

55:13A-7.12

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2006 **CHAPTER:** 55

NJSA: 55:13A-7.12 (Enhances protections afforded under child protection window guard law)

BILL NO: S458 (Substituted for A2023)

SPONSOR(S) Rice and others

DATE INTRODUCED: Pre-filed

COMMITTEE: **ASSEMBLY:** Housing and Local Government

SENATE: Community and Urban Affairs

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** June 22, 2006

SENATE: February 27, 2006

DATE OF APPROVAL: July 31, 2006

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (1st reprint enacted)

S458

[SPONSOR'S STATEMENT:](#) (Begins on page 10 of original bill) [Yes](#)

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

SENATE: [Yes](#)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL NOTE: No

A2023

[SPONSOR'S STATEMENT:](#) (Begins on page 9 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:](#) [Yes](#) [7-31-06](#)

FOLLOWING WERE PRINTED:
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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: Yes

"Corzine signs window-guard law," 8-1-2006, New York Times, Metro Briefing, p.B4

"At a tragic site, window-guard rules bolstered," 8-1-2006, Star-Ledger, p.16

RWH 3/7/08

P.L. 2006, CHAPTER 55, *approved July 31, 2006*
Senate, No. 458 (*First Reprint*)

1 AN ACT concerning child-protection window guards and amending
2 and supplementing¹ P.L.1995, c.120.

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

6
7 1. Section 1 of P.L.1995, c.120 (C.55:13A-7.12) is amended to
8 read as follows:

9 1. As used in this act **[,]** :

10 "child-protection window guard" or "window guard" means a
11 bar, screen or grille assembly designed to be installed in a window
12 for the purpose of preventing accidental fall or ejection of a child
13 through the window. It shall be so designed, constructed and
14 installed that no person of the age of 10 years or younger may
15 through accident, ignorance or inadvertence, remove, open or
16 dislodge it so as to permit such fall or ejection. Such window
17 guards shall conform to specifications developed by the
18 commissioner regarding design, construction and installation so as
19 to accomplish the purpose of this act. A municipality may adopt
20 standards that afford tenants greater protections than are provided
21 pursuant to the commissioner's specifications.

22 The commissioner's specifications for double hung windows
23 shall ensure that window guards protect the full openable area of
24 each lower window. The specifications shall provide that all
25 window guards shall be designed and installed as to ensure that any
26 space between the lowest section of the top horizontal bar of the
27 window guard and the bottom of the upper sash is less than four
28 inches. Installation of rigid metal stops in the upper tracks of a
29 bottom window or other attempts to limit the ability to raise the
30 bottom window shall not be an acceptable method of satisfying the
31 specifications provided for in this section. Window stops may be
32 utilized as a safety enhancement when used in addition to installed
33 window guards.

34 "common interest community" means a horizontal property
35 regime, condominium, cooperative, or mutual housing corporation
36 in which some of the property, known as common elements, is
37 owned as tenants-in-common by all of the property owners.

38 "unit owners' association" means the association organized for
39 the purpose of management of the common elements and facilities
40 of a common interest community.

41 (cf: P.L.1995, c.120, s.1)

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SCU committee amendments adopted January 26, 2006.

1 2. Section 2 of P.L.1995, c.120 (C.55:13A-7.13) is amended to
2 read as follows:

3 2. a. (1) Except as provided in subsection b. of this section, the
4 owner, lessor, agent or other person who manages or controls a
5 multiple dwelling, other than a multiple dwelling which is part of a
6 common interest community, shall, upon the written request of a
7 tenant of a unit in which a child or children 10 years of age or under
8 reside or will reside or are regularly present for a substantial period
9 of time, provide, install and maintain **[a]** approved child-protection
10 window **[guard]** guards on the windows of **[each]** the dwelling
11 unit **[in which a child or children 10 years of age or under reside]**
12 and on any windows in the public halls of a multiple dwelling in
13 which any child or children of such age reside or are regularly
14 present for a substantial period of time.

