of the rebate or \$100.00 whichever is greater.

4. Add language requiring in the event of termination that deposits are paid to the decedent's estate or to the surviving's spouse terminating the lease. Failure to do so would result in recovery of double the amount owed and in the court's discretion, attorneys' fees.

In addition to the changes with regard to termination of a lease when a death occurs, Assembly Bill No. 588 establishes a new procedure which would permit the termination of residential leases in the event the lessor or the lessor's spouse suffers a disability which impairs the ability to pay rent. These terminations would be conditioned on the giving of a proper notice which would include:

a. medical certification of the inability of the lessee or spouse to engage in gainful employment; and

b. proof of loss of income; and

c. proof that any income subsidy being received is insufficient in combination with the income of the lessee and his spouse to pay the rent, as well as proof that such income is necessary to pay the rent.

The committee amendments to Assembly Bill No. 588 will conform its provisions with those of Assembly Bill No. 1245 which has passed both houses, and was conditionally vetoed by the Governor. The conditional veto has been approved by the Assembly and is awaiting action in the Senate. Assembly Bill No. 1245 deals with the investing of rental deposits in money market funds.
