

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext. 103 or <mailto:refdesk@njstatelib.org>

REPORTS:

No

HEARINGS:

No

NEWSPAPER ARTICLES:

No

P.L. 2002, CHAPTER 133, *approved December 24, 2002*
Assembly, No. 772 (*First Reprint*)

1 **AN ACT** concerning rental housing emergencies and supplementing
2 chapter 18 of Title 2A of the New Jersey Statutes.

3

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

6

7 1. The Governor shall be empowered, whenever declaring a state
8 of emergency, to determine whether the emergency will, or is likely
9 to, significantly affect the availability and pricing of rental housing in
10 the areas included in the declaration. If the Governor determines that
11 unconscionable rental practices are likely to occur unless the
12 protections afforded under P.L. , c. (C.)(now before the
13 Legislature as this bill) are invoked, ¹the Governor may issue¹ a
14 "Notice of Rent Protection Emergency" ¹[shall be incorporated within
15 the declaration of the] at any time during the declared¹ state of
16 emergency.

17

18 2. Whenever the Governor declares a state of emergency within
19 certain areas of the State, and ¹[includes in that declaration] issues¹
20 a "Notice of Rent Protection Emergency," the following shall apply:

21 a. Within a zone which includes the area declared to be in a state
22 of emergency and ¹, if so indicated in the Notice of Rent Protection
23 Emergency¹ extending ¹a distance not to exceed¹ 10 miles in all
24 directions from the outward boundaries thereof, there shall be a
25 presumption of unreasonableness given to a notice of increase in rental
26 charges provided subsequent to the date of the declaration by a
27 landlord to a tenant occupying premises which are utilized as a
28 residence, when the proposed percentage increase in rent is greater
29 than twice the rate of inflation as indicated by increases in the CPI for
30 the immediately preceding nine month period. For the purposes of this
31 section, "CPI" means the annual average over a 12-month period
32 beginning September 1 and ending August 31 of the Consumer Price
33 Index for Urban Wage Earners and Clerical Workers (CPI-W), All
34 Items Series A, of the United States Department of Labor (1957-1959
35 = 100), for the New York, NY-Northeastern New Jersey region.

36 b. Within a zone which includes the area declared to be in a state

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 amendments adopted in accordance with Governor's recommendations November 18, 2002.

1 of emergency and ¹, if so indicated in the Notice of Rent Protection
2 Emergency¹ extending ¹a distance not to exceed¹ 10 miles in all
3 directions from the outward boundaries thereof, there shall be a
4 limitation on the amount of rent which may be charged a tenant
5 undertaking a new lease for residential premises during the duration of
6 the declaration of a "Notice of Rent Protection Emergency" made
7 pursuant to section 1 of P.L. , c. (C.)(now before the
8 Legislature as this bill). The amount of rent which may be charged
9 shall be limited to the product of the fair market rental value of the
10 premises prior to the emergency conditions and two times the rate of
11 inflation as determined by the increase in the CPI for the immediately
12 preceding nine month period. For the purposes of this section, "CPI"
13 means the annual average over a 12-month period beginning
14 September 1 and ending August 31 of the Consumer Price Index for
15 Urban Wage Earners and Clerical Workers (CPI-W), All Items Series
16 A, of the United States Department of Labor (1957-1959 = 100), for
17 the New York, NY-Northeastern New Jersey region.

18 c. ¹In the event that a landlord believes that the limitations on
19 increases in rental charges imposed by a "Notice of Rent Protection
20 Emergency" prevent the landlord from realizing a just and reasonable
21 rate of return on the landlord's investment, the landlord may file an
22 application with the Director of the Division of Consumer Affairs in
23 the Department of Law and Public Safety for the purpose of
24 requesting permission to increase rental charges in excess of the
25 increases otherwise authorized under the "Notice of Rent Protection
26 Emergency". In evaluating such an application, the director shall take
27 into consideration the purposes intended to be achieved by P.L. ,
28 c. (C.) (pending before the Legislature as this bill), and the
29 "Notice of Rent Protection Emergency" and the amount of rental
30 charges required to provide the landlord with a just and reasonable
31 return. The Director shall promulgate rules and regulations in
32 accordance with the "Administrative Procedure Act," P.L.1968, c.410
33 (C.52:14B-1 et seq.) to effectuate the purposes of this act.

