

2A:39-1

LEGISLATIVE HISTORY CHECKLIST

NJSA 2A:39-1

Laws of 1971 Chapter 227

Bill No. A2233

Sponsor(s) Kravarik & others

Date Introduced March 15

Committee: Assembly Revision & Amendments of Laws

Senate —

Amended during passage Yes

Amendments during passage denoted by asterisks

Date of passage: Assembly May 6

Senate May 10

Date of approval June 21

Following statements are attached if available:

Sponsor statement Yes

Committee Statement: Assembly  No

Senate  No

Fiscal Note  No

Veto message  No

Message on signing Yes

Following were printed:

Reports  No

Hearings  No

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ASSEMBLY, No. 2233

STATE OF NEW JERSEY

INTRODUCED MARCH 15, 1971

By Assemblymen KRAVARIK, MACRAE, GARIBALDI, Assemblywoman FENWICK and Assemblymen BROWN and KEAN

Referred to Committee on Revision and Amendment of Laws

AN ACT concerning unlawful entry and detainer of real estate, amending N. J. S. 2A:39-1, 2A:39-2, 2A:39-6, and 2A:39-8\* [ and repealing N. J. S. 2A:39-3 to 2A:39-5, inclusive ]\*.

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

1 1. N. J. S. 2A:39-1 is amended to read as follows: \

2 2A:39-1. No person shall enter upon or into any real property  
3 or estate therein and detain and hold the same [ except where entry  
4 is given by law, and then only in a peaceable manner ]\*, *except*  
4A *where entry is given by law, and then only in a peaceable manner.*  
4B *With regard to any real property occupied solely as a residence by*  
4C *the party in possession, such entry shall not be made\* in any man-*  
5 *ner without the consent of the party in possession unless the entry*  
6 *and detention is made pursuant to legal process as set out in N. J. S.*  
7 *2A:18-53 et seq. or 2A:35-1 et seq.*

1 2. N. J. S. 2A:39-2 is amended to read as follows:

2 2A:39-2. If any person shall enter upon or into any real property  
3 and detain or hold the same [with force, whether or not any per-  
4 son be in it, by any kind of violence whatsoever, or by threatening  
5 to kill, maim or beat the party in possession, or by such words,  
6 circumstances or action as have a natural tendency to excite fear  
7 or apprehension of danger, or by putting out of doors, or carrying  
8 away the goods of the party in possession, or by entering peaceably  
9 and then, by force or frightening by threats, or by other circum-  
10 stances of terror, turning the party out of possession,] \* [in any  
11 manner without the consent of the party in possession unless the  
12 entry is made pursuant to legal process as set out in N. J. S.  
13 2A:18-53 et seq. or 2A:35-1 et seq.] \* with force, whether or not  
14 any person be in it, by any kind of violence whatsoever, or by

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

15 *threatening to kill, maim or beat the party in possession, or by such*  
 16 *words, circumstances or action as have a natural tendency to excite*  
 17 *fear or apprehension of danger, or by putting out of doors, or carry-*  
 18 *ing away the goods of the party in possession, or by entering peace-*  
 19 *ably and then, by force or frightening by threats, or by other*  
 20 *circumstances of terror, turning the party out of possession,\* such*  
 21 *person shall be guilty of [a forcible] -a forcible\* \* [an unlawful]\**  
 22 *entry and detainer within the meaning of this chapter. \*With*  
 23 *regard to any real property occupied solely as a residence by the*  
 24 *party in possession, if any person shall enter upon or into said*  
 25 *property and detain or hold same in any manner without the con-*  
 26 *sent of the party in possession unless the entry is made pursuant to*  
 27 *legal process as set out in N. J. S. 2A:18-53 et seq. or 2A:35-1 et*  
 28 *seq., such person shall be guilty of an unlawful entry and detainer*  
 29 *within the meaning of this chapter.\**

1 3. N. J. S. 2A :39-6 is amended to read as follows:

2 2A :39-6. Any [forcible] \*forcible\* unlawful entry and  
 3 detainer[, forcible detainer and unlawful detainer]\*, forcible  
 3A *detainer and unlawful detainer\** as defined in this chapter shall be  
 4 cognizable before the district court *or the Superior Court, Chan-*  
 5 *cery Division* of the county in which it is committed, and the court  
 6 may hear and determine an action therefor in a summary manner.

