

2A: 42-85 et al

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LEGISLATIVE HISTORY CHECKLIST

NJSA: 2A:42-85 et al (Utilities--wrongful diversion--relief for tenant customers')

LAWS OF: 1985 CHAPTER: 411

BILL NO: S1335

Sponsor(s): Cowan

Date Introduced: February 23, 1984

Committee: Assembly: Commerce and Industry
Senate: Transportation and Communications

Amended during passage: Yes Amendments during passage denoted by asterisks.

Date of Passage: Assembly: December 9, 1985

Senate: June 17, 1985

Date of Approval: January 13, 1986

Following statements are attached if available:

Sponsor statement: Yes Attached: Senate amendments, adopted 2-28-85 (with statement)

Committee statement: Assembly Yes

Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: No

Following were printed:

Reports: No

Hearings: No

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**SENATE, No. 1335****STATE OF NEW JERSEY**

INTRODUCED FEBRUARY 23, 1984

By Senator COWAN

Referred to Committee on Transportation and Communications

AN ACT concerning \***[the diversion of]**\* certain utility service and amending P. L. 1971, c. 224.

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

1 \*\*1. Section 1 of P. L. 1971, c. 224 (C. 2A:42-85) is amended to  
2 read as follows:

3 1. The Legislature finds:

4 a. Many citizens of the State of New Jersey are required to  
5 reside in dwelling units which fail to meet minimum standards  
6 of safety and sanitation;

7 b. It is essential to the health, safety and general welfare of the  
8 people of the State that owners of substandard dwelling units  
9 be encouraged to provide safe and sanitary housing accommoda-  
10 tions for the public to whom such accommodations are offered;

11 c. It is necessary, in order to insure the improvement of sub-  
12 standard dwelling units, to authorize the tenants dwelling therein  
13 to deposit their rents with a court appointed administrator until  
14 such dwelling units satisfy minimum standards of safety and  
15 sanitation**[.]**;

16 *d. It is necessary to establish an efficient procedure whereby*  
17 *public officers, tenants and utility companies may act to stop and*  
18 *prevent wrongful diversion of utility services and thereby protect*  
19 *both the utility companies and their customers from fraud.*

1 2. Section 2 of P. L. 1971, c. 224 (C. 2A:42-86) is amended to  
2 read as follows:

3 2. The following terms whenever used or referred to in this

**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 June 18, 1984.

\*\*—Senate amendments adopted February 23, 1985.

4 act shall have the following respective meanings, unless a different  
5 meaning clearly appears from the context.

6 a. "Public officer" shall mean the officer, officers, board or body  
7 who is or are authorized by the governing body of a municipality  
8 to supervise the physical condition of dwellings within such mu-  
9 nicipality pursuant to this act.

10 b. "Owner" shall mean the holder or holders of the title in fee  
11 simple.

12 c. "Parties in interest" shall mean all individuals, associations  
13 and corporations who have interests of record in a dwelling, and  
14 who are in actual possession thereof and any person authorized to  
15 receive rents payable for housing space in a dwelling.

16 d. "Dwelling" means and includes all rental premises or units  
17 used for dwelling purposes except owner-occupied premises with  
18 not more than two rental units.

19 e. "Housing space" means that portion of a dwelling rented  
20 or offered for rent for living or dwelling purposes in which cooking  
21 equipment is supplied, and includes all privileges, services, fur-  
22 nishings, furniture, equipment, facilities, and improvements con-  
23 nected with the use or occupancy of such portion of the property.  
24 The term shall not mean or include public housing or dwelling  
25 space in any hotel, motel or established guest house, commonly  
26 regarded as a hotel, motel or established guest house, as the case  
27 may be, in the community in which it is located.

28 f. **["Bureau of Housing Inspection"** means the Bureau of Hous-  
29 ing Inspection in the Division of Housing and Urban Renewal in  
30 the Department of Community Affairs.] *(Deleted by amendment,*  
31 *P. L. . . . , c. . . .)*

32 g. **["Division of Local Finance"** means the Division of Local  
33 Finance in the Department of Community Affairs.] *(Deleted by*  
34 *amendment, P. L. . . . , c. . . .)*

35 h. "Substandard dwelling" means any dwelling determined to  
36 be substandard by the public officer.

