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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

Title 2A.
Chapter 18.
Article 12. (New)
Abandoned Tenant
Property.
§§1-7, 9, 11-15
C. 2A:18-72
to
2A:18-84
§8
C.39:10-15.1
§9
Note to C.2A:33-1
§15
Note to C.39:4-56.6

P.L. 1999, CHAPTER 340, *approved January 10, 2000*
Assembly, No. 1706 (*Third Reprint*)

1 **AN ACT** concerning the disposition of personal property abandoned by
2 tenants, supplementing chapter 18 of Title 2A of the New Jersey
3 Statutes¹, chapter 10 of Title 39 of the Revised Statutes and
4 amending P.L.1973, c.137¹.
5

6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:
8

- 9 1. ¹(New section)¹ A landlord of commercial or residential
10 property, in the manner provided by P.L. , c. (C.)(now
11 before the Legislature as this bill), may dispose of any tangible goods,
12 chattels, ¹**[motor vehicles]** manufactured or mobile homes¹ or other
13 personal property left upon a premises by a tenant after giving notice
14 as required by section 2 of P.L. , c. (C.)(now before the
15 Legislature as this bill), ¹**[in the following circumstances]**¹ only ¹**[**
16 a. The ¹**]** if the¹ landlord reasonably believes under all the
17 circumstances that the tenant has left the property upon the premises
18 with no intention of asserting any further claim to the premises or the
19 property and ¹**[**the tenancy has been terminated: (i) by expiration of
20 a lease; (ii) in any case in which P.L.1974, c.49 (C.2A:18-61.1) is not
21 applicable; or (iii) by surrender or abandonment by the tenant of the
22 premises.
23 b. The tenant has been absent from the premises continuously for
24 at least seven days after entry of a judgment in favor of the landlord
25 for possession of the property, but prior to the execution of a warrant
26 for removal; or
27 c. ¹**]**:

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ALH committee amendments adopted October 5, 1998.

² Senate SCU committee amendments adopted May 6, 1999.

³ Assembly floor amendments adopted November 15, 1999.

1 a.¹ A warrant for removal has been executed and possession of the
2 premises has been restored to the landlord¹; or

3 b. The tenant has given written notice that he or she is voluntarily
4 relinquishing possession of the premises¹ ³and has voluntarily
5 surrendered the keys to the premises to the landlord²³.

6
7 2. ¹(New section)¹ To dispose of a tenant's property under this
8 act, a landlord shall first give written notice to the tenant, which shall
9 be sent by ¹certified mail, return receipt requested² or by¹ received
10 first class mail addressed² ³or by received first class mail addressed³
11 to the tenant, at the tenant's last known address (which may be the
12 address of the premises) and at any alternate address or addresses
13 known to the landlord, in an envelope endorsed "Please Forward."

14 ²"Received first class mail" for purposes of this section means
15 first class mail for which a certificate of mailing has been obtained by
16 the sender but does not include certified or registered mail¹ , or any
17 other form of mail that might delay or hinder actual delivery of mail to
18 the tenant¹ .²

19 ³"Received first class mail" for purposes of this section means first
20 class mail for which a certificate of mailing has been obtained by the
21 sender but does not include certified or registered mail."³

22 ¹When the property subject to disposal is a manufactured or mobile
23 home, a copy of the notice required pursuant to this section shall also
24 be sent to the Director of the Division of Motor Vehicles and to any
25 lienholders with security interests in the property which have been
26 recorded with the Division of Motor Vehicles.¹

27
28 3. ¹(New section)¹ The notice required under section 2
29 of P.L. , c. (C.)(now before the Legislature as this bill) shall
30 state as follows:

31 a. That the property is considered abandoned and must be removed
32 from the premises or from the place of safekeeping, if the landlord has
33 stored the property as provided in section 4 of P.L. , c. (C.)(now
34 before the Legislature as this bill), by a date ¹as follows:

35 (i) for all property other than manufactured or mobile homes¹ not
36 less than ¹[15] 30¹ days after delivery of the notice, or not less than
37 ¹[18] 33¹ days after the date of mailing, whichever comes first, or

38 ¹(ii) for property which consists solely of manufactured or mobile
39 homes, not less than 75 days after the delivery of the notice, or not
40 less than 78 days after the date of mailing, whichever comes first,
41 or¹ the property will be sold or otherwise disposed of; and

42 b. That if the abandoned property is not removed:

43 i. The landlord may sell the property at a public or private sale; or

44 ii. The landlord may destroy or otherwise dispose of the property
45 if the landlord reasonably determines that the value of the property is

1 so low that the cost of storage and conducting a public sale would
2 probably exceed the amount that would be realized from the sale; or

3 iii. The landlord may sell ¹**["certain"]**¹ items ¹of value¹ and destroy
4 or otherwise dispose of the remaining property.

5 c. That in the case of a residential tenant, if the tenant claims the
6 property within the time provided in the notice, the landlord must
7 make the property available for removal by the tenant without
8 payment by the tenant of any ¹**["costs, charges or other sums,**
9 **including"]**¹ ³**["costs, charges or other sums, including"]**³ unpaid rent.

10
11 4. ¹**(New section)**¹ After notifying a tenant as required by sections
12 2 and 3 of P.L. , c. (C.)(now before the Legislature as this bill), a
13 landlord shall store all goods, chattels, ¹**["motor vehicles"]**
14 manufactured or mobile homes¹ and other personal property of the
15 tenant in a place of safekeeping and shall exercise reasonable care for
16 the property, except that the landlord may promptly dispose of
17 perishable food and shall allow an animal control agency or humane
18 society to remove any abandoned pets or livestock. A landlord may
19 store a tenant's manufactured dwelling or residential vehicle on the
20 space previously rented ¹**["or,"**¹ elsewhere on the premises ¹or in a safe
21 location off the premises¹. A landlord shall be entitled to reasonable
22 storage charges and costs incidental to storage. A landlord may store
23 property in a commercial storage facility, in which case the storage
24 cost shall include the actual storage charge plus the reasonable cost of
25 removal of the property to the place of storage.