15 (2) (a) Except as provided in subsection b. of this section, the
16 owner, lessor, agent or other person who controls a unit of dwelling
17 space in a multiple dwelling within a common interest community,
18 upon the written request of a tenant of a unit in which a child or
19 children 10 years of age or under reside or will reside or are
20 regularly present for a substantial period of time, shall provide,
21 install and maintain child-protection window guards on the
22 windows of the unit.

23 (b) The owner, lessor, agent or other person who controls a unit
24 of dwelling space in a multiple dwelling within a common interest
25 community shall provide written notice to the unit owners'
26 association whenever a tenant of a unit, in which a child or children
27 10 years of age or under reside or will reside or are regularly
28 present for a substantial period of time, has requested that child-
29 protection window guards be installed on the windows in the
30 common areas of the common interest community.

31 (3) (a) Except as provided in subsection b. of this section, upon
32 the written request of an owner or an occupant of a dwelling unit of
33 a multiple dwelling within a common interest community, ¹in which
34 dwelling unit a child or children 10 years of age or under reside or
35 will reside or are regularly present for a substantial period of time,¹
36 the unit owners' association shall install and maintain child-
37 protection window guards on the windows which are determined to
38 be in common areas of the community property and maintained by
39 the association.

40 (b) A unit owners' association shall not adopt or seek to enforce
41 any restrictions or architectural controls which would prohibit or
42 impede the installation of a window guard in compliance with
43 P.L.1995, c.120 (C.55:13A-7.12 et seq.).

44 b. ¹(1)¹ The requirements of subsection a. of this section shall
45 apply to all windows, except those windows which give access to a
46 fire escape **[or]**, which are not designed to open, or which are on
47 the first floor; provided, however, that the requirements of

1 subsection a. of this section shall apply to first floor windows in
2 such circumstances as the commissioner may provide by rule. [In
3 addition, the provisions of this act shall not apply to any window in
4 (1) an owner occupied dwelling unit, (2) a dwelling unit which is a
5 part of a condominium or which is held by a proprietary lessee
6 under a cooperative form of ownership, or (3) a dwelling unit
7 occupied by a shareholder in a mutual housing corporation.]

8 ¹(2) The requirements of subsection a. of this section shall not
9 apply to seasonal rental units. "Seasonal rental unit" means a
10 dwelling unit rented for a term of not more than 125 consecutive
11 days for residential purposes by a person having a permanent
12 residence elsewhere, but shall not include use or rental of living
13 quarters by migrant, temporary or seasonal workers in connection
14 with any work or place where work is being performed. The owner,
15 lessor, agent or other person who controls a dwelling unit shall have
16 the burden of proving that the rental is seasonal.¹

17 c. Any child-protection window guard installed pursuant to [this
18 act] P.L.1995, c.120 (C.55:13A-7.12 et seq.) shall conform to the
19 requirements of the State Uniform Construction Code with respect
20 to means of emergency egress, and a window guard installed on an
21 emergency egress window shall be releasable or removable from the
22 inside without use of a key, tool or excessive force. Window
23 guards installed on all other windows shall be designed,
24 constructed, and installed so that they may not deliberately or
25 through accident, ignorance or inadvertence, be removed, opened,
26 or dislodged without the use of a key or tool.

27 d. (1) Upon installation of a child-protection window guard in a
28 dwelling unit, and annually thereafter, the owner, lessor, agent or
29 other person who manages and controls that dwelling unit shall
30 provide the tenant with an orientation concerning the safe use and
31 manipulation of window guards in accordance with guidelines
32 established by the Commissioner of Community Affairs pursuant to
33 section 5 of P.L.1995, c.120 (C.55:13A-7.16).