37 i. "State Housing Code" means the code adopted by the **[Bureau**  
38 **of Housing Inspection]** *Department of Community Affairs* pur-  
39 suant to P. L. 1966, c. 168 (C. 2A:42-74 et seq.).

40 j. *"Utility company" means a public utility, as defined in R. S.*  
41 *48:2-13, or a municipality, county, water district, authority or other*  
42 *public agency, which provides electric, gas or water utility service.*

1 3. Section 3 of P. L. 1971, c. 224 (C. 2A:42-87) is amended to  
2 read as follows:

3 3. A proceeding by a public officer, tenant, or tenants of a dwell-  
4 ing for a judgment directing the deposit of rents into court and

5 their use for the purpose of remedying conditions in substantial  
 6 violation of the standards of fitness for human habitation estab-  
 7 lished under the State or local housing codes or regulations *or a*  
 8 *proceeding by a public officer, a tenant whose utility service has*  
 9 *been diverted or a utility company for a judgment directing the*  
 10 *deposit of rents into court and their use for correcting any wrong-*  
 11 *ful diversion of utility service in a dwelling may be maintained in*  
 12 a court of competent jurisdiction. The place of trial of the pro-  
 13 ceeding shall be within the county in which the real property or a  
 14 portion thereof from which the rents issue is situated. In cases  
 15 involving real property located in cities of the first class that have  
 16 established full-time municipal housing courts, the proceedings  
 17 may be brought in the municipal housing court of the city in which  
 18 the property is located.\*\*

1     \*\*[1.]\*\* \*\*4.\*\* Section 4 of P. L. 1971, c. 224 (C. 2A:42-88) is  
 2 amended to read as follows:

3     4. *\*\*a.\*\** The public officer or any tenant occupying a dwelling  
 4 may maintain a proceeding as provided in this act, upon the  
 5 **[ground]** *\*grounds\** that there exists in such dwellings or in  
 6 housing space thereof **[:** *a.\*] a lack of heat or of running  
 7 water or of light or of electricity or of adequate sewage disposal  
 8 facilities **[, or]** **[\*]**; *b.\* a wrongful diversion of electric, gas, or*  
 9 *water utility service by the owner or other party from the tenant*  
 10 *of the dwelling without the consent of the tenant* **[, or]** **[\*]**; *c. the*  
 11 *use by the owner or other party in the dwelling without the tenant's*  
 12 *consent of electric, gas, or water utility service that is being charged*  
 13 *to the tenant; d.\*]* **[\*]**, *or* any other condition or conditions in  
 14 substantial violation of the standards of fitness for human habita-  
 15 tion established under the State or local housing or health codes  
 16 or regulations **[\*;\*]** or **[\*e.\*]** any other condition dan-  
 17 gerous to life, health or safety.*

18     *\*\*b.* *A public officer, a tenant whose utility service has been di-*  
 19 *verted or a utility company providing electric, gas or water utility*  
 20 *service to a dwelling may maintain a proceeding as provided in this*  
 21 *act upon the grounds (1) that there exists in these dwellings or in*  
 22 *housing space thereof a wrongful diversion of electric, gas or water*  
 23 *utility service by the owner or owners or other party from a tenant*  
 24 *of the dwelling without the consent of the tenant, or the use by the*  
 25 *owner or other party in the dwelling without the tenant's consent*  
 26 *of electric, gas or water utility service that is being charged to the*  
 27 *tenant, and (2) that the owner has been notified by either a public*  
 28 *officer, a tenant whose utility service has been diverted or a utility*  
 29 *company of the wrongful diversion or unconsented use by certified*

30 *mail and has failed to take necessary action to correct or eliminate*  
 31 *the wrongful diversion or unconsented use within 30 days of receipt*  
 32 *of such notice. If an owner fails or refuses to accept a notice sent*  
 33 *by certified mail, the date of receipt shall be deemed to be the third*  
 34 *day after mailing, provided the notice was sent to the owner at an*  
 35 *address to which the owner's utility bills or municipal tax bills*  
 36 *are sent.\*\**