34 d.¹ The provisions of subsections a. and b. of this section will serve
35 to supplement, not replace, any existing local, State, or Federal
36 restrictions on rent increases for any dwelling units in residential
37 buildings located within the zone described in subsections a. and b. of
38 this section, and will only apply to those dwelling units where they
39 cause a lowering of the maximum allowable rent increase or of the
40 maximum reasonable rent increase.

41 ¹[d.] e.¹ The provisions of subsections a. and b. of this section
42 shall cease to apply upon the expiration of the state of emergency, or
43 upon the rescission of the either the declaration of the state of
44 emergency or the "Notice of Rent Protection Emergency."
45

46 3. a. A tenant or prospective tenant may report a violation of the

1 provisions of P.L. , c. (C.)(now before the Legislature as this
2 bill) to the Director of the Division of Consumer Affairs in the
3 Department of Law and Public Safety. The director shall investigate
4 any complaint within 10 days of receipt of the complaint.

5 b. If the director determines that a violation of this act has
6 occurred:

7 (1) a penalty may be assessed against the landlord in ¹[the same
8 manner as provided under section 3 of P.L.1993, c.342
9 (C.2A:18-61.1g), as if the violation occurred under that act. Any
10 amounts recovered from a landlord shall be available to the aggrieved
11 tenant for relocation assistance; or] an amount equal to six times the
12 monthly rental sought to be imposed upon a tenant in contravention of
13 the "Notice of Rent Protection Emergency"; or¹

14 (2) any penalties for violations of the New Jersey consumer fraud
15 act, P.L.1960, c.39 (C.56:8-1 et seq.) may be sought by the director.

16 c. Notwithstanding the provisions of subsections a.and b. of this
17 section, a tenant shall have the right to petition a court of competent
18 jurisdiction to terminate a lease containing a provision in violation of
19 the provisions of P.L. , c. (C.)(now before the Legislature as
20 this bill).

21

22 4. Any violation of P.L. , c. (C.)(now before the
23 Legislature as this bill) shall be considered a violation of the New
24 Jersey consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.).

25

26 5. This act shall take effect immediately.

27

28

29

30

31 _____
32 Authorizes Governor to prevent rent gouging in areas declared to be
in state of emergency.

ASSEMBLY, No. 772

STATE OF NEW JERSEY 210th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2002 SESSION

Sponsored by:

Assemblyman JERRY GREEN

District 22 (Middlesex, Somerset and Union)

Assemblyman PETER J. BIONDI

District 16 (Morris and Somerset)

SYNOPSIS

Authorizes Governor to prevent rent gouging in areas declared to be in state of emergency.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning rental housing emergencies and supplementing
2 chapter 18 of Title 2A of the New Jersey Statutes.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. The Governor shall be empowered, whenever declaring a state
8 of emergency, to determine whether the emergency will, or is likely
9 to, significantly affect the availability and pricing of rental housing in
10 the areas included in the declaration. If the Governor determines that
11 unconscionable rental practices are likely to occur unless the
12 protections afforded under P.L. , c. (C.)(now before the
13 Legislature as this bill) are invoked, a "Notice of Rent Protection
14 Emergency" shall be incorporated within the declaration of the state
15 of emergency.

16
17 2. Whenever the Governor declares a state of emergency within
18 certain areas of the State, and includes in that declaration a "Notice of
19 Rent Protection Emergency," the following shall apply:

20 a. Within a zone which includes the area declared to be in a state
21 of emergency and extending 10 miles in all directions from the
22 outward boundaries thereof, there shall be a presumption of
23 unreasonableness given to a notice of increase in rental charges
24 provided subsequent to the date of the declaration by a landlord to a
25 tenant occupying premises which are utilized as a residence, when the
26 proposed percentage increase in rent is greater than twice the rate of
27 inflation as indicated by increases in the CPI for the immediately
28 preceding nine month period. For the purposes of this section, "CPI"
29 means the annual average over a 12-month period beginning
30 September 1 and ending August 31 of the Consumer Price Index for
31 Urban Wage Earners and Clerical Workers (CPI-W), All Items Series
32 A, of the United States Department of Labor (1957-1959 = 100), for
33 the New York, NY-Northeastern New Jersey region.