34 (2) Upon installation of a child-protection window guard in the
35 common areas of a multiple dwelling, and annually thereafter, the
36 owner, lessor, unit owners' association, agent or other person who
37 manages and controls the common areas of the multiple dwelling
38 shall provide the occupants of the multiple dwelling with an
39 orientation concerning the safe use and manipulation of window
40 guards in accordance with guidelines established by the
41 Commissioner of Community Affairs pursuant to section 5 of
42 P.L.1995, c.120 (C.55:13A-7.16).

43 e. At least twice annually, the owner, lessor, unit owners'
44 association, agent or other person who manages and controls a unit
45 of dwelling space in a multiple dwelling, the common areas of the
46 multiple dwelling, or both, in which child protection window guards
47 have been installed, shall inspect each such window guard under

1 their control to ensure that it remains sound and in conformance
2 with the provisions of P.L.1995, c.120 (C.55:13A-7.12 et seq.), and
3 shall enter a record of such inspection in a log, which shall be
4 maintained as a permanent record so long as the window guard
5 remains installed, and for five years thereafter, and which shall be
6 available upon request to the department or its duly authorized
7 representative.

8 f. A tenant or unit owner may file a complaint with the
9 commissioner for the failure to comply with the provisions of
10 P.L.1995, c.120 (C.55:13A-7.12 et seq.). The commissioner shall
11 investigate complaints within a reasonable time period. The
12 commissioner may impose penalties authorized under the "Hotel
13 and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.)
14 for violations concerning the installation of child-protection
15 window guards and may institute a criminal complaint for a repeat
16 conviction after the imposition of a \$5,000 civil penalty for a
17 continuing violation pursuant to section 19 of P.L.1967, c.76
18 (C.55:13A-19).

19 g. To the extent that a violation of P.L.1995, c.120 (C.55:13A-
20 7.12 et seq.) has occurred within a rental unit in a common interest
21 community, such violation shall be noticed to, and resultant
22 penalties imposed upon, the unit owner of such rental unit and not
23 the unit owners' association.

24 h. To the extent that a violation of P.L.1995, c.120 (C.55:13A-
25 7.12 et seq.) has occurred within the common areas of a common
26 interest community, such violation shall be noticed to, and resultant
27 penalties imposed upon, the unit owners' association.

28 (cf: P.L.1995, c.120, s.2)

29

30 3. Section 3 of P.L.1995, c.120 (C.55:13A-7.14) is amended to
31 read as follows:

32 3. a. All leases offered to tenants in multiple dwellings shall
33 contain a notice, conspicuously set forth therein in prominent
34 boldface type, advising tenants and prospective tenants of the
35 availability of window guards under **【this act】** P.L.1995, c.120
36 (C.55:13A-7.12 et seq.) and the need for a tenant to request in
37 writing the installation of window guards. ¹In the case of a
38 cooperative, as defined in P.L.1987, c.381 (C.46:8D-1 et seq.),
39 formed prior to the effective date of P.L. , c. (C.) (pending
40 before the Legislature as this bill), the notice required by this
41 subsection shall not be required in proprietary leases.¹

42 b. (1) At the time of lease signing, the owner, lessor, agent or
43 other person who manages or controls a unit of dwelling space in a
44 multiple dwelling shall verbally inform the tenant of the tenant's
45 right to request the installation of window guards under P.L.1995,
46 c.120 (C.55:13A-7.12 et seq.). Verification that this verbal notice
47 was provided and understood shall be set forth in a written

1 document, aside from the lease document itself, which written
2 document shall acknowledge that the tenant was made aware of the
3 right to request the installation of window guards and which shall
4 be signed by both the tenant and the owner, lessor, agent or other
5 person who manages or controls the unit of dwelling space.