1 **\*\*[2.]\*\*** **\*\*5.\*\*** Section 6 of P. L. 1971, c. 224 (C. 2A:42-90) is  
 2 amended to read as follows:

3 6. The petition shall:

4 a. Set forth material facts showing that there exists in such  
 5 dwelling or any housing space thereof one or more of the following:  
 6 *\*(1)\* a lack of heat or of running water or of light or electricity*  
 7 *or of adequate sewage disposal facilities\*[ or]\** *;* *(2)\* a wrong-*  
 8 *ful diversion of electric, gas, or water utility service by the owner*  
 9 *or other party from the tenant of the dwelling without the consent*  
 10 *of the tenant\*[ or]\** *;* *(3) the use by the owner or other party in*  
 10A *the dwelling without the tenant's consent of electric, gas, or water*  
 10B *utility service that is being charged to the tenant; (4)\* any other*  
 10C *condition or conditions in substantial violation of the standards of*  
 11 *fitness for human habitation established under the State or local*  
 12 *housing or health codes or regulations\*;\* or \*(5)\* any other con-*  
 13 *dition dangerous to life, health or safety.*

14 b. Set forth that the facts shown in subsection a. of this section  
 15 have been brought to the attention of the owner or any individual  
 16 designated by him as the manager of said dwelling and that he has  
 17 failed to take any action thereon within a reasonable period.

18 c. Set forth that the petitioner is a tenant of the subject dwelling  
 19 or is the public officer of the municipality in which the subject  
 20 dwelling is located\*\*, *or, in a case involving wrongful diversion or*  
 20A *unconsented use of utility services, that the petitioner is a public*  
 20B *officer, a tenant whose utility service has been wrongfully diverted*  
 20C *or a utility company providing utility services to the dwelling\*\*.*

21 d. Set forth a brief description of the nature of the work required  
 22 to remove or remedy the condition and an estimate as to the cost  
 23 thereof.

24 e. Set forth the amount of rent due from each petitioning tenant,  
 25 if any, monthly.

26 f. State the relief sought.

1 **\*\*[3.]\*\*** **\*\*6.\*\*** This act shall take effect immediately.

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SENATE, No. 1335

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 23, 1984

By Senator COWAN

Referred to Committee on Transportation and Communications

AN ACT concerning the diversion of certain utility service and amending P. L. 1971, c. 224.

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

1 1. Section 4 of P. L. 1971, c. 224 (C. 2A:42-88) is amended to  
2 read as follows:

3 4. The public officer or any tenant occupying a dwelling may  
4 maintain a proceeding as provided in this act, upon the ground  
5 that there exists in such dwellings or in housing space thereof a  
6 lack of heat or of running water or of light or of electricity or of  
7 adequate sewage disposal facilities, *or a wrongful diversion of*  
8 *electric, gas, or water utility service by the owner or other party*  
9 *from the tenant of the dwelling without the consent of the tenant,*  
10 or any other condition or conditions in substantial violation of the  
11 standards of fitness for human habitation established under the  
12 State or local housing or health codes or regulations or any other  
13 condition dangerous to life, health or safety.

1 2. Section 6 of P. L. 1971, c. 224 (C. 2A:42-90) is amended to  
2 read as follows:

3 6. The petition shall:

4 a. Set forth material facts showing that there exists in such  
5 dwelling or any housing space thereof one or more of the following:  
6 a lack of heat or of running water or of light or electricity or of  
7 adequate sewage disposal facilities, *or a wrongful diversion of*

**Matter printed in italics thus is new matter.**

8 *electric, gas, or water utility service by the owner or other party*  
 9 *from the tenant of the dwelling without the consent of the tenant,*  
 10 or any other condition or conditions in substantial violation of the  
 11 standards of fitness for human habitation established under the  
 12 State or local housing or health codes or regulations or any other  
 13 condition dangerous to life, health or safety.

