

2A:39-1

LEGISLATIVE HISTORY CHECKLIST

Compiled by the NJ State Law Library

LAWS OF: 2005 **CHAPTER:** 319

NJSA: 2A:39-1 (Concerns eviction proceedings; establishes penalties for forcible entry or detainer of residential property and damage to rental premises)

BILL NO: S570 (Substituted for A2887)

SPONSOR(S): Baer and others

DATE INTRODUCED: Pre-filed

COMMITTEE: **ASSEMBLY:**

SENATE: Community and Urban Affairs

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: **ASSEMBLY:** January 9, 2006

SENATE: January 9, 2006

DATE OF APPROVAL: January 12, 2006

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (Senate Committee Substitute for S570 enacted)

S570

[SPONSOR'S STATEMENT](#): (Begins on page 3 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** No

[SENATE:](#) [Yes](#)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL NOTE: No

A2887

[SPONSOR'S STATEMENT](#): (Begins on page 3 of original bill) [Yes](#)

COMMITTEE STATEMENT: [ASSEMBLY:](#) [Yes](#)

SENATE: No

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

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

IS 2/4/08

P.L. 2005, CHAPTER 319, *approved January 12, 2006*
Senate Committee Substitute for
Senate, No. 570

1 AN ACT concerning eviction, amending N.J.S.2A:39-1, P.L.1974, c.47
2 and N.J.S.2C:17-3, and supplementing chapter 33 of Title 2C of
3 the New Jersey Statutes.

4

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

7

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

9 2A:39-1. No person shall enter upon or into any real property or
10 estate therein and detain and hold the same, except where entry is
11 given by law, and then only in a peaceable manner. With regard to any
12 real property occupied solely as a residence by the party in possession,
13 such entry shall not be made in any manner without the consent of the
14 party in possession unless the entry and detention is made pursuant to
15 legal process as set out in N.J.S.2A:18-53 et seq., as amended and
16 supplemented; P.L.1974, c.49 (C.2A:18-61.1 et al.), as amended and
17 supplemented; P.L.1975, c.311 (C.2A:18-61.6 et al.), as amended and
18 supplemented; P.L.1978, c.139, (C.2A:18-61.6 et al.), as amended and
19 supplemented; the "Tenant Protection Act of 1992," P.L.1991, c.509
20 (C.2A:18-61.40 et al.); or 2A:35-1 et seq. and "The Fair Eviction
21 Notice Act," P.L.1974, c.47 (C.2A:42-10.15 et al.). A person
22 violating this section regarding entry of rental property occupied solely
23 as a residence by a party in possession shall be a disorderly person.
24 (cf: P.L.1971, c.227, s.1)

25

26 2. Section 2 of P.L.1974, c.47 (C.2A:42-10.16) is amended to
27 read as follows:

28 2. In any proceeding for the summary dispossession of a tenant,
29 warrant for possession issued by a court of appropriate jurisdiction:

30 a. Shall include a notice to the tenant of any right to apply to the
31 court for a stay of execution of the warrant, together with a notice
32 advising that the tenant may be eligible for temporary housing
33 assistance or other social services and that the tenant should contact
34 the appropriate county welfare agency, at the address and telephone
35 number given in the notice, to determine eligibility; [and]

36 b. Shall be executed not earlier than the third day following the
37 day of personal service upon the tenant by the appropriate court
38 officer. In calculating the number of days hereby required, Saturday,
39 Sunday and court holidays shall be excluded; [and]

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

Matter underlined thus is new matter.

1 c. Shall be executed during the hours of 8 a.m. to 6 p.m., unless
2 the court, for good cause shown, otherwise provides in its judgment
3 for possession ;

4 d. Shall state the earliest date and time that the warrant may be
5 executed, and also shall state that the warrant shall only be executed
6 by an officer of the court; and

7 e. Shall include a notice that it is illegal as a disorderly person's
8 offense for a landlord to padlock or otherwise block entry to a rental
9 premises while a tenant is still in possession of the premises unless
10 such action is done in accordance with a distraint action involving a
11 non-residential premises as permitted by law; shall state that removal
12 of a tenant's belongings from a premises by a landlord after the
13 eviction of a tenant may be done only in accordance with the
14 provisions of P.L.1999, c.340 (C.2A:18-72 et al.); shall contain a
15 concise summary of the provisions of this section and section 3 of
16 P.L. , c. (C.) (pending before the Legislature as section 3 of
17 this bill) with special emphasis placed on the duties and obligations of
18 law enforcement officers under those sections of law; and shall advise
19 the occupant of the right to file a court proceeding pursuant to
20 N.J.S.2A:39-1 et seq.