6 (2) (a) The owner, lessor, agent or other person who manages or
7 controls a multiple dwelling unit or a rental unit within a common
8 interest community shall cause to be delivered to each dwelling unit
9 【an annual】 so managed or controlled, twice annually, a notice, in
10 form and manner prescribed by the commissioner, advising
11 occupants of the obligation of the said owner, lessor, agent or other
12 person to install child-protection window guards pursuant to section
13 2 of 【this act】 P.L.1995, c.120 (C.55:13A-7.13). For the purposes
14 of this section, an owner of a rental unit located within a common
15 interest community, and not the unit owners' association, shall be
16 deemed to be the managing agent of that rental unit. A lease
17 provision notifying a tenant of the availability of window guards
18 may satisfy one of the notice requirements of this subparagraph.

19 (b) The owner, lessor, unit owners' association, agent or other
20 person who manages or controls the common areas of a multiple
21 dwelling shall cause to be delivered to each dwelling unit, twice
22 annually, a notice, in form and manner prescribed by the
23 commissioner, advising occupants of the obligation of the said
24 owner, lessor, unit owners' association, agent or other person to
25 install child-protection window guards pursuant to section 2 of
26 P.L.1995, c.120 (C.55:13A-7.13). A lease provision notifying a
27 tenant of the availability of window guards may satisfy one of the
28 notice requirements of this subparagraph.

29 (3) The owner, lessor, unit owners' association, agent or other
30 person who manages or controls the common areas of a multiple
31 dwelling shall cause to be conspicuously posted and prominently
32 displayed in the common areas of that dwelling a notice: advising
33 the occupants of the obligation of the owner, lessor, unit owners'
34 association, agent or other person to install child-protection window
35 guards pursuant to section 2 of P.L.1995, c.120 (C.55:13A-7.13)
36 and advising tenants to check their window guards on a regular
37 basis and to report any problems or concerns to the owner, lessor,
38 unit owners' association, agent or other person who manages or
39 controls the multiple dwelling.

40 c. Notwithstanding any municipal ordinance to the contrary,
41 expenditures not exceeding \$20 per window guard installed in a
42 dwelling unit that are made pursuant to 【this act】 P.L.1995, c.120
43 (C.55:13A-7.12 et seq.) 【shall be deemed to be capital improvement
44 costs, which may】 may be passed on to the 【tenants of the multiple
45 dwelling】 tenant who requested installation of the window guard.

46 (cf: P.L.1995, c.120, s.3)

1 4. Section 4 of P.L.1995, c.120 (C.55:13A-7.15) is amended to
2 read as follows:

3 4. No tenant or occupant of a multiple dwelling unit, or any
4 other person, shall obstruct or interfere with the installation of
5 child-protection window guards required under section 2 of **【this**
6 **act】** P.L.1995, c.120 (C.55:13A-7.13) , nor shall any person remove
7 or otherwise render ineffective such window guards; provided,
8 however, that the owner or the representative of the owner may
9 remove window guards from an unoccupied unit or, with the
10 consent of the tenant, from a unit in which no child 10 years of age
11 or under resides or is regularly present for a substantial period of
12 time; and provided, further, that the owner or the representative of
13 the owner shall remove window guards when requested to do so by
14 the tenant in writing.

15 (cf: P.L.1995, c.120, s.4)

16

17 5. Section 5 of P.L.1995, c.120 (C.55:13A-7.16) is amended to
18 read as follows:

19 5. a. The commissioner is hereby authorized to make and
20 promulgate, pursuant to the "Administrative Procedure Act,"
21 P.L.1968, c.410 (C.52:14B-1 et seq.), all regulations necessary to
22 carry out **【this act】** P.L.1995, c.120 (C.55:13A-7.12 et seq.),
23 including, but not limited to, regulations regarding the design,
24 construction, and installation of window guards. The commissioner
25 shall promulgate model forms and lease provisions for the notices
26 required to be provided pursuant to P.L.1995, c.120 (C.55:13A-7.12
27 et seq.) and specifications for inspections and log-keeping
28 requirements.