1 4. N. J. S. 2A :39-8 is amended to read as follows:

2 2A :39-8. In any action under this chapter, a plaintiff recovering  
 3 judgment shall be entitled to [treble costs and to delivery of pos-  
 4 session, as in the case of other actions for the possession of real  
 5 property] *possession of the real property and shall recover all*  
 6 *damages proximately caused by the unlawful entry and detainer*  
 7 *including court costs and reasonable\* attorney's fees. When a*  
 8 *return to possession would be an \* [appropriate]\* \*inappropriate\**  
 9 *remedy, treble damages shall be awarded in lieu thereof. The*  
 10 judgment may be enforced against either party in a summary  
 11 manner by any process necessary to secure complete compliance  
 12 therewith, including the payment of the costs.

1 \* [5. N. J. S. 2A :39-3 to 2A :39-5, inclusive, are repealed.]\*

1 \* [6.]\* \*5.\* This act shall take effect immediately.

4 cognizable before the district court or the Superior Court, Chan-  
 5 cery Division of the county in which it is committed, and the court  
 6 may hear and determine an action therefor in a summary manner.

1 4. N. J. S. 2A:39-8 is amended to read as follows:

2 2A:39-8. In any action under this chapter, a plaintiff recovering  
 3 judgment shall be entitled to [treble costs and to delivery of pos-  
 4 session, as in the case of other actions for the possession of real  
 5 property] *possession of the real property and shall recover all*  
 6 *damages proximately caused by the unlawful entry and detainer*  
 7 *including court costs and attorney's fees. When a return to pos-*  
 8 *session would be an appropriate remedy, treble damages shall be*  
 9 *awarded in lieu thereof.* The judgment may be enforced against  
 10 either party in a summary manner by any process necessary to  
 11 secure complete compliance therewith, including the payment of  
 12 the costs.

1 5. N. J. S. 2A:39-3 to 2A:39-5, inclusive, are repealed.

1 6. This act shall take effect immediately.

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#### STATEMENT

Certain landlords are using self-help evictions to dispossess tenants despite the availability of the summary dispossess statute N. J. S. 2A:18-53 which provides for a speedy remedy for the recovery of possession.

The Superior Court, Chancery Division in Bergen, Burlington, Camden, and Mercer counties have enjoined the use of lockouts.

The use of self-help eviction denies a tenant the opportunity to raise defenses which would establish his right to his apartment, including retaliatory eviction and breach of implied warranty of habitability.

Self-help eviction also denies a tenant who has paid his rent his statutory right under P. L. 1957, c. 110 to seek a stay of warrant for removal if the "tenant would suffer hardship because of the unavailability of other dwelling accommodations."

This amendment is necessary to insure that no tenant shall be denied the full use and enjoyment of his home except by due process of law.

JUNE 21, 1971

A - 2233

FOR RELEASE:  
IMMEDIATE

Governor William T. Cahill today signed into law a package of four bills to provide greater protection for tenants.

In signing the bills, the Governor said that the intent is to assure tenants rights, correct abuses, and eliminate many of the undue hardships with which some tenants contend. The bills also establish equitable guidelines for landlord-tenant relations.

Briefly, the four bills set procedures for the deposit of rents, prohibit tenant lockouts, prevent the illegal seizure of a tenant's property and provide that tenants shall receive interest on security deposits.

Under Senate Bill 2237, sponsored by Senator Albert D. Schiaffo (R., Bergen), tenants living in dwellings determined by the courts to be substandard may deposit with a court-appointed administrator rent money to be used for necessary improvement of their living quarters. However, the bill also provides that landlords be notified by tenants of existing conditions and have the opportunity to voluntarily undertake improvements.

Assembly Bill 2233, sponsored by Assemblyman Martin E. Kravarik (R., Middlesex), prohibits the practice of locking tenants out of their apartments to avoid the cost of eviction proceedings against those who are delinquent.

Under Assembly Bill 2234, also sponsored by Assemblyman Kravarik, landlords are prevented from confiscating or selling the possessions of tenants who have not paid their rent without having a judicial hearing or notice.

Senate Bill 904, sponsored by Senator Robert E. Kay (R., Cape May), provides that the interest accrued on security deposits be credited to the payment of any rent that is due when a lease expires or is renewed. In addition, it provides that landlords are entitled to one percent of the accrued interest to cover the costs of administering the fund. The bill also provides that security deposits are limited to an amount equal to a month-and-a-half's rent. These security deposits must be returned with a statement itemizing any deductions within thirty days after termination of a lease. The Governor pointed out that the new legislation is the result of a cooperative effort between the builders, landlords, and tenant associations in the State.