34 b. Within a zone which includes the area declared to be in a state
35 of emergency and extending 10 miles in all directions from the
36 outward boundaries thereof, there shall be a limitation on the amount
37 of rent which may be charged a tenant undertaking a new lease for
38 residential premises during the duration of the declaration of a "Notice
39 of Rent Protection Emergency" made pursuant to section 1 of P.L. ,
40 c. (C.)(now before the Legislature as this bill). The amount of
41 rent which may be charged shall be limited to the product of the fair
42 market rental value of the premises prior to the emergency conditions
43 and two times the rate of inflation as determined by the increase in the
44 CPI for the immediately preceding nine month period. For the
45 purposes of this section, "CPI" means the annual average over a
46 12-month period beginning September 1 and ending August 31 of the

1 Consumer Price Index for Urban Wage Earners and Clerical Workers
2 (CPI-W), All Items Series A, of the United States Department of
3 Labor (1957-1959 = 100), for the New York, NY-Northeastern New
4 Jersey region.

5 c. The provisions of subsections a. and b. of this section will serve
6 to supplement, not replace, any existing local, State, or Federal
7 restrictions on rent increases for any dwelling units in residential
8 buildings located within the zone described in subsections a. and b. of
9 this section, and will only apply to those dwelling units where they
10 cause a lowering of the maximum allowable rent increase or of the
11 maximum reasonable rent increase.

12 d. The provisions of subsections a. and b. of this section shall cease
13 to apply upon the expiration of the state of emergency, or upon the
14 rescission of the either the declaration of the state of emergency or the
15 "Notice of Rent Protection Emergency."

16

17 3. a. A tenant or prospective tenant may report a violation of the
18 provisions of P.L. , c. (C.)(now before the Legislature as this
19 bill) to the Director of the Division of Consumer Affairs in the
20 Department of Law and Public Safety. The director shall investigate
21 any complaint within 10 days of receipt of the complaint.

22 b. If the director determines that a violation of this act has
23 occurred:

24 (1) a penalty may be assessed against the landlord in the same
25 manner as provided under section 3 of P.L.1993, c.342
26 (C.2A:18-61.1g), as if the violation occurred under that act. Any
27 amounts recovered from a landlord shall be available to the aggrieved
28 tenant for relocation assistance; or

29 (2) any penalties for violations of the New Jersey consumer fraud
30 act, P.L.1960, c.39 (C.56:8-1 et seq.) may be sought by the director.

31 c. Notwithstanding the provisions of subsections a.and b. of this
32 section, a tenant shall have the right to petition a court of competent
33 jurisdiction to terminate a lease containing a provision in violation of
34 the provisions of P.L. , c. (C.)(now before the Legislature as
35 this bill).

36

37 4. Any violation of P.L. , c. (C.)(now before the
38 Legislature as this bill) shall be considered a violation of the New
39 Jersey consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.).

40

41 5. This act shall take effect immediately.

42

43

44

STATEMENT

45

46 This bill would protect tenants from price gouging during an

1 emergency which affects the availability of rental housing. The bill
2 would authorize the Governor, whenever declaring a state of
3 emergency, to determine whether the emergency could affect the
4 availability and pricing of rental housing in the areas included in the
5 declaration. If the Governor determines that unconscionable rental
6 practices are likely to occur, there may be included a "Notice of Rent
7 Protection Emergency" within the declaration of the state of
8 emergency.