26
27 5. ¹**(New section)**¹ a. If a tenant responds in writing or orally to
28 the landlord, on or before the day specified in the required notice, that
29 the tenant intends to remove the property from the premises, or from
30 the place of safekeeping if the landlord has stored the property as
31 provided in section 4 of P.L. , c. (C.)(now before the
32 Legislature as this bill), and does not do so within the time specified
33 in the notice or within 15 days after the written response, whichever
34 is later, the tenant's property shall be conclusively presumed to be
35 abandoned.

36 ¹b. If a lienholder responds in writing to the landlord concerning
37 a security interest in any manufactured or mobile home, and the
38 lienholder indicates an intent to remove the property from the
39 premises, or from the place of safekeeping, or to pay rent as a
40 condition of leaving the property on the premises, but fails to remove
41 the property or make rental payments within the time specified in the
42 notice or within 15 days after the written response, whichever is later,
43 then the landlord may proceed as if the lienholder had not responded.¹

44 ¹**["b.]c.**¹ If no response is received from a tenant ¹or lienholder¹
45 within the time period provided under section 3 of P.L. , c. (C.)
46 (now before the Legislature as this bill), then the tenant's property

1 shall be conclusively presumed to be abandoned.

2

3 6. ¹(New section)¹ Upon removal of his property, a tenant shall
 4 reimburse the landlord for the reasonable cost of storage for the period
 5 the property was in the landlord's safekeeping, including the
 6 reasonable cost of removal of the property to a place of storage. ³ A
 7 landlord shall not be entitled to reimbursement for storage and removal
 8 costs which are greater than the fair market value of such costs in the
 9 locale of the rental property. ³ A landlord shall not be responsible for
 10 any loss to a tenant resulting from storage of property in compliance
 11 with this act unless the loss was caused by the landlord's deliberate or
 12 negligent act or omission¹. In the event of deliberate and malicious
 13 violation of the property rights of a tenant, the landlord shall be liable
 14 for twice the actual damages sustained by the tenant] ³]². In the
 15 event of deliberate and malicious violation of the property rights of the
 16 tenant, ² including the charging of unconscionable amounts for storage
 17 the landlord shall be liable for twice the actual damages sustained by
 18 the tenant². ¹]³

19

20 7. ¹(New section)¹ Property that has been conclusively presumed
 21 to be abandoned may be disposed of in any of the following ways:

- 22 a. The landlord may sell the property at a public or private sale;
 23 b. The landlord may destroy or otherwise dispose of the property
 24 if the landlord reasonably determines that the value of the property is
 25 so low that the cost of storage and conducting a public sale would
 26 probably exceed the amount that would be realized from the sale; or
 27 c. The landlord may sell certain items and destroy or otherwise
 28 dispose of the remaining property, in accordance with subsections a.
 29 and b. of this section.

30 A public or private sale authorized by this section shall be
 31 conducted in accordance with the provisions of section 12A:9-504 of
 32 the "Uniform Commercial Code" (C.12A:9-504).

33

34 ¹8. (New section) If a manufactured home is sold or otherwise
 35 disposed of pursuant to P.L. _____, c. (C. _____)(now before the
 36 Legislature as this bill), the Director of the Division of Motor Vehicles
 37 shall issue, upon proof of purchase, a certificate of ownership to the
 38 purchaser, with no encumbrances listed thereon.¹

39

40 ¹9. (New section) Nothing in P.L. _____, c. (C. _____) shall diminish
 41 the right of a landlord of a nonresidential property to use distraint
 42 when authorized by law.¹

43

44 ¹10. Section 1 of P.L.1973, c.137 (C.39:4-56.6) is amended to
 45 read as follows:

- 46 1. No person shall park or leave unattended a vehicle on private
 47 property without the consent of the owner or other person in control

1 or possession of the property or for a period in excess of that for
2 which consent was given, except in the case of emergency or
3 disablement of the vehicle in which case the owner or operator thereof
4 shall arrange for the expeditious removal of the vehicle. This section
5 shall not apply to manufactured or mobile homes left unattended and
6 for which there exists or existed a rental agreement to occupy a space
7 on the property.

8 The owner or other person in control or possession of the property
9 on which a vehicle is parked or left unattended in violation of this
10 section may remove or hire another person to remove and store the
11 vehicle. It shall be the obligation of the owner of the vehicle to pay
12 the reasonable costs for the removal and for any storage which may
13 result from such removal before he shall be entitled to recover the
14 possession of the vehicle. If the owner of the vehicle refuses to pay
15 such costs or fails to make any claim for the return of the vehicle
16 within 90 days after such removal, the vehicle may be sold at public
17 auction in accordance with the provisions of N.J.S.2A:44-20 through
18 N.J.S. 2A:44-31.¹

19 (cf: P.L.1973, c.137, s.1)

20
21 ¹**[8.] 11. (New section)¹** A landlord may deduct from the
22 proceeds of any sale the reasonable costs of notice, storage and sale
23 and any unpaid rent and charges not covered by a security deposit.
24 After deducting these amounts, the landlord shall remit to the tenant
25 the remaining proceeds, if any, together with an itemized accounting.
26 If the tenant, after due diligence, cannot be found the remaining
27 proceeds shall be deposited into the Superior Court and, if not claimed
28 within ²**[14]** 10 ² years, shall escheat to the State.

29
30 ¹**[9.] 12. (New section)¹** Compliance in good faith with all the
31 requirements of this act shall constitute a complete defense in any
32 action brought by a tenant against a landlord for loss or damage to
33 personal property disposed of pursuant to this act.

34
35 ¹**[10.] 13. (New section)¹** If a landlord seizes and retains a
36 tenant's personal property without complying with this act, the tenant
37 shall be relieved of any liability for ³**[²unpaid rent and for²** damage to
38 the premises caused by conduct that was not deliberate, intentional or
39 grossly negligent]³ ¹**[and for unpaid rent]¹** ³**reimbursement to the**
40 **landlord for storage and removal costs³** and shall be entitled to recover
41 up to twice the actual damages sustained by the tenant.

42
43 ¹**[11.] 14. (New section)¹** This act shall not be applicable to any
44 unclaimed property which must be disposed of in accordance with the
45 "Uniform Unclaimed Property Act," P.L.1989, c.58 (C.46:30B-1 et
46 seq.).