21 Whenever a written notice, in accordance with the provisions of
22 subsection [2a.] a. of this section, is given to the tenant by the court,
23 this shall constitute personal service in accordance with the provisions
24 of subsection [2b] b. of this section.

25 At the time a warrant for possession is lawfully executed, the court
26 officer involved shall prepare a statement of "Execution of Warrant for
27 Possession" and shall immediately deliver the statement to the landlord
28 or the landlord's representative by personal service. The court officer
29 shall deliver a copy of the statement to the tenant by personal service,
30 however, if it cannot be personally served, it may be delivered in the
31 manner provided under N.J.S.2A:18-54. The statement shall also be
32 affixed to the door to the unit to which the warrant applies. The
33 statement shall identify the warrant, the date of issuance of the
34 warrant, the court and judge who issued the warrant, the date and time
35 of execution of the warrant, and the name, signature and position of
36 the person executing the warrant.

37 The Superior Court, Law Division, Special Civil Part shall retain
38 jurisdiction for a period of 10 days subsequent to the actual execution
39 of the warrant for possession for the purpose of hearing applications
40 by the tenant for lawful relief.

41 (cf: P.L.1991, c.91, s.87)

42
43 3. (New section) a. A person commits a disorderly persons
44 offense if, after being warned by a law enforcement or other public
45 official of the illegality of that action, the person (1) takes possession
46 of residential real property or effectuates a forcible entry or detainer

1 of residential real property without lawful execution of a warrant for
2 possession in accordance with the provisions of section 2 of P.L.1974,
3 c.47 (C.2A:42-10.16) or without the consent of the occupant solely in
4 possession of the residential real property; or (2) refuses to restore
5 immediately to exclusive possession and occupancy any such occupant
6 so displaced. Legal occupants unlawfully displaced shall be entitled
7 without delay to reenter and reoccupy the premises, and shall not be
8 considered trespassers or chargeable with any offense, provided that
9 a law enforcement officer is present at the time of reentry. It shall be
10 the duty of such officer to prevent the landlord or any other persons
11 from obstructing or hindering the reentry and reoccupancy of the
12 dwelling by the displaced occupant.

13 As used in this section, "forcible entry and detainer" means to enter
14 upon or into any real property and detain and hold that property by:

15 (1) any kind of violence including threatening to kill or injure the
16 party in possession;

17 (2) words, circumstances or actions which have a clear intention
18 to incite fear or apprehension or danger in the party in possession;

19 (3) putting outside of the residential premises the personal effects
20 or furniture of the party in possession;

21 (4) entering peaceably and then, by force or threats, turning the
22 party out of possession;

23 (5) padlocking or otherwise changing locks to the property;

24 (6) shutting off, or causing to be shut off, vital services such as,
25 but not limited to, heat, electricity or water, in an effort to regain
26 possession; or by

27 (7) any means other than compliance with lawful eviction
28 procedures pursuant to section 2 of P.L.1974, c.47 (C.2A:42-10.16),
29 as established through possession of a lawfully prepared and valid
30 "Execution of Warrant."

31 b. A person who is convicted of an offense under this section more
32 than once within a five-year period is guilty of a crime of the fourth
33 degree.

34

35 4. (New section) Within 30 days of the effective date of P.L. ,
36 c. (C.) (pending before the Legislature as this bill), the Attorney
37 General shall prepare a notice explaining the provisions of P.L. ,
38 c. (C.) (pending before the Legislature as this bill), with
39 particular emphasis on the responsibilities of law enforcement officers
40 and other public officials, and transmit the notice to the chief or
41 director of every municipal police department, every municipal
42 prosecutor, every county prosecutor, and the Superintendent of the
43 New Jersey State Police. The notice shall be disseminated to every
44 law enforcement officer and shall be reenforced at roll calls and
45 academy service training and continuing education programs so to
46 ensure that all officers and prosecutors are educated of their

1 responsibilities under P.L. , c. (C.) (pending before the
2 Legislature as this bill).