9 In the event a "Notice of Rent Protection Emergency," is issued, the
10 bill would create a zone which includes the area declared to be in a
11 state of emergency and extending 10 miles in all directions from the
12 outward boundaries thereof. Within the zone, there will be a
13 presumption of unreasonableness given to a notice of increase in rental
14 charges provided subsequent to the date of the declaration by a
15 landlord to a tenant occupying premises which are utilized as a
16 residence, and a limitation on the amount of rent which may be
17 charged a tenant undertaking a new lease for residential premises
18 during the duration of the declaration of a "Notice of Rent Protection
19 Emergency." The bill would limit any proposed increase in rent to no
20 more than twice the amount of inflation for the immediately preceding
21 nine month period. A rental increase presumed to be unreasonable
22 would remove the grounds for a landlord to evict a tenant who refuses
23 to pay a rental increase under these circumstances.

24 The bill would empower the Director of the Division of Consumer
25 Affairs to hear complaints and assess penalties against landlords who
26 violate the act. A landlord who violates the bill could be liable for up
27 to six times the customary rental charge to the aggrieved tenant. In
28 addition, a violation of the bill will be considered a violation New
29 Jersey consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.). In
30 addition, a tenant could terminate a lease which violates the provisions
31 of the bill, without any penalty to the tenant. The provisions of the bill
32 would cease to be applicable upon the expiration of the state of
33 emergency, or upon the rescission of the either the declaration of the
34 state of emergency or the "Notice of Rent Protection Emergency."

ASSEMBLY HOUSING AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 772

STATE OF NEW JERSEY

DATED: JANUARY 31, 2002

The Assembly Housing and Local Government Committee reports favorably Assembly Bill No. 772.

This bill would protect tenants from price gouging by landlords during an emergency which affects the availability of rental housing. The bill would authorize the Governor, whenever declaring a state of emergency, to determine whether the emergency could affect the availability and pricing of rental housing in the areas included in the declaration. If the Governor determines that unconscionable rental practices are likely to occur, there may be included a "Notice of Rent Protection Emergency" within the declaration of the state of emergency.

In the event a "Notice of Rent Protection Emergency," is issued, the bill would create a zone which includes the area declared to be in a state of emergency and extending 10 miles in all directions from the outward boundaries thereof. Within the zone, there would be a presumption of unreasonableness given to a notice of increase in rental charges provided subsequent to the date of the declaration by a landlord to a tenant occupying premises which are utilized as a residence, and a limitation on the amount of rent which may be charged a tenant undertaking a new lease for residential premises during the duration of the declaration of a "Notice of Rent Protection Emergency." The bill would limit any proposed increase in rent to no more than twice the amount of inflation for the immediately preceding nine month period. A rental increase presumed to be unreasonable would remove the grounds for a landlord to evict a tenant who refuses to pay a rental increase under these circumstances. In the event the rental property was subject to a rent control ordinance or regulation, the bill would not override the limitations on rent increases under the ordinance or regulation, provided there would be less of a permitted rental increase than under the bill.

The bill would empower the Director of the Division of Consumer Affairs to hear complaints and assess penalties against landlords who violate the terms of the Rent Protection Emergency. A landlord in violation could be liable for up to six times the customary rental charge to the aggrieved tenant. The landlord also could be considered

to be in violation of the New Jersey consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.). In addition, a tenant could terminate a lease which violates the provisions of the bill, without any penalty to the tenant. The provisions of the bill would cease to be applicable upon the expiration of the state of emergency, or upon the rescission of the either the declaration of the state of emergency or the "Notice of Rent Protection Emergency."

This bill was prefiled for introduction in the 2002 session pending technical review. As reported, the bill includes changes required by technical review, which has been performed.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 772

STATE OF NEW JERSEY

DATED: JUNE 13, 2002

The Senate Community and Urban Affairs Committee reports favorably Assembly Bill No. 772.

This bill would protect tenants from price gouging by landlords during an emergency which affects the availability of rental housing. The bill would authorize the Governor, whenever declaring a state of emergency, to determine whether the emergency could affect the availability and pricing of rental housing in the areas included in the declaration. If the Governor determines that unconscionable rental practices are likely to occur, there may be included a "Notice of Rent Protection Emergency" within the declaration of the state of emergency.