1 ¹15. (New section) This act shall not be applicable to abandoned
2 motor vehicles.¹

3

4 ¹~~[12.]~~ 16.¹ This act shall take effect immediately.

5

6

7

8

9 _____
Allows landlord to dispose of abandoned tenant property.

ASSEMBLY, No. 1706

STATE OF NEW JERSEY
208th LEGISLATURE

INTRODUCED FEBRUARY 19, 1998

Sponsored by:

Assemblyman JOHN V. KELLY

District 36 (Bergen, Essex and Passaic)

SYNOPSIS

Allows landlord to dispose of abandoned tenant property.

CURRENT VERSION OF TEXT

As introduced.



A1706 KELLY

2

1 AN ACT concerning the disposition of personal property abandoned by
2 tenants, supplementing chapter 18 of Title 2A of the New Jersey
3 Statutes.

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

7
8 1. A landlord of commercial or residential property, in the manner
9 provided by P.L. , c. (C.)(now before the Legislature as
10 this bill), may dispose of any tangible goods, chattels, motor vehicles
11 or other personal property left upon a premises by a tenant after giving
12 notice as required by section 2 of P.L. , c. (C.)(now before
13 the Legislature as this bill), in the following circumstances only:

14 a. The landlord reasonably believes under all the circumstances that
15 the tenant has left the property upon the premises with no intention of
16 asserting any further claim to the premises or the property and the
17 tenancy has been terminated: (i) by expiration of a lease; (ii) in any
18 case in which P.L. 1974, c.49 (C.2A:18-61.1) is not applicable; or (iii)
19 by surrender or abandonment by the tenant of the premises.

20 b. The tenant has been absent from the premises continuously for
21 at least seven days after entry of a judgment in favor of the landlord
22 for possession of the property, but prior to the execution of a warrant
23 for removal; or

24 c. A warrant for removal has been executed and possession of the
25 premises has been restored to the landlord.

26
27 2. To dispose of a tenant's property under this act, a landlord shall
28 first give written notice to the tenant, which shall be sent by receipted
29 first class mail addressed to the tenant, at the tenant's last known
30 address (which may be the address of the premises) and at any
31 alternate address or addresses known to the landlord, in an envelope
32 endorsed "Please Forward."

33 "Receipted first class mail" for purposes of this section means first
34 class mail for which a certificate of mailing has been obtained by the
35 sender but does not include certified or registered mail, or any other
36 form of mail that might delay or hinder actual delivery of mail to the
37 tenant.

38
39 3. The notice required under section 2 of P.L. , c. (C.)(now
40 before the Legislature as this bill) shall state as follows:

41 a. That the property is considered abandoned and must be removed
42 from the premises or from the place of safekeeping, if the landlord has
43 stored the property as provided in section 4 of P.L. , c. (C.)(now
44 before the Legislature as this bill), by a date not less than 15 days after
45 delivery of the notice, or not less than 18 days after the date of
46 mailing, whichever comes first, or the property will be sold or

- 1 otherwise disposed of; and
- 2 b. That if the abandoned property is not removed:
- 3 i. The landlord may sell the property at a public or private sale; or
- 4 ii. The landlord may destroy or otherwise dispose of the property
- 5 if the landlord reasonably determines that the value of the property is
- 6 so low that the cost of storage and conducting a public sale would
- 7 probably exceed the amount that would be realized from the sale; or
- 8 iii. The landlord may sell certain items and destroy or otherwise
- 9 dispose of the remaining property.
- 10 c. That in the case of a residential tenant, if the tenant claims the
- 11 property within the time provided in the notice, the landlord must
- 12 make the property available for removal by the tenant without
- 13 payment by the tenant of any costs, charges or other sums, including
- 14 unpaid rent.
- 15
- 16 4. After notifying a tenant as required by sections 2 and 3 of
- 17 P.L. , c. (C.)(now before the Legislature as this bill), a
- 18 landlord shall store all goods, chattels, motor vehicles and other
- 19 personal property of the tenant in a place of safekeeping and shall
- 20 exercise reasonable care for the property, except that the landlord may
- 21 promptly dispose of perishable food and shall allow an animal control
- 22 agency or humane society to remove any abandoned pets or livestock.
- 23 A landlord may store a tenant's manufactured dwelling or residential
- 24 vehicle on the space previously rented or elsewhere on the premises.
- 25 A landlord shall be entitled to reasonable storage charges and costs
- 26 incidental to storage. A landlord may store property in a commercial
- 27 storage facility, in which case the storage cost shall include the actual
- 28 storage charge plus the reasonable cost of removal of the property to
- 29 the place of storage.
- 30
- 31 5. a. If a tenant responds in writing or orally to the landlord, on or
- 32 before the day specified in the required notice, that the tenant intends
- 33 to remove the property from the premises, or from the place of
- 34 safekeeping if the landlord has stored the property as provided in
- 35 section 4 of P.L. , c. (C.)(now before the Legislature as
- 36 this bill), and does not do so within the time specified in the notice or
- 37 within 15 days after the written response, whichever is later, the
- 38 tenant's property shall be conclusively presumed to be abandoned.
- 39 b. If no response is received from a tenant within the time period
- 40 provided under section 3 of P.L. , c. (C.)(now before the
- 41 Legislature as this bill), then the tenant's property shall be conclusively
- 42 presumed to be abandoned.
- 43
- 44 6. Upon removal of his property, a tenant shall reimburse the
- 45 landlord for the reasonable cost of storage for the period the property
- 46 was in the landlord's safekeeping, including the reasonable cost of

1 removal of the property to a place of storage. A landlord shall not be
2 responsible for any loss to a tenant resulting from storage of property
3 in compliance with this act unless the loss was caused by the landlord's
4 deliberate or negligent act or omission. In the event of deliberate and
5 malicious violation of the property rights of a tenant, the landlord shall
6 be liable for twice the actual damages sustained by the tenant.