3

4 5. N.J.S.2C:17-3 is amended to read as follows:

5 2C:17-3. a. Offense defined. A person is guilty of criminal
6 mischief if he:

7 (1) Purposely or knowingly damages tangible property of another
8 or damages tangible property of another recklessly or negligently in
9 the employment of fire, explosives or other dangerous means listed in
10 subsection a. of N.J.S.2C:17-2; or

11 (2) Purposely, knowingly or recklessly tampers with tangible
12 property of another so as to endanger person or property, including
13 the damaging or destroying of a rental premises by a tenant in
14 retaliation for institution of eviction proceedings.

15 b. Grading. (1) Criminal mischief is a crime of the third degree
16 if the actor purposely or knowingly causes pecuniary loss of \$2,000.00
17 or more, or a substantial interruption or impairment of public
18 communication, transportation, supply of water, gas or power, or
19 other public service.

20 (2) Criminal mischief is a crime of the fourth degree if the actor
21 causes pecuniary loss in excess of \$500.00. It is a disorderly persons
22 offense if the actor causes pecuniary loss of \$500.00 or less.

23 (3) Criminal mischief is a crime of the third degree if the actor
24 damages, defaces, eradicates, alters, receives, releases or causes the
25 loss of any research property used by the research facility, or
26 otherwise causes physical disruption to the functioning of the research
27 facility. The term "physical disruption" does not include any lawful
28 activity that results from public, governmental, or research facility
29 employee reaction to the disclosure of information about the research
30 facility.

31 (4) Criminal mischief is a crime of the fourth degree if the actor
32 damages, removes or impairs the operation of any device, including,
33 but not limited to, a sign, signal, light or other equipment, which
34 serves to regulate or ensure the safety of air traffic at any airport,
35 landing field, landing strip, heliport, helistop or any other aviation
36 facility; however, if the damage, removal or impediment of the device
37 recklessly causes bodily injury or damage to property, the actor is
38 guilty of a crime of the third degree, or if it recklessly causes a death,
39 the actor is guilty of a crime of the second degree.

40 (5) Criminal mischief is a crime of the fourth degree if the actor
41 interferes or tampers with any airport, landing field, landing strip,
42 heliport, helistop or any other aviation facility; however if the
43 interference or tampering with the airport, landing field, landing strip,
44 heliport, helistop or other aviation facility recklessly causes bodily
45 injury or damage to property, the actor is guilty of a crime of the third
46 degree, or if it recklessly causes a death, the actor is guilty of a crime

1 of the second degree.

2 (6) Criminal mischief is a crime of the third degree if the actor
3 tampers with a grave, crypt, mausoleum or other site where human
4 remains are stored or interred, with the purpose to desecrate, destroy
5 or steal such human remains or any part thereof.

6 c. A person convicted of an offense of criminal mischief that
7 involves an act of graffiti may, in addition to any other penalty
8 imposed by the court, be required to pay to the owner of the damaged
9 property monetary restitution in the amount of the pecuniary damage
10 caused by the act of graffiti and to perform community service, which
11 shall include removing the graffiti from the property, if appropriate.
12 If community service is ordered, it shall be for either not less than 20
13 days or not less than the number of days necessary to remove the
14 graffiti from the property.

15 d. As used in this section:

16 (1) "Act of graffiti" means the drawing, painting or making of any
17 mark or inscription on public or private real or personal property
18 without the permission of the owner.

19 (2) "Spray paint" means any paint or pigmented substance that is
20 in an aerosol or similar spray container.

21 e. A person convicted of an offense of criminal mischief that
22 involves the damaging or destroying of a rental premises by a tenant
23 in retaliation for institution of eviction proceedings, may, in addition
24 to any other penalty imposed by the court, be required to pay to the
25 owner of the property monetary restitution in the amount of the
26 pecuniary damage caused by the damage or destruction.

27 (cf: P.L.1999, c.95, s.1)

28

29 6. This act shall take effect immediately.