14 b. Set forth that the facts shown in subsection a. of this section  
 15 have been brought to the attention of the owner or any individual  
 16 designated by him as the manager of said dwelling and that he has  
 17 failed to take any action thereon within a reasonable period.

18 c. Set forth that the petitioner is a tenant of the subject dwelling  
 19 or is the public officer of the municipality in which the subject  
 20 dwelling is located.

21 d. Set forth a brief description of the nature of the work required  
 22 to remove or remedy the condition and an estimate as to the cost  
 23 thereof.

24 e. Set forth the amount of rent due from each petitioning tenant,  
 25 if any, monthly.

26 f. State the relief sought.

1 3. This act shall take effect immediately.

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#### STATEMENT

In response to an increasing awareness of the plight of tenants in individually metered multi-family dwellings, the Board of Public Utilities has recently adopted regulatory procedures for investigating and resolving cases wherein a utility tenant-customer is billed for utility service that passed through and registered on the meter but was diverted to the landlord's or other third party's use before entering the tenant-customer's premises. The purpose of this legislation is to support these procedures by giving impetus to the landlord to cooperate in the investigation and resolution of the controversy, especially where the landlord is not a utility customer.

P. L. 1971, c. 224, which is designed to promote safe and sanitary housing for tenants, provides a mechanism for a tenant who is living in a dwelling which is not habitable to deposit rent payments in a special account under the jurisdiction of the courts. This bill amends P. L. 1971, c. 224 and thus also provides this mechanism for a tenant-customer of electric, gas, or water service, after instituting a proceeding, as a means of remedying a diversion of such utility service from the tenant.

51335 (1985)

ASSEMBLY COMMERCE AND INDUSTRY COMMITTEE

STATEMENT TO

**SENATE, No. 1335**

**STATE OF NEW JERSEY**

DATED: SEPTEMBER 12, 1985

This bill amends P. L. 1971, c. 224 (C. 2A:42-85 et seq.) to provide that a public officer, a tenant whose utility service has been diverted to another's use, or a public utility may maintain a proceeding pursuant to that act for wrongful diversion of utility services.



SENATE TRANSPORTATION AND COMMUNICATIONS  
COMMITTEE

STATEMENT TO

**SENATE, No. 1335**

with Senate committee amendments

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**STATE OF NEW JERSEY**

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DATED: JUNE 15, 1984

This bill, as amended, expands the rights of tenants under New Jersey's landlord-tenant law in two ways.

First, it provides that wrongful diversion of utility service from the tenant by the owner or another party without the tenant's consent constitutes grounds for the tenant or a public officer to maintain a proceeding for a judgment directing the deposit of rent monies into court. This change in the law is intended to apply to those situations where there has been a wrongful physical diversion, either through mechanical or electrical means, of pipes or lines supplying gas, water or electrical service to the tenant's apartment unit.

Second, the bill permits a tenant or public officer to obtain a judgment directing the deposit of rent monies into court when it is determined that utility service charged to a tenant has been used by the owner or by another party without the tenant's consent. This change is intended to apply to: (1) multi-family dwellings without individually metered apartment units where a utility tenant-customer is billed without his consent for utility service which was registered on the tenant's utility meter but which was supplied to apartment units in addition to the one in which the tenant resides; or (2) any dwelling where a tenant is billed without his consent for utility service supplied to common areas such as stairwells, hallways, landings or basements.

Senate Amendments

to

Senate Bill No. 1335OCR

2-28

Amend:

Page	Sec.	Line	
1	2	1	Omit "2." insert "5."
2	2	20	After "located" insert " ,or, in a case involving wrongful diversion or unconsented use of utility services, that the petitioner is a public officer, a tenant whose utility service has been wrongfully diverted or a utility company providing utility services to the dwelling "
1	3	1	Omit "3." insert "6."

Statement

These amendments establish and clarify the procedure whereby a public officer, a tenant whose utility service has been diverted or a utility company may act to stop and prevent wrongful diversion of electric, gas or water utility service under New Jersey's landlord ~~and~~ tenant law.