In the event a "Notice of Rent Protection Emergency," is issued, the bill would create a zone which includes the area declared to be in a state of emergency and extending 10 miles in all directions from the outward boundaries thereof. Within the zone, there would be a presumption of unreasonableness given to a notice of increase in rental charges provided subsequent to the date of the declaration by a landlord to a tenant occupying premises which are utilized as a residence, and a limitation on the amount of rent which may be charged a tenant undertaking a new lease for residential premises during the duration of the declaration of a "Notice of Rent Protection Emergency." The bill would limit any proposed increase in rent to no more than twice the amount of inflation for the immediately preceding nine month period. A rental increase presumed to be unreasonable would remove the grounds for a landlord to evict a tenant who refuses to pay a rental increase under these circumstances. In the event the rental property was subject to a rent control ordinance or regulation, the bill would not override the limitations on rent increases under the ordinance or regulation, provided there would be less of a permitted rental increase than under the bill.

The bill would empower the Director of the Division of Consumer Affairs to hear complaints and assess penalties against landlords who violate the terms of the Rent Protection Emergency. A landlord in violation could be liable for up to six times the customary rental charge to the aggrieved tenant. The landlord also could be considered to be in violation of the New Jersey consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.). In addition, a tenant could terminate a lease

which violates the provisions of the bill, without any penalty to the tenant. The provisions of the bill would cease to be applicable upon the expiration of the state of emergency, or upon the rescission of the either the declaration of the state of emergency or the "Notice of Rent Protection Emergency."

SENATE, No. 1121

STATE OF NEW JERSEY
210th LEGISLATURE

INTRODUCED FEBRUARY 21, 2002

Sponsored by:

Senator JOSEPH CONIGLIO

District 38 (Bergen)

Co-Sponsored by:

Senator McNamara

SYNOPSIS

Authorizes Governor to prevent rent gouging in areas declared to be in state of emergency.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 9/13/2002)

1 AN ACT concerning rental housing emergencies and supplementing
2 chapter 18 of Title 2A of the New Jersey Statutes.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. The Governor shall be empowered, whenever declaring a state
8 of emergency, to determine whether the emergency will, or is likely
9 to, significantly affect the availability and pricing of rental housing in
10 the areas included in the declaration. If the Governor determines that
11 unconscionable rental practices are likely to occur unless the
12 protections afforded under P.L. , c. (C.)(now before the
13 Legislature as this bill) are invoked, a "Notice of Rent Protection
14 Emergency" shall be incorporated within the declaration of the state
15 of emergency.

16
17 2. Whenever the Governor declares a state of emergency within
18 certain areas of the State, and includes in that declaration a "Notice of
19 Rent Protection Emergency," the following shall apply:

20 a. Within a zone which includes the area declared to be in a state
21 of emergency and extending 10 miles in all directions from the
22 outward boundaries thereof, there shall be a presumption of
23 unreasonableness given to a notice of increase in rental charges
24 provided subsequent to the date of the declaration by a landlord to a
25 tenant occupying premises which are utilized as a residence, when the
26 proposed percentage increase in rent is greater than twice the rate of
27 inflation as indicated by increases in the CPI for the immediately
28 preceding nine month period. For the purposes of this section, "CPI"
29 means the annual average over a 12-month period beginning
30 September 1 and ending August 31 of the Consumer Price Index for
31 Urban Wage Earners and Clerical Workers (CPI-W), All Items Series
32 A, of the United States Department of Labor (1957-1959 = 100), for
33 the New York, NY-Northeastern New Jersey region.

34 b. Within a zone which includes the area declared to be in a state
35 of emergency and extending 10 miles in all directions from the
36 outward boundaries thereof, there shall be a limitation on the amount
37 of rent which may be charged a tenant undertaking a new lease for
38 residential premises during the duration of the declaration of a "Notice
39 of Rent Protection Emergency" made pursuant to section 1 of
40 P.L. , c. (C.)(now before the Legislature as this bill). The
41 amount of rent which may be charged shall be limited to the product
42 of the fair market rental value of the premises prior to the emergency
43 conditions and two times the rate of inflation as determined by the
44 increase in the CPI for the immediately preceding nine month period.
45 For the purposes of this section, "CPI" means the annual average over
46 a 12-month period beginning September 1 and ending August 31 of the

S1121 CONIGLIO

1 Consumer Price Index for Urban Wage Earners and Clerical Workers
2 (CPI-W), All Items Series A, of the United States Department of
3 Labor (1957-1959 = 100), for the New York, NY-Northeastern New
4 Jersey region.