30

31

32

33

34 _____
35 Concerns eviction proceedings; establishes penalties for forcible entry
or detainer of residential property and damage to rental premises.

SENATE, No. 570

STATE OF NEW JERSEY
211th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2004 SESSION

Sponsored by:
Senator BYRON M. BAER
District 37 (Bergen)

SYNOPSIS

Makes lock-out of tenant by landlord a disorderly persons offense; requires certain notice be provided in warrant for possession.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



S570 BAER

2

1 AN ACT concerning eviction, and amending N.J.S. 2A:39-1 and P.L.
2 1974, c.47.

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

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

8 2A:39-1. No person shall enter upon or into any real property or
9 estate therein and detain and hold the same, except where entry is
10 given by law, and then only in a peaceable manner. With regard to any
11 real property occupied solely as a residence by the party in possession,
12 such entry shall not be made in any manner without the consent of the
13 party in possession unless the entry and detention is made pursuant to
14 legal process as set out in N.J.S. 2A:18-53 et seq. or 2A:35-1 et seq.
15 A person violating this section regarding rental property occupied
16 solely as a residence by a party in possession shall be a disorderly
17 person.

18 (cf: P.L.1971, c.227, s.1)

19

20 2. Section 2 of P.L.1974, c.47 (C.2A:42-10.16) is amended to read
21 as follows:

22 2. In any proceeding for the summary dispossession of a tenant,
23 warrant for possession issued by a court of appropriate jurisdiction:

24 a. Shall include a notice to the tenant of any right to apply to the
25 court for a stay of execution of the warrant, together with a notice
26 advising that the tenant may be eligible for temporary housing
27 assistance or other social services and that the tenant should contact
28 the appropriate county welfare agency, at the address and telephone
29 number given in the notice, to determine eligibility; and

30 b. Shall be executed not earlier than the third day following the day
31 of personal service upon the tenant by the appropriate court officer. In
32 calculating the number of days hereby required, Saturday, Sunday and
33 court holidays shall be excluded; [and]

34 c. Shall be executed during the hours of 8 a.m. to 6 p.m., unless
35 the court, for good cause shown, otherwise provides in its judgment
36 for possession; and

37 d. Shall include a notice that it is illegal as a disorderly person's
38 offense for a landlord to padlock or otherwise block entry to a rental
39 premises while a tenant is still in possession of the premises unless
40 such action is done in accordance with a distraint action permitted by
41 law, and that removal of a tenant's belongings from a premises by a
42 landlord after the eviction of a tenant may be done only in accordance
43 with the provisions of P.L.1999, c.340 (C.2A:18-72 et al.).

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 Whenever a written notice, in accordance with the provisions of
2 subsection **[2a.] a. of this section**, is given to the tenant by the court,
3 this shall constitute personal service in accordance with the provisions
4 of subsection **[2b] b. of this section**.

5 The Superior Court, Law Division, Special Civil Part shall retain
6 jurisdiction for a period of 10 days subsequent to the actual execution
7 of the warrant for possession for the purpose of hearing applications
8 by the tenant for lawful relief. (P.L.1991, c.91, s.87)

9
10 3. This act shall take effect immediately.

11
12
13 STATEMENT

14
15 This bill would require the warrant for possession issued by a court
16 upon the eviction of a tenant to include a notice that it is illegal as a
17 disorderly persons offense for a landlord to padlock or otherwise block
18 entry to a rental premises while a tenant is still in possession of the
19 premises unless a distraint action permitted under law is being utilized,
20 and that removal of a tenant's belongings from a premises by a
21 landlord after the eviction of a tenant may be done only in accordance
22 with the provisions of P.L.1999, c.340 (C.2A:18-72 et al). The bill
23 amends the law to make it a disorderly persons offense to enter upon
24 real property occupied solely as a residence by a party in possession,
25 without the consent of the party in possession unless the entry and
26 detention is made pursuant to legal process as set out in N.J.S.
27 2A:18-53 et seq. or 2A:35-1 et seq. A disorderly persons offense is
28 punishable by a term of up to six months or a fine of up to \$1,000, or
29 both. The notice will help to educate tenants and landlords alike of the
30 requirements under the law concerning lock-outs of tenants, and of the
31 time frame for removal of possessions from rental premises by a tenant
32 after eviction.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 570**

STATE OF NEW JERSEY

DATED: DECEMBER 15, 2005

The Senate Community and Urban Affairs Committee reports favorably a Senate Committee Substitute for Senate Bill No. 570.