7
8 7. Property that has been conclusively presumed to be abandoned
9 may be disposed of in any of the following ways:

- 10 a. The landlord may sell the property at a public or private sale;
11 b. The landlord may destroy or otherwise dispose of the property
12 if the landlord reasonably determines that the value of the property is
13 so low that the cost of storage and conducting a public sale would
14 probably exceed the amount that would be realized from the sale; or
15 c. The landlord may sell certain items and destroy or otherwise
16 dispose of the remaining property, in accordance with subsections a.
17 and b. of this section.

18 A public or private sale authorized by this section shall be
19 conducted in accordance with the provisions of section 12A:9-504 of
20 the "Uniform Commercial Code" (C.12A:9-504).

21
22 8. A landlord may deduct from the proceeds of any sale the
23 reasonable costs of notice, storage and sale and any unpaid rent and
24 charges not covered by a security deposit. After deducting these
25 amounts, the landlord shall remit to the tenant the remaining proceeds,
26 if any, together with an itemized accounting. If the tenant, after due
27 diligence, cannot be found the remaining proceeds shall be deposited
28 into the Superior Court and, if not claimed within 14 years, shall
29 escheat to the State.

30
31 9. Compliance in good faith with all the requirements of this act
32 shall constitute a complete defense in any action brought by a tenant
33 against a landlord for loss or damage to personal property disposed of
34 pursuant to this act.

35
36 10. If a landlord seizes and retains a tenant's personal property
37 without complying with this act, the tenant shall be relieved of any
38 liability for damage to the premises caused by conduct that was not
39 deliberate, intentional or grossly negligent and for unpaid rent and
40 shall be entitled to recover up to twice the actual damages sustained
41 by the tenant.

42
43 11. This act shall not be applicable to any unclaimed property
44 which must be disposed of in accordance with the "Uniform Unclaimed
45 Property Act," P.L. 1989, c. 58 (C. 46:30B-1 et seq.).

1 12. This act shall take effect immediately.

2

3

4

STATEMENT

5

6 This bill establishes a procedure to be followed by landlords of
7 commercial or residential property in disposing of tangible property
8 left behind in rental premises which have been vacated by a tenant.
9 New Jersey statutes currently provide no clear guidance as to the
10 procedures to be followed in the event that a tenant either abandons
11 or is evicted from a rented premises but leaves tangible personal
12 property behind. This bill, adapted from an Oregon statute, is
13 intended to establish clear guidelines for the benefit of both parties.

14 The bill would apply to all tangible personal property, including
15 motor vehicles and manufactured housing, except certain property that
16 must be disposed of in accordance with the "Uniform Unclaimed
17 Property Act," N.J.S.A. 46:30B-1 et seq. This latter act regulates
18 abandoned intangible property, such as bank accounts, stock and
19 insurance policies.

20 The bill would require written notice to a tenant, and allow a
21 landlord to presume that property is abandoned by a date not less than
22 15 days after delivery of the notice, or not less than 18 days after the
23 date of mailing, whichever comes first. The bill would allow a
24 landlord to place such property in storage to be sold at a later date, or
25 dispose of property with no value. Property that has been conclusively
26 presumed to be abandoned may be disposed of in any of the following
27 ways: (1) the landlord may sell the property at a public or private sale;
28 (2) the landlord may destroy or otherwise dispose of the property if
29 the landlord reasonably determines that the value of the property is so
30 low that the cost of storage and conducting a public sale would
31 probably exceed the amount that would be realized from the sale; or
32 (3) the landlord may use a combination of these methods. Any sale
33 conducted by a landlord would be required to be conducted in
34 accordance with the "Uniform Commercial Code" (C.12A:9-504).
35 Any excess proceeds (beyond the landlords costs) from a sale of
36 abandoned property under the bill must be returned to the tenant, if he
37 or she can be located. If the tenant is not locatable, the landlord must
38 deposit the proceeds with the Superior Court. If unclaimed for more
39 than 14 years, the proceeds will escheat to the State.

ASSEMBLY LOCAL GOVERNMENT AND HOUSING
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1706

with committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 5, 1998

The Assembly Local Government and Housing Committee reports favorably Assembly Bill No. 1706, with committee amendments.

This bill, as amended, establishes a procedure to be followed by landlords of commercial or residential property in disposing of tangible property left behind in rental premises which have been vacated by a tenant. New Jersey statutes currently provide no clear guidance as to the procedures to be followed in the event that a tenant either abandons or is evicted from a rented premises but leaves tangible personal property behind. This bill, adapted from an Oregon statute, is intended to establish clear guidelines for the benefit of both parties.

As amended, the bill would apply to all tangible personal property, including manufactured housing. The bill would not regulate certain property that must be disposed of in accordance with the "Uniform Unclaimed Property Act (1981)," R.S.46:30B-1 et seq., which pertains to abandoned intangible property, such as bank accounts, stock and insurance policies. The bill also would not be applicable to abandoned motor vehicles, which are subject to the provisions of section 1 of P.L.1973, c.137 (C.39:4-56.6).

The bill would require written notice sent by certified mail to a tenant, and would allow a landlord to presume that property which consists of manufactured or mobile homes is abandoned after 75 days, and all other property is abandoned after 30 days. A landlord will be permitted to place such property in storage to be sold at a later date in accordance with N.J.S.12:9-504 of the "Uniform Commercial Code", or dispose of property with no value. If the tenant is not locatable, and the landlord sells the property, the landlord must deposit the sale proceeds with the Superior Court. If unclaimed for more than 14 years, the proceeds escheat to the State.

The committee amended the bill to exclude abandoned motor vehicles, and also clarified in several sections that notification must be made to the Director of the Division of Motor Vehicles in the event an abandoned mobile or manufactured home is subject to disposal under the bill. The committee also extended the time frames for a response

by a tenant who may have left the abandoned property on the rental premises from 2 weeks to 30 days for most property, and to 75 days for manufactured homes.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 1706

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 6, 1999

The Senate Community and Urban Affairs Committee reports favorably Assembly Bill No. 1706 (1R) with committee amendments.

This bill would establish procedures to be followed by a landlord when disposing of tangible personal property found in rental premises which have been vacated.

The bill would apply to all tangible personal property, including manufactured housing and mobile homes. The bill would not regulate property that must be disposed of in accordance with the "Uniform Unclaimed Property Act (1981) (UUPA)," R.S.46:30B-1 et seq., which pertains to abandoned intangible property, such as bank accounts, stock and insurance policies. The bill also would not be applicable to abandoned motor vehicles, which are subject to the provisions of section 1 of P.L.1973, c.137 (C.39:4-56.6).