5 c. The provisions of subsections a. and b. of this section will serve
6 to supplement, not replace, any existing local, State, or Federal
7 restrictions on rent increases for any dwelling units in residential
8 buildings located within the zone described in subsections a. and b. of
9 this section, and will only apply to those dwelling units where they
10 cause a lowering of the maximum allowable rent increase or of the
11 maximum reasonable rent increase.

12 d. The provisions of subsections a. and b. of this section shall cease
13 to apply upon the expiration of the state of emergency, or upon the
14 rescission of either the declaration of the state of emergency or the
15 "Notice of Rent Protection Emergency."

16

17 3. a. A tenant or prospective tenant may report a violation of the
18 provisions of P.L. , c. (C.)(now before the Legislature as this
19 bill) to the Director of the Division of Consumer Affairs in the
20 Department of Law and Public Safety. The director shall investigate
21 any complaint within 10 days of receipt of the complaint.

22 b. If the director determines that a violation of this act has
23 occurred:

24 (1) a penalty may be assessed against the landlord in the same
25 manner as provided under section 3 of P.L.1993, c.342
26 (C.2A:18-61.1g), as if the violation occurred under that act. Any
27 amounts recovered from a landlord shall be available to the aggrieved
28 tenant for relocation assistance; or

29 (2) any penalties for violations of the New Jersey consumer fraud
30 act, P.L.1960, c.39 (C.56:8-1 et seq.) may be sought by the director.

31 c. Notwithstanding the provisions of subsections a.and b. of this
32 section, a tenant shall have the right to petition a court of competent
33 jurisdiction to terminate a lease containing a provision in violation of
34 the provisions of P.L. , c. (C.)(now before the Legislature as
35 this bill).

36

37 4. Any violation of P.L. , c. (C.)(now before the
38 Legislature as this bill) shall be considered a violation of the New
39 Jersey consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.).

40

41 5. This act shall take effect immediately.

1 STATEMENT

2

3 This bill would protect tenants from price gouging during an
4 emergency which affects the availability of rental housing. The bill
5 would authorize the Governor, whenever declaring a state of
6 emergency, to determine whether the emergency could affect the
7 availability and pricing of rental housing in the areas included in the
8 declaration. If the Governor determines that unconscionable rental
9 practices are likely to occur, there may be included a "Notice of Rent
10 Protection Emergency" within the declaration of the state of
11 emergency.

12 In the event a "Notice of Rent Protection Emergency," is issued, the
13 bill would create a zone which includes the area declared to be in a
14 state of emergency and extending 10 miles in all directions from the
15 outward boundaries thereof. Within the zone, there will be a
16 presumption of unreasonableness given to a notice of increase in rental
17 charges provided subsequent to the date of the declaration by a
18 landlord to a tenant occupying premises which are utilized as a
19 residence, and a limitation on the amount of rent which may be
20 charged a tenant undertaking a new lease for residential premises
21 during the duration of the declaration of a "Notice of Rent Protection
22 Emergency." The bill would limit any proposed increase in rent to no
23 more than twice the amount of inflation for the immediately preceding
24 nine month period. A rental increase presumed to be unreasonable
25 would remove the grounds for a landlord to evict a tenant who refuses
26 to pay a rental increase under these circumstances.