This committee substitute would deter landlords from engaging in unlawful actions against tenants, such as padlocking or otherwise blocking entry to a rental premises while a tenant is still in possession of the premises and removing a tenant's belongings from rental premises, by criminalizing such conduct. Additionally, the committee substitute would enhance notification requirements to better alert tenants of their rights and to educate law enforcement officers of their obligations under the law.

The committee substitute provides that a person commits a disorderly persons offense if, after being warned by a law enforcement officer or other public official of the illegality of that action, the person (1) takes possession of residential real property or effectuates a forcible entry or detainer of residential real property without lawful execution of a warrant for possession in accordance with the provisions of section 2 of P.L.1974, c.47 (C.2A:42-10.16) or without the consent of the occupant solely in possession of the residential real property; or (2) refuses to restore immediately to exclusive possession and occupancy a displaced occupant. A person who is convicted of an offense under these circumstances more than once within a five-year period would be guilty of a crime of the fourth degree.

Legal occupants unlawfully displaced would be entitled, without delay, to reenter and reoccupy the premises and would not be considered trespassers or chargeable with any offense, provided that a law enforcement officer is present at the time of reentry. The committee substitute makes it the duty of a law enforcement officer to prevent the landlord or any other persons from obstructing or hindering the reentry and reoccupancy of the dwelling by the displaced occupant.

The committee substitute would require a warrant for possession to include a notice that it is a disorderly person's offense for a landlord to padlock or otherwise block entry to a rental premises while a tenant is still in possession of the premises and that removal of a tenant's belongings from a premises by a landlord after the eviction of a tenant

may be done only in accordance with provisions of applicable law, P.L.1999, c.340 (C.2A:18-72 et al.). Under the substitute, a warrant for possession would have to contain a concise summary of the provisions of applicable statutory law with special emphasis placed on the duties and obligations of law enforcement officers under those sections of law and also advise the occupant of the right to file a court proceeding alleging forcible or unlawful entry and detainer pursuant to N.J.S.2A:39-1 et seq.

The committee substitute provides that at the time a warrant for possession is lawfully executed, the court officer involved must prepare a statement of "Execution of Warrant for Possession" and immediately deliver the statement to the landlord or the landlord's representative by personal service. Additionally, the court officer must deliver a copy of the statement to the tenant by personal service; however, if it cannot be personally served, it may be delivered in the manner provided under N.J.S.2A:18-54. The statement would also be affixed to the door to the unit to which the warrant applies. The statement would identify the warrant, the date of issuance of the warrant, the court and judge who issued the warrant, the date and time of execution of the warrant, and the name, signature and position of the person executing the warrant.

The committee substitute would require the Attorney General to prepare a notice explaining the provisions of this bill within 30 days of the bill's enactment, emphasizing the responsibilities of law enforcement officers and other public officials under the bill's provisions. The Attorney General would be required to transmit the notice to the chief or director of every municipal police department, every municipal prosecutor, every county prosecutor, and the Superintendent of the New Jersey State Police. In turn, those officials would be required to disseminate the notice to every law enforcement officer and reinforce the information contained therein at roll calls, academy service training and continuing education programs so to ensure that all officers and prosecutors are educated of their responsibilities under this bill.

The committee substitute would also deter tenants from damaging or destroying their rental premises in response to a notice of eviction by specifically making such action the crime of criminal mischief. Criminal mischief could be a disorderly persons offense, a crime of the fourth degree or a crime of the third degree, depending upon the pecuniary loss involved. Under the committee substitute, a person convicted of an offense of criminal mischief that involves the damaging or destroying of a rental premises by a tenant in retaliation for institution of eviction proceedings, may, in addition to any other penalty imposed by the court, be required to pay to the owner of the property monetary restitution in the amount of the pecuniary damage caused by the damage or destruction.