29 b. The commissioner shall establish guidelines for orientation
30 programs designed to educate tenants about the safe use and
31 manipulation of window guards and their rights concerning child-
32 protection window guards pursuant to P.L.1995, c.120 (C.55:13A-
33 7.12 et seq.) and ensure that an orientation program is offered
34 annually prior to March 1 of each year in the following:

35 (1) every multiple dwelling of at least four stories in height
36 which was built with public funds or public assistance, or financed,
37 in whole or in part, by a loan guaranteed or insured by the federal
38 government or any agency thereof, including the allocation of low-
39 income tax credits; and

40 (2) every multiple dwelling of at least four stories in height in
41 which a recipient of State or federal rental assistance resides.

42 Notice of the orientation program shall be posted in appropriate
43 common areas of the building at least two weeks prior to the date of
44 the program.

45 (cf: P.L.1995, c.120, s.5)

1 6. Section 19 of P.L.1967, c.76 (C.55:13A-19) is amended to
2 read as follows:

3 19. (a) No person shall

4 (1) Obstruct, hinder, delay or interfere with, by force or
5 otherwise, the commissioner in the exercise of any power or the
6 discharge of any function or duty under the provisions of **[this act]**
7 P.L.1967, c.76 (C.55:13A-1 et seq.); or

8 (2) Prepare, utter or render any false statement, report,
9 document, plans or specifications permitted or required to be
10 prepared, uttered or rendered under the provisions of **[this act]**
11 P.L.1967, c.76 (C.55:13A-1 et seq.); or

12 (3) Render ineffective or inoperative any protective equipment
13 installed, or intended to be installed, in any hotel or multiple
14 dwelling; or

15 (4) Refuse or fail to comply with any lawful ruling, action, order
16 or notice of the commissioner; or

17 (5) Violate, or cause to be violated, any of the provisions of
18 [this act] P.L.1967, c.76 (C.55:13A-1 et seq.).

19 (b) Any person who violates, or causes to be violated, any
20 provision of subsection (a) of this section shall be liable to a penalty
21 of not less than \$50.00 nor more than \$500.00 for each violation,
22 and a penalty of not less than \$500.00 nor more than \$5,000.00 for
23 each continuing violation. Penalties imposed for violations relating
24 to child-protection window guards pursuant to the provisions of
25 P.L.1995, c.120 (C.55:13A-7.12 et seq.) shall be no less than \$100
26 for each window or incident. Whenever a violator is convicted of
27 knowingly continuing to violate a provision of P.L.1995, c.120
28 (C.55:13A-7.12 et seq.) relating to child-protection window guards
29 after the imposition of a penalty of \$5,000 pursuant to this section,
30 the violator shall be guilty of a crime of the fourth degree. Where
31 any violation of subsection (a) of this section is of a continuing
32 nature, each day during which such continuing violation remains
33 unabated after the date fixed by the commissioner in any order or
34 notice for the correction or termination of such continuing violation,
35 shall constitute an additional, separate and distinct violation, except
36 during the time an appeal from said order may be taken or is
37 pending. The commissioner, in the exercise of his administrative
38 authority pursuant to this act, may levy and collect penalties in the
39 amounts set forth in this section. Where the administrative penalty
40 order has not been satisfied within 30 days of its issuance the
41 penalty may be sued for, and recovered by and in the name of the
42 commissioner in a civil action by a summary proceeding under "The
43 Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et
44 seq.) in the Superior Court.

45 (c) Any person shall be deemed to have violated, or to have
46 caused to be violated, any provision of subsection (a) of this section
47 whenever any officer, agent or employee thereof, under the control

1 of and with the knowledge of said person shall have violated or
2 caused to be violated any of the provisions of subsection (a) of this
3 section.

4 (d) The commissioner may cancel and revoke any permit,
5 approval or certificate required or permitted to be granted or issued
6 to any person pursuant to the provisions of this act if the
7 commissioner shall find that any such person has violated, or
8 caused to be violated, any of the provisions of subsection (a) of this
9 section.