The bill would require landlords to provide tenants with written notice by certified mail, return receipt requested. The bill would allow a landlord to presume that manufactured or mobile homes have been abandoned after 75 days have elapsed from the date of delivery of the notice. A landlord would be authorized to presume that all other property has been abandoned 30 days after delivery of the notice. A landlord would be permitted to place such property in storage to be sold at a later date in accordance with N.J.S.12:9-504 of the "Uniform Commercial Code", or to dispose of property of negligible value. If the landlord sells the property and is unable to locate the tenant, the landlord must deposit the sale proceeds with the Superior Court. If unclaimed for more than 10 years, the proceeds would escheat to the State.

The committee amended the bill to afford additional protections to tenants. The committee amendments provide that unless a warrant for removal has been executed and possession restored to the landlord, before a landlord could consider a tenant's property to be abandoned, the tenant must have surrendered the keys to the premises to the landlord. This requirement is in addition to the requirement that the tenant has provided written notice relinquishing possession of the

premises. The amendments would also require a landlord's notice to a tenant that the landlord is going to dispose of a tenant's property to be delivered by certified mail, return receipt requested. The bill previously would have allowed such notice to have been delivered by receipted first class mail.

Among the other tenant protections added to the bill by committee amendment are provisions ensuring that a residential tenant would be able to remove property within 30 days of delivery of the notice without imposition of any costs, charges or other sums including unpaid rent. Additionally, the amendments would hold a landlord liable for double damages in the event of the landlord's deliberate and malicious violation of the tenant's property rights.

The committee also amended the bill at the request of the Administrative Office of the Courts (AOC) so that proceeds from the sale of tangible property would escheat to the State after remaining unclaimed for 10 years rather than 14 years. This amendment would conform the time frame for the escheat of tangible property to the time frame for the escheat of intangible property set forth in current law in the UUPA at R.S.46:30B-41. According to the AOC, this change would foster the goals of efficiency and conservation of resources by allowing the AOC to administer and transfer all unclaimed monies, regardless of their source, held by the Clerk of the Superior Court in the same manner and within the same time frames.

This bill is identical to S-1581 with Senate committee amendments, which was also favorably reported by the committee on May 6, 1999.

STATEMENT TO
[Second Reprint]
ASSEMBLY, No. 1706

with Assembly Floor Amendments
(Proposed By Assemblyman KELLY)

ADOPTED: NOVEMBER 15, 1999

These amendments clarify that whenever a landlord is authorized to remove and store an abandoned tenant's property in accordance with the bill, the landlord shall be entitled to reimbursement for the costs. In addition, the amendments clarify that a tenant need not have returned the keys to the rental unit for the property to be deemed abandoned, and clarifies that if a landlord fails to follow the procedures of the bill, then a tenant will not be responsible for reimbursing the landlord for storage and removal costs.

SENATE, No. 1581

STATE OF NEW JERSEY
208th LEGISLATURE

INTRODUCED DECEMBER 17, 1998

Sponsored by:

Senator ROBERT W. SINGER

District 30 (Burlington, Monmouth and Ocean)

SYNOPSIS

Allows landlord to dispose of abandoned tenant property.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the disposition of personal property abandoned by
2 tenants, supplementing chapter 18 of Title 2A of the New Jersey
3 Statutes, chapter 10 of Title 39 of the Revised Statutes and
4 amending P.L.1973, c.137.

5

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

8

9 1. (New section) A landlord of commercial or residential property,
10 in the manner provided by P.L. , c. (C.)(now before the
11 Legislature as this bill), may dispose of any tangible goods, chattels,
12 manufactured or mobile homes or other personal property left upon a
13 premises by a tenant after giving notice as required by section 2 of
14 P.L. , c. (C.)(now before the Legislature as this bill), only
15 if the landlord reasonably believes under all the circumstances that the
16 tenant has left the property upon the premises with no intention of
17 asserting any further claim to the premises or the property and :

18 a. A warrant for removal has been executed and possession of the
19 premises has been restored to the landlord ; or

20 b. The tenant has given written notice that he or she is voluntarily
21 relinquishing possession of the premises.

22

23 2. (New section) To dispose of a tenant's property under this act,
24 a landlord shall first give written notice to the tenant, which shall be
25 sent by certified mail, return receipt requested or by receipted first
26 class mail addressed to the tenant, at the tenant's last known address
27 (which may be the address of the premises) and at any alternate
28 address or addresses known to the landlord, in an envelope endorsed
29 "Please Forward."

30 "Receipted first class mail" for purposes of this section means first
31 class mail for which a certificate of mailing has been obtained by the
32 sender but does not include certified or registered mail.

33 When the property subject to disposal is a manufactured or mobile
34 home, a copy of the notice required pursuant to this section shall also
35 be sent to the Director of the Division of Motor Vehicles and to any
36 lienholders with security interests in the property which have been
37 recorded with the Division of Motor Vehicles.

38

39 3. (New section) The notice required under section 2
40 of P.L. , c. (C.)(now before the Legislature as this bill) shall
41 state as follows:

42 a. That the property is considered abandoned and must be removed
43 from the premises or from the place of safekeeping, if the landlord has

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

Matter underlined thus is new matter.

1 stored the property as provided in section 4 of P.L. , c. (C.)(now
2 before the Legislature as this bill), by a date as follows;

3 (i) for all property other than manufactured or mobile homes not
4 less than 30 days after delivery of the notice, or not less than 33 days
5 after the date of mailing, whichever comes first, or

6 (ii) for property which consists solely of manufactured or mobile
7 homes, not less than 75 days after the delivery of the notice, or not
8 less than 78 days after the date of mailing, whichever comes first,
9 or the property will be sold or otherwise disposed of; and

10 b. That if the abandoned property is not removed:

11 i. The landlord may sell the property at a public or private sale; or

12 ii. The landlord may destroy or otherwise dispose of the property
13 if the landlord reasonably determines that the value of the property is
14 so low that the cost of storage and conducting a public sale would
15 probably exceed the amount that would be realized from the sale; or

16 iii. The landlord may sell items of value and destroy or otherwise
17 dispose of the remaining property.