ASSEMBLY, No. 2887

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED MAY 20, 2004

Sponsored by:

Assemblyman BRIAN P. STACK

District 33 (Hudson)

Assemblyman JOHN F. MCKEON

District 27 (Essex)

Co-Sponsored by:

Assemblyman Gordon

SYNOPSIS

Makes lock-out of tenant by landlord a disorderly persons offense; requires certain notice be provided in warrant for possession.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/13/2005)

1 AN ACT concerning eviction, and amending N.J.S.2A:39-1 and
2 P.L.1974, c.47.

3

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

6

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

8 2A:39-1. No person shall enter upon or into any real property or
9 estate therein and detain and hold the same, except where entry is
10 given by law, and then only in a peaceable manner. With regard to any
11 real property occupied solely as a residence by the party in possession,
12 such entry shall not be made in any manner without the consent of the
13 party in possession unless the entry and detention is made pursuant to
14 legal process as set out in N.J.S.2A:18-53 et seq. or 2A:35-1 et seq.
15 A person violating this section regarding rental property occupied
16 solely as a residence by a party in possession shall be a disorderly
17 person.

18 (cf: P.L.1971, c.227, s.1)

19

20 2. Section 2 of P.L.1974, c.47 (C.2A:42-10.16) is amended to read
21 as follows:

22 2. In any proceeding for the summary dispossession of a tenant,
23 warrant for possession issued by a court of appropriate jurisdiction:

24 a. Shall include a notice to the tenant of any right to apply to the
25 court for a stay of execution of the warrant, together with a notice
26 advising that the tenant may be eligible for temporary housing
27 assistance or other social services and that the tenant should contact
28 the appropriate county welfare agency, at the address and telephone
29 number given in the notice, to determine eligibility; and

30 b. Shall be executed not earlier than the third day following the day
31 of personal service upon the tenant by the appropriate court officer. In
32 calculating the number of days hereby required, Saturday, Sunday and
33 court holidays shall be excluded; [and]

34 c. Shall be executed during the hours of 8 a.m. to 6 p.m., unless
35 the court, for good cause shown, otherwise provides in its judgment
36 for possession; and

37 d. Shall include a notice that it is illegal as a disorderly person's
38 offense for a landlord to padlock or otherwise block entry to a rental
39 premises while a tenant is still in possession of the premises unless
40 such action is done in accordance with a distraint action permitted by
41 law, and that removal of a tenant's belongings from a premises by a
42 landlord after the eviction of a tenant may be done only in accordance
43 with the provisions of P.L.1999, c.340 (C.2A:18-72 et al.).

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 Whenever a written notice, in accordance with the provisions of
2 subsection [2a.] a. of this section, is given to the tenant by the court,
3 this shall constitute personal service in accordance with the provisions
4 of subsection [2b] b. of this section.

5 The Superior Court, Law Division, Special Civil Part shall retain
6 jurisdiction for a period of 10 days subsequent to the actual execution
7 of the warrant for possession for the purpose of hearing applications
8 by the tenant for lawful relief.

9 (cf: P.L.1991, c.91, s.87)

10
11 3. This act shall take effect immediately.
12
13

14 STATEMENT
15

16 This bill would require the warrant for possession issued by a court
17 upon the eviction of a tenant to include a notice that it is illegal as a
18 disorderly persons offense for a landlord to padlock or otherwise block
19 entry to a rental premises while a tenant is still in possession of the
20 premises unless a distraint action permitted under law is being utilized,
21 and that removal of a tenant's belongings from a premises by a
22 landlord after the eviction of a tenant may be done only in accordance
23 with the provisions of P.L.1999, c.340 (C.2A:18-72 et al). The bill
24 amends the law to make it a disorderly persons offense to enter upon
25 real property occupied solely as a residence by a party in possession,
26 without the consent of the party in possession unless the entry and
27 detention is made pursuant to legal process as set out in N.J.S.
28 2A:18-53 et seq. or 2A:35-1 et seq. A disorderly persons offense is
29 punishable by a term of up to six months or a fine of up to \$1,000, or
30 both. The notice will help to educate tenants and landlords alike of the
31 requirements under the law concerning lock-outs of tenants, and of the
32 time frame for removal of possessions from rental premises by a tenant
33 after eviction.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, No. 2887**

STATE OF NEW JERSEY

DATED: JANUARY 5, 2006

The Assembly Appropriations Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 2887.