10 (e) Any penalties collected pursuant to this section levied as the
11 result of a violation of subsection (w) of section 7 of P.L.1967, c.76
12 (C.55:13A-7) and which occurred pursuant to inspection for
13 lead-based paint hazards shall be deposited in the Lead Hazard
14 Control Assistance fund established pursuant to section 4 of
15 P.L.2003, c.311 (C.52:27D-437.4). Penalties levied as the result of
16 multiple violations shall be allocated to the Lead Hazard RHM
17 Control Assistance fund in such proportion as the commissioner
18 shall prescribe.

19 (cf: P.L.2003, c.311, s.20)

20

21 ¹7. (New section) P.L.1995, c.120 (C.55:13A-7.12 et seq.) shall
22 be known and may be cited as the “Robert E. Dwight, Jr, Raquan
23 Ellis and Zahir Atkins Memorial Child-Protection Window Guard
24 Law.”¹

25

26 ¹**[7.] 8.**¹ This act shall take effect immediately.

27

28

29

30

31 Enhances protections afforded under child-protection window
32 guard law.

SENATE, No. 458

STATE OF NEW JERSEY 212th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2006 SESSION

Sponsored by:

Senator RONALD L. RICE

District 28 (Essex)

Senator SHARPE JAMES

District 29 (Essex and Union)

SYNOPSIS

Enhances protections afforded under child-protection window guard law.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/27/2006)

1 AN ACT concerning child-protection window guards and amending
2 P.L.1995, c.120.

3

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

6

7 1. Section 1 of P.L.1995, c.120 (C.55:13A-7.12) is amended to
8 read as follows:

9 1. As used in this act[,] :

10 "child-protection window guard" or "window guard" means a
11 bar, screen or grille assembly designed to be installed in a window
12 for the purpose of preventing accidental fall or ejection of a child
13 through the window. It shall be so designed, constructed and
14 installed that no person of the age of 10 years or younger may
15 through accident, ignorance or inadvertence, remove, open or
16 dislodge it so as to permit such fall or ejection. Such window
17 guards shall conform to specifications developed by the
18 commissioner regarding design, construction and installation so as
19 to accomplish the purpose of this act. A municipality may adopt
20 standards that afford tenants greater protections than are provided
21 pursuant to the commissioner's specifications.

22 The commissioner's specifications for double hung windows
23 shall ensure that window guards protect the full openable area of
24 each lower window. The specifications shall provide that all
25 window guards shall be designed and installed as to ensure that any
26 space between the lowest section of the top horizontal bar of the
27 window guard and the bottom of the upper sash is less than four
28 inches. Installation of rigid metal stops in the upper tracks of a
29 bottom window or other attempts to limit the ability to raise the
30 bottom window shall not be an acceptable method of satisfying the
31 specifications provided for in this section. Window stops may be
32 utilized as a safety enhancement when used in addition to installed
33 window guards.

34 "common interest community" means a horizontal property
35 regime, condominium, cooperative, or mutual housing corporation
36 in which some of the property, known as common elements, is
37 owned as tenants-in-common by all of the property owners.

38 "unit owners' association" means the association organized for
39 the purpose of management of the common elements and facilities
40 of a common interest community.

41 (cf: P.L.1995, c.120, s.1)

42

43 2. Section 2 of P.L.1995, c.120 (C.55:13A-7.13) is amended to
44 read as follows:

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 2. a. (1) Except as provided in subsection b. of this section, the
2 owner, lessor, agent or other person who manages or controls a
3 multiple dwelling, other than a multiple dwelling which is part of a
4 common interest community, shall, upon the written request of a
5 tenant of a unit in which a child or children 10 years of age or under
6 reside or will reside or are regularly present for a substantial period
7 of time, provide, install and maintain [a] approved child-protection
8 window [guard] guards on the windows of [each] the dwelling unit
9 [in which a child or children 10 years of age or under reside] and on
10 any windows in the public halls of a multiple dwelling in which any
11 child or children of such age reside or are regularly present for a
12 substantial period of time.