18 c. That in the case of a residential tenant, if the tenant claims the
19 property within the time provided in the notice, the landlord must
20 make the property available for removal by the tenant without
21 payment by the tenant of any unpaid rent.

22

23 4. (New section) After notifying a tenant as required by sections
24 2 and 3 of P.L. , c. (C.)(now before the Legislature as this bill), a
25 landlord shall store all goods, chattels, manufactured or mobile homes
26 and other personal property of the tenant in a place of safekeeping and
27 shall exercise reasonable care for the property, except that the landlord
28 may promptly dispose of perishable food and shall allow an animal
29 control agency or humane society to remove any abandoned pets or
30 livestock. A landlord may store a tenant's manufactured dwelling or
31 residential vehicle on the space previously rented, elsewhere on the
32 premises or in a safe location off the premises. A landlord shall be
33 entitled to reasonable storage charges and costs incidental to storage.
34 A landlord may store property in a commercial storage facility, in
35 which case the storage cost shall include the actual storage charge plus
36 the reasonable cost of removal of the property to the place of storage.

37

38 5. (New section) a. If a tenant responds in writing or orally to the
39 landlord, on or before the day specified in the required notice, that the
40 tenant intends to remove the property from the premises, or from the
41 place of safekeeping if the landlord has stored the property as provided
42 in section 4 of P.L. , c. (C.)(now before the Legislature as
43 this bill), and does not do so within the time specified in the notice or
44 within 15 days after the written response, whichever is later, the
45 tenant's property shall be conclusively presumed to be abandoned.

46 b. If a lienholder responds in writing to the landlord concerning a

1 security interest in any manufactured or mobile home, and the
2 lienholder indicates an intent to remove the property from the
3 premises, or from the place of safekeeping, or to pay rent as a
4 condition of leaving the property on the premises, but fails to remove
5 the property or make rental payments within the time specified in the
6 notice or within 15 days after the written response, whichever is later,
7 then the landlord may proceed as if the lienholder had not responded.

8 c. If no response is received from a tenant or lienholder within the
9 time period provided under section 3 of P.L. , c. (C.) (now
10 before the Legislature as this bill), then the tenant's property shall be
11 conclusively presumed to be abandoned.

12

13 6. (New section) Upon removal of his property, a tenant shall
14 reimburse the landlord for the reasonable cost of storage for the period
15 the property was in the landlord's safekeeping, including the
16 reasonable cost of removal of the property to a place of storage. A
17 landlord shall not be responsible for any loss to a tenant resulting from
18 storage of property in compliance with this act unless the loss was
19 caused by the landlord's deliberate or negligent act or omission
20 including the charging of unconscionable amounts for storage.

21

22 7. (New section) Property that has been conclusively presumed to
23 be abandoned may be disposed of in any of the following ways:

24 a. The landlord may sell the property at a public or private sale;

25 b. The landlord may destroy or otherwise dispose of the property
26 if the landlord reasonably determines that the value of the property is
27 so low that the cost of storage and conducting a public sale would
28 probably exceed the amount that would be realized from the sale; or

29 c. The landlord may sell certain items and destroy or otherwise
30 dispose of the remaining property, in accordance with subsections a.
31 and b. of this section.

32 A public or private sale authorized by this section shall be
33 conducted in accordance with the provisions of section 12A:9-504 of
34 the "Uniform Commercial Code" (C.12A:9-504).

35

36 8. (New section) If a manufactured home is sold or otherwise
37 disposed of pursuant to P.L. , c. (C.)(now before the
38 Legislature as this bill), the Director of the Division of Motor Vehicles
39 shall issue, upon proof of purchase, a certificate of ownership to the
40 purchaser, with no encumbrances listed thereon.

41

42 9. (New section) Nothing in P.L. , c. (C.) shall diminish
43 the right of a landlord of a nonresidential property to use distraint
44 when authorized by law.

45

46 10. Section 1 of P.L.1973, c.137 (C.39:4-56.6) is amended to read

1 as follows:

2 1. No person shall park or leave unattended a vehicle on private
3 property without the consent of the owner or other person in control
4 or possession of the property or for a period in excess of that for
5 which consent was given, except in the case of emergency or
6 disablement of the vehicle in which case the owner or operator thereof
7 shall arrange for the expeditious removal of the vehicle. This section
8 shall not apply to manufactured or mobile homes left unattended and
9 for which there exists or existed a rental agreement to occupy a space
10 on the property.

11 The owner or other person in control or possession of the property
12 on which a vehicle is parked or left unattended in violation of this
13 section may remove or hire another person to remove and store the
14 vehicle. It shall be the obligation of the owner of the vehicle to pay
15 the reasonable costs for the removal and for any storage which may
16 result from such removal before he shall be entitled to recover the
17 possession of the vehicle. If the owner of the vehicle refuses to pay
18 such costs or fails to make any claim for the return of the vehicle
19 within 90 days after such removal, the vehicle may be sold at public
20 auction in accordance with the provisions of N.J.S.2A:44-20 through
21 N.J.S. 2A:44-31.

22 (cf: P.L.1973, c.137, s.1)

23

24 11. (New section) A landlord may deduct from the proceeds of
25 any sale the reasonable costs of notice, storage and sale and any
26 unpaid rent and charges not covered by a security deposit. After
27 deducting these amounts, the landlord shall remit to the tenant the
28 remaining proceeds, if any, together with an itemized accounting. If
29 the tenant, after due diligence, cannot be found the remaining proceeds
30 shall be deposited into the Superior Court and, if not claimed within
31 14 years, shall escheat to the State.

32

33 12. (New section) Compliance in good faith with all the
34 requirements of this act shall constitute a complete defense in any
35 action brought by a tenant against a landlord for loss or damage to
36 personal property disposed of pursuant to this act.

37

38 13. (New section) If a landlord seizes and retains a tenant's
39 personal property without complying with this act, the tenant shall be
40 relieved of any liability for damage to the premises caused by conduct
41 that was not deliberate, intentional or grossly negligent and shall be
42 entitled to recover up to twice the actual damages sustained by the
43 tenant.