27 The bill would empower the Director of the Division of Consumer
28 Affairs to hear complaints and assess penalties against landlords who
29 violate the act. A landlord who violates the bill could be liable for up
30 to six times the customary rental charge to the aggrieved tenant. In
31 addition, a violation of the bill will be considered a violation New
32 Jersey consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.). In
33 addition, a tenant could terminate a lease which violates the provisions
34 of the bill, without any penalty to the tenant. The provisions of the bill
35 would cease to be applicable upon the expiration of the state of
36 emergency, or upon the rescission of either the declaration of the state
37 of emergency or the "Notice of Rent Protection Emergency."

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 1121

STATE OF NEW JERSEY

DATED: JUNE 13, 2002

The Senate Community and Urban Affairs Committee reports favorably Senate Bill No. 1121.

This bill would protect tenants from price gouging during an emergency which affects the availability of rental housing. The bill would authorize the Governor, whenever declaring a state of emergency, to determine whether the emergency could affect the availability and pricing of rental housing in the areas included in the declaration. If the Governor determines that unconscionable rental practices are likely to occur, there may be included a "Notice of Rent Protection Emergency" within the declaration of the state of emergency.

In the event a "Notice of Rent Protection Emergency," is issued, the bill would create a zone which includes the area declared to be in a state of emergency and extending 10 miles in all directions from the outward boundaries thereof. Within the zone, there would be a presumption of unreasonableness given to a notice of increase in rental charges provided subsequent to the date of the declaration by a landlord to a tenant occupying premises which are utilized as a residence, and a limitation on the amount of rent which may be charged a tenant undertaking a new lease for residential premises during the duration of the declaration of a "Notice of Rent Protection Emergency." The bill would limit any proposed increase in rent to no more than twice the amount of inflation for the immediately preceding nine month period. A rental increase presumed to be unreasonable would remove the grounds for a landlord to evict a tenant who refuses to pay a rental increase under these circumstances. In the event the rental property was subject to a rent control ordinance or regulation, the bill would not override the limitations on rent increases under the ordinance or regulation, provided there would be less of a permitted rental increase than under the bill.

The bill would empower the Director of the Division of Consumer Affairs to hear complaints and assess penalties against landlords who violate the terms of the Rent Protection Emergency. A landlord in violation could be liable for up to six times the customary rental charge to the aggrieved tenant. The landlord also could be considered to be in violation of the New Jersey consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.). In addition, a tenant could terminate a lease

which violates the provisions of the bill, without any penalty to the tenant. The provisions of the bill would cease to be applicable upon the expiration of the state of emergency, or upon the rescission of the either the declaration of the state of emergency or the "Notice of Rent Protection Emergency."

ASSEMBLY BILL NO. 772

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Assembly Bill No. 772 with my recommendations for reconsideration.

A. Summary of Bill

The bill would authorize the Governor, whenever declaring a state of emergency, to determine whether the emergency could affect the availability and pricing of rental housing in the areas included in the declaration. If the Governor determines that unconscionable rental practices are likely to occur, there shall be included a "Notice of Rent Protection Emergency" within the declaration of the state of emergency.

In the event a Notice of Rent Protection Emergency is issued, the bill would create a zone that includes the area declared to be in a state of emergency and extending 10 miles in all directions from the outward boundaries of the emergency area. Any notice to a residential tenant, within that zone, of an increase in rental charges provided after the date of the declaration will be presumed to be unreasonable, when the proposed percentage increase in rent is greater than twice the rate of inflation for the immediately preceding nine-month period. In addition, the amount of rent that may be charged a tenant undertaking a new lease for residential premises during the duration of the declaration of a Notice of Rent Protection Emergency, will be limited to no more than twice the amount of inflation for the immediately preceding nine-month period. The presumption that a rental increase is unreasonable would prevent a landlord from evicting a tenant who refuses to pay a rental increase under these circumstances.

The bill would empower the Director of the Division of Consumer Affairs to hear complaints and assess penalties against landlords who violate its provisions. A landlord who violates

the bill could be liable for up to six times the customary rental charge to the aggrieved tenant. In addition, a violation of the bill will be considered a violation of the New Jersey Consumer Fraud Act. The bill also allows tenants to terminate a lease that violates the provisions of the bill, without any penalty to the tenant. The provisions of the bill would cease to be applicable upon the expiration of the state of emergency, or upon the rescission of either the declaration of the state of emergency or the Notice of Rent Protection Emergency.