This Assembly Committee Substitute for Assembly Bill No. 2887 will deter landlords from engaging in unlawful actions against tenants, such as padlocking or otherwise blocking entry to a rental premises while a tenant is still in possession of the premises and removing a tenant's belongings from rental premises, by criminalizing such conduct. Additionally, the substitute will enhance notification requirements to better alert tenants of their rights and to educate law enforcement officers of their obligations under the law.

The substitute provides that a person commits a disorderly persons offense if, after being warned by a law enforcement officer or other public official of the illegality of that action, the person (1) takes possession of residential real property or effectuates a forcible entry or detainer of residential real property without lawful execution of a warrant for possession in accordance with the provisions of section 2 of P.L.1974, c.47 (C.2A:42-10.16) or without the consent of the occupant solely in possession of the residential real property; or (2) refuses to restore immediately to exclusive possession and occupancy a displaced occupant. A person who is convicted of an offense under these circumstances more than once within a five-year period would be guilty of a crime of the fourth degree.

Under the substitute, legal occupants unlawfully displaced will be entitled, without delay, to reenter and reoccupy the premises and would not be considered trespassers or chargeable with any offense, provided that a law enforcement officer is present at the time of reentry. The substitute makes it the duty of a law enforcement officer to prevent the landlord or any other persons from obstructing or hindering the reentry and reoccupancy of the dwelling by the displaced occupant.

The substitute requires a warrant for possession to include a notice that it is a disorderly person's offense for a landlord to padlock or otherwise block entry to a rental premises while a tenant is still in possession of the premises and that removal of a tenant's belongings from a premises by a landlord after the eviction of a tenant may be

done only in accordance with provisions of applicable law, P.L.1999, c.340 (C.2A:18-72 et al.). Under the substitute, a warrant for possession must contain a concise summary of the provisions of applicable statutory law with special emphasis placed on the duties and obligations of law enforcement officers under those sections of law and also advise the occupant of the right to file a court proceeding alleging forcible or unlawful entry and detainer pursuant to N.J.S.2A:39-1 et seq.

The substitute provides that at the time a warrant for possession is lawfully executed, the court officer involved must prepare a statement of "Execution of Warrant for Possession" and immediately deliver the statement to the landlord or the landlord's representative by personal service. Additionally, the court officer must deliver a copy of the statement to the tenant by personal service; however, if it cannot be personally served, it may be delivered in the manner provided under N.J.S.2A:18-54. The statement must also be affixed to the door to the unit to which the warrant applies. The statement would identify the warrant, the date of issuance of the warrant, the court and judge who issued the warrant, the date and time of execution of the warrant, and the name, signature and position of the person executing the warrant.

The substitute requires the Attorney General to prepare a notice explaining the provisions of this substitute within 30 days of the substitute's enactment, emphasizing the responsibilities of law enforcement officers and other public officials under the substitute's provisions. The substitute requires the Attorney General to transmit the notice to the chief or director of every municipal police department, every municipal prosecutor, every county prosecutor, and the Superintendent of the New Jersey State Police. In turn, the substitute requires those officials to disseminate the notice to every law enforcement officer and reinforce the information contained therein at roll calls, academy service training and continuing education programs so to ensure that all officers and prosecutors are educated of their responsibilities under this substitute.

The substitute also deters tenants from damaging or destroying their rental premises in response to a notice of eviction by specifically making such action the crime of criminal mischief. Criminal mischief could be a disorderly persons offense, a crime of the fourth degree or a crime of the third degree, depending upon the pecuniary loss involved. Under the substitute, a person convicted of an offense of criminal mischief that involves the damaging or destroying of a rental premises by a tenant in retaliation for institution of eviction proceedings, may, in addition to any other penalty imposed by the court, be required to pay to the owner of the property monetary restitution based on the costs of the damage or destruction.

This substitute is identical to Senate Bill No. 570 (SCS) of 2004 except for a technical correction of a citation in Section 1.

FISCAL IMPACT:

No information currently available concerning the State and local government administrative costs of the Attorney General's issuance of the notice concerning the provisions of this substitute, its dissemination to municipal police departments, local prosecutors, and the Superintendent of the New Jersey State Police, and its further dissemination to law enforcement officers.