44

45 14. (New section) This act shall not be applicable to any
46 unclaimed property which must be disposed of in accordance with the

1 "Uniform Unclaimed Property Act," P.L.1989, c.58 (C.46:30B-1 et
2 seq.).

3

4 15. (New section) This act shall not be applicable to abandoned
5 motor vehicles.

6

7 16. This act shall take effect immediately.

8

9

10 STATEMENT

11

12 This bill establishes a procedure to be followed by landlords of
13 commercial or residential property in disposing of tangible property
14 left behind in rental premises which have been vacated by a tenant.
15 New Jersey statutes currently provide no clear guidance as to the
16 procedures to be followed in the event that a tenant either abandons
17 or is evicted from a rented premises but leaves tangible personal
18 property behind. This bill, adapted from an Oregon statute, is
19 intended to establish clear guidelines for the benefit of both parties.

20 The bill would apply to all tangible personal property, including
21 manufactured housing. The bill would not regulate certain property
22 that must be disposed of in accordance with the "Uniform Unclaimed
23 Property Act (1981)," R.S.46:30B-1 et seq., which pertains to
24 abandoned intangible property, such as bank accounts, stock and
25 insurance policies. The bill also would not be applicable to abandoned
26 motor vehicles, which are subject to the provisions of section 1 of
27 P.L.1973, c.137 (C.39:4-56.6).

28 The bill would require written notice sent by certified mail to a
29 tenant, and would allow a landlord to presume that property which
30 consists of manufactured or mobile homes is abandoned after 75 days,
31 and all other property is abandoned after 30 days. A landlord will be
32 permitted to place such property in storage to be sold at a later date
33 in accordance with N.J.S.12:9-504 of the "Uniform Commercial
34 Code", or dispose of property with no value. If the tenant is not
35 locatable, and the landlord sells the property, the landlord must deposit
36 the sale proceeds with the Superior Court. If unclaimed for more than
37 14 years, the proceeds escheat to the State.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 1581

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 6, 1999

The Senate Community and Urban Affairs Committee reports favorably Senate Bill No. 1581 with committee amendments.

This bill would establish procedures to be followed by a landlord when disposing of tangible personal property found in rental premises which have been vacated.

The bill would apply to all tangible personal property, including manufactured housing and mobile homes. The bill would not regulate property that must be disposed of in accordance with the "Uniform Unclaimed Property Act (1981)," R.S.46:30B-1 et seq., (UUPA) which pertains to abandoned intangible property, such as bank accounts, stock and insurance policies. The bill also would not be applicable to abandoned motor vehicles, which are subject to the provisions of section 1 of P.L.1973, c.137 (C.39:4-56.6).

The bill would require landlords to provide tenants with written notice by certified mail, return receipt requested. The bill would allow a landlord to presume that manufactured or mobile homes have been abandoned after 75 days have elapsed from the date of delivery of the notice. A landlord would be authorized to presume that all other property has been abandoned 30 days after delivery of the notice. A landlord would be permitted to place such property in storage to be sold at a later date in accordance with N.J.S.12:9-504 of the "Uniform Commercial Code", or to dispose of property of negligible value. If the landlord sells the property and is unable to locate the tenant, the landlord must deposit the sale proceeds with the Superior Court. If unclaimed for more than 10 years, the proceeds would escheat to the State.

The committee amended the bill to afford additional protections to tenants. The committee amendments provide that unless a warrant for removal has been executed and possession restored to the landlord, before a landlord could consider a tenant's property to be abandoned, the tenant must have surrendered the keys to the premises to the landlord. This requirement is in addition to the requirement that the tenant has provided written notice relinquishing possession of the premises. The amendments would also require a landlord's notice to

a tenant that the landlord is going to dispose of a tenant's property to be delivered by certified mail, return receipt requested. The bill previously would have allowed such notice to have been delivered by receipted first class mail.

Among the other tenant protections added to the bill by committee amendment are provisions ensuring that a residential tenant would be able to remove property within 30 days of delivery of the notice without imposition of any costs, charges or other sums including unpaid rent. Additionally, the amendments would hold a landlord liable for double damages in the event of the landlord's deliberate and malicious violation of the tenant's property rights.

The committee also amended the bill at the request of the Administrative Office of the Courts (AOC) so that proceeds from the sale of tangible property would escheat to the State after remaining unclaimed for 10 years rather than 14 years. This amendment would conform the time frame for the escheat of tangible property to the time frame for the escheat of intangible property set forth in current law in the UUPA at R.S.46:30B-41. According to the AOC, this change would foster the goals of efficiency and conservation of resources by allowing the AOC to administer and transfer all unclaimed monies, regardless of their source, held by the Clerk of the Superior Court in the same manner and within the same time frames.

As amended, this bill is identical to A-1706 (1R) with Senate committee amendments, which was also favorably reported by the committee on May 6, 1999.

Office of the Governor
NEWS RELEASE

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RELEASE: January 10, 2000

Gov. Christie Whitman today signed the following pieces of legislation:

S-436, sponsored by Senators C. Louis Bassano (R-Essex/Union) and Diane B. Allen (R-Burlington/Camden), requires the Department of Health and Senior Services (DHSS) to prepare an informational pamphlet on the nature and causes of osteoporosis and methods used to treat and prevent osteoporosis. The bill appropriates \$25,000 from the General Fund to DHSS to fund the printing and distribution of the pamphlets.

S-1735, sponsored by Senators William L. Gormley (R-Atlantic) and John A. Girgenti (D-Passaic) and Assembly Members Kenneth C. LeFevre (R-Atlantic) and Francis J. Blee (R-Atlantic), amends the reckless endangerment statute to clarify that adulteration of a drink or other substance constitutes the fourth degree offense of reckless endangerment. Specifically, the bill clarifies that this offense is committed when a person purposely or knowingly gives another person a drink or other substance that is intoxicating, tranquilizing or disorienting, when that other person does not know the identity and effect of the drink or substance.