B. Recommended Action

This bill is intended to protect tenants from price gouging, which may occur during a State emergency, and was prompted by the disastrous flooding conditions that plagued Bound Brook and the surrounding area as a result of Hurricane Floyd in 1999. I commend the sponsors of this legislation for their foresight and sensitivity to ensure that those who depend upon the availability and affordability of rental housing are protected from opportunistic price gouging.

In an effort to more precisely define the zone to which the Notice of Rent Protection Emergency would apply, however, I am proposing to include language that would allow the Governor to delineate a distance not to exceed ten miles from the area declared to be in a state of emergency. This provision will allow a case-by-case and flexible analysis of the areas within which tenants will likely seek temporary, emergency or other replacement housing, without placing unnecessary restrictions upon more geographically distant areas that would not otherwise provide reasonable replacement housing.

Consistent with the recommendations of the Attorney General's Office, I am also proposing a new section in this bill in order to clarify that the limitations on increases in rental charges imposed by the Notice of Rent Protection Emergency do not

prevent a landlord from realizing a just and reasonable rate of return on his investment. This language ensures that the bill does not contravene the Constitutional requirement regarding the deprivation of property without due process, and that a mechanism is in place to provide a landlord with relief, if deemed appropriate.

Finally, I am proposing language that will clarify the penalties that may be assessed against a landlord and the mechanism to obtain such relief, should a landlord be found in violation of this law. The current bill cites a section of existing law that allows a municipality to provide relocation assistance to a displaced tenant who receives a notice of eviction as a result of zoning or other code violations. In an effort to simplify the procedures for obtaining relief and not impose additional and cumbersome burdens upon municipalities, I am proposing language that maintains the same penalties imposed against a landlord for such a violation (six times the monthly rental), but does not utilize the same mechanism involving municipalities.

Therefore, I herewith return Assembly Bill No. 772 and recommend that it be amended as follows:

- Page 2, Section 1, Line 13: After "invoked," insert "the Governor may issue"
- Page 2, Section 1, Line 14: Delete "shall be incorporated within the declaration of the" and insert "at any time during the declared"
- Page 2, Section 2, Line 18: Delete "includes in that declaration" and insert "issues"
- Page 2, Section 2, Line 21: After "emergency and" insert ", if so indicated in the Notice of Rent Protection Emergency". After "extending" insert "a distance not to exceed"
- Page 2, Section 2, Line 35: After "emergency and" insert ", if so indicated in the

Notice of Rent Protection Emergency". After "extending" insert "a distance not to exceed"

Page 3, Section 2, Line 5:

After "c." insert "In the event that a landlord believes that the limitations on increases in rental charges imposed by a "Notice of Rent Protection Emergency" prevent the landlord from realizing a just and reasonable rate of return on the landlord's investment, the landlord may file an application with the Director of the Division of Consumer Affairs in the Department of Law and Public Safety for the purpose of requesting permission to increase rental charges in excess of the increases otherwise authorized under the "Notice of Rent Protection Emergency". In evaluating such an application, the Director shall take into consideration the purposes intended to be achieved by P.L. , c. (C.) (pending before the Legislature as this bill), and the "Notice of Rent Protection Emergency" and the amount of rental charges required to provide the landlord with a just and reasonable return. The Director shall promulgate rules and regulations in accordance with the "Administrative Procedure Act," P.L. 1968, c.410 (C.52:14B-1 et seq.) to effectuate the purposes of this act.

d."

Page 3, Section 2, Line 12:

Renumber subsection d. as subsection "e."

Page 3, Section 3, Lines 24-28:

Delete "the same" on line 24. Delete lines 25-28 in their entirety.

Insert "an amount equal to six times the monthly rental sought to be imposed upon a tenant in contravention of the "Notice of Rent Protection Emergency"; or"

Respectfully,

/s/ James E. McGreevey

Governor

[seal]

Attest:

/s/ Paul A. Levinsohn

Chief Counsel to the Governor