A-2775, sponsored by Assembly Members John V. Kelly (R-Bergen/Essex/Passaic) and Paul DiGaetano (R-Bergen/Essex/Passaic) and Senator Garry J. Furnari (D-Bergen/Essex/Passaic), provides a grant of \$75,000 to create a study skills program in the East Rutherford Boro School District to address the needs of at-risk pupils. Pupils who are at-risk will be determined by using multiple indicators, including test scores, writing portfolios, teacher recommendations, and parental input. Funding will be utilized for staffing, teaching materials and other supplies. The bill makes a supplemental appropriation to the Fiscal Year 2000 budget.

A-1019, sponsored by Assembly Members Charles Zisa (D-Bergen) and Alan M. Augustine (R-Middlesex/Morris/Somerset/Union), and Senator Joseph A. Palaia (R-Monmouth), provides that commencing on September 1, 2002, any buildings and grounds supervisor employed by a school district must be a certified educational facilities manager. The bill directs the State Board of Education to issue rules and regulations to administer the program. The bill provides that a certified educational facilities manager must meet specific requirements, including having two years of experience in the field of buildings and grounds supervision and graduate as a certified educational facilities manager from the New Jersey Educational Facility Management Program at Rutgers University, or an equivalent program at an accredited institution of higher learning.

A-2993, sponsored by Assembly Members Gerald J. Luongo (R-Camden/Gloucester) and Senator Robert E. Littell (R-Sussex/Hunterdon/Morris), excludes bonds supported by open space, recreation, farmland or historic preservation taxes from calculation of gross debt of a county or municipality. Gross debt is a measure used under the Local Bond Law to derive the net debt of a county or municipality for purposes of establishing a county or municipal debt limit.

A-1445, sponsored by Assembly Members Jack Collins (R- Salem/Cumberland/Gloucester) and Marion Crecco (R-Essex/Passaic) and Senators Norman Robertson (R-Essex/Passaic) and Anthony R. Bucco (R- Morris), permits a police officer enrolled in the Police and Firemen's Retirement System to purchase up to three years of service credit based on inactive time between a point of no-fault layoff and the point of rehiring the employee.

A-2133, sponsored by Assembly Members John V. Kelly (R- Bergen/Essex/Passaic) and Joseph V. Doria, Jr. (D-Hudson), requires health insurers, including hospital service corporations, medical service corporations, health service corporations, commercial insurers and health maintenance organizations to provide health benefits coverage for annual mammograms for women aged 40 and over. Previous law provided for annual mammogram coverage for women 50 and over; women who are at least 40, but less than 50, were provided coverage for biannual examinations.

S-1503, sponsored by Senator Richard J. Codey (D-Essex) and Assembly Members John V. Kelly (R-Bergen/Essex/Passaic) and Paul DiGaetano (R-Bergen/Essex/Passaic), revises pension benefits and employee contribution rates for members of certain board of education pension funds.

A-2943, sponsored by Assembly Members Jack Collins (R-Cumberland/Gloucester/Salem) and Christopher Bateman (R-Morris/Somerset) and Senators Robert W. Singer (R-Burlington/Monmouth/Ocean) and Diane B. Allen (R-Burlington/Camden), requires the return of unearned premiums on a pro rata basis for canceled automobile insurance policies. Previous law only required an insurer to return unpaid premiums on a short rate basis, which is an amount less than the pro rata basis because a percentage of administrative costs are charged to the insured.

A-1706, sponsored by Assembly Member John V. Kelly (R-Bergen/Essex/Passaic) and Senators Robert W. Singer (R-Burlington/Monmouth/Ocean) and Louis F. Kosco (R-Bergen), establishes a procedure to be followed by landlords of commercial or residential property when disposing of tangible property left behind in premises that had been vacated by a tenant.

S-1062, sponsored by Senators William L. Gormley (R-Atlantic) and Edward T. O'Connor, Jr. (D-Hudson) and Assembly Members Richard A. Merkt (R-Morris) and Michael Patrick Carroll (R-Morris), establishes a procedure for dealing with lost or abandoned property.

A-3298, sponsored by Assembly Members John S. Wisniewski (D-Middlesex) and Gerald J. Luongo (R-Camden/Gloucester) and Senators Joseph F. Vitale (D-Middlesex) and Nicholas J. Sacco (D-Bergen/Hudson), allows for re-certification of the special district tax for school districts if the school district's surplus account is higher than estimated at the school election in certain circumstances.

S-1697, sponsored by Senators William L. Gormley (R-Atlantic) and Wayne R. Bryant (D-Camden/Gloucester) and Assembly Members James W. Holzapfel (R- Monmouth/Ocean) and Kenneth C. LeFevre (R-Atlantic), authorizes a court to issue a restraining order prohibiting a person charged with, convicted of or adjudicated delinquent for any drug distribution offense or any offense involving the use or possession of an assault weapon from returning to the place where the offense occurred.

A-960, sponsored by Assembly Member Alan M. Augustine (R- Middlesex/Morris/Somerset /Union), requires pet shops to refund the purchase price, reimburse any veterinary fees, or provide replacement for sick cats or dogs under certain circumstances.

S-1273, sponsored by Senators Robert W. Singer (R- Burlington/Monmouth/Ocean) and Robert W. Littell (R-Sussex/Hunterdon/Morris) and Assembly Members Charlotte Vandervalk (R- Bergen) and Nicholas R. Felice (R-Bergen/Passaic), permits HMO enrollees residing in certain retirement communities with nursing homes to continue to receive care at that nursing facility under certain circumstances.

A-1653, sponsored by Assembly Members John V. Kelly (R- Bergen/Essex/Passaic) and Neil M. Cohen (D-Union) and Senator Gerald Cardinale (R-Bergen), requires health insurers, including hospital service corporations, medical service corporation, health service corporations, commercial insurers and health maintenance organizations to provide insurance coverage benefits for health wellness examinations and counseling. The bill appropriates \$95,000 to the Department of Health and Senior Services for allocation to the Health Wellness Promotion Advisory Board to evaluate implementation of the provisions of the bill and to ensure awareness and utilization of the health promotion program by covered persons and health care providers.

A-2461, sponsored by Assembly Member Gary W. Stuhltrager (R-Salem/Cumberland/ Gloucester), extends the cap on tax liability on transfers of hazardous substances to certain successors in interest.