13 (2) (a) Except as provided in subsection b. of this section, the
14 owner, lessor, agent or other person who controls a unit of dwelling
15 space in a multiple dwelling within a common interest community,
16 upon the written request of a tenant of a unit in which a child or
17 children 10 years of age or under reside or will reside or are
18 regularly present for a substantial period of time, shall provide,
19 install and maintain child-protection window guards on the
20 windows of the unit.

21 (b) The owner, lessor, agent or other person who controls a unit
22 of dwelling space in a multiple dwelling within a common interest
23 community shall provide written notice to the unit owners'
24 association whenever a tenant of a unit, in which a child or children
25 10 years of age or under reside or will reside or are regularly
26 present for a substantial period of time, has requested that child-
27 protection window guards be installed on the windows in the
28 common areas of the common interest community.

29 (3) (a) Except as provided in subsection b. of this section, upon
30 the written request of an owner or an occupant of a dwelling unit of
31 a multiple dwelling within a common interest community, the unit
32 owners' association shall install and maintain child-protection
33 window guards on the windows which are determined to be in
34 common areas of the community property and maintained by the
35 association.

36 (b) A unit owners' association shall not adopt or seek to enforce
37 any restrictions or architectural controls which would prohibit or
38 impede the installation of a window guard in compliance with
39 P.L.1995, c.120 (C.55:13A-7.12 et seq.).

40 b. The requirements of subsection a. of this section shall apply
41 to all windows, except those windows which give access to a fire
42 escape [or], which are not designed to open, or which are on the
43 first floor; provided, however, that the requirements of subsection a.
44 of this section shall apply to first floor windows in such
45 circumstances as the commissioner may provide by rule. [In
46 addition, the provisions of this act shall not apply to any window in

1 (1) an owner occupied dwelling unit, (2) a dwelling unit which is a
2 part of a condominium or which is held by a proprietary lessee
3 under a cooperative form of ownership, or (3) a dwelling unit
4 occupied by a shareholder in a mutual housing corporation.]

5 c. Any child-protection window guard installed pursuant to [this
6 act] P.L.1995, c.120 (C.55:13A-7.12 et seq.) shall conform to the
7 requirements of the State Uniform Construction Code with respect
8 to means of emergency egress, and a window guard installed on an
9 emergency egress window shall be releasable or removable from the
10 inside without use of a key, tool or excessive force. Window
11 guards installed on all other windows shall be designed,
12 constructed, and installed so that they may not deliberately or
13 through accident, ignorance or inadvertence, be removed, opened,
14 or dislodged without the use of a key or tool.

15 d. (1) Upon installation of a child-protection window guard in a
16 dwelling unit, and annually thereafter, the owner, lessor, agent or
17 other person who manages and controls that dwelling unit shall
18 provide the tenant with an orientation concerning the safe use and
19 manipulation of window guards in accordance with guidelines
20 established by the Commissioner of Community Affairs pursuant to
21 section 5 of P.L.1995, c.120 (C.55:13A-7.16).

22 (2) Upon installation of a child-protection window guard in the
23 common areas of a multiple dwelling, and annually thereafter, the
24 owner, lessor, unit owners' association, agent or other person who
25 manages and controls the common areas of the multiple dwelling
26 shall provide the occupants of the multiple dwelling with an
27 orientation concerning the safe use and manipulation of window
28 guards in accordance with guidelines established by the
29 Commissioner of Community Affairs pursuant to section 5 of
30 P.L.1995, c.120 (C.55:13A-7.16).

31 e. At least twice annually, the owner, lessor, unit owners'
32 association, agent or other person who manages and controls a unit
33 of dwelling space in a multiple dwelling, the common areas of the
34 multiple dwelling, or both, in which child protection window guards
35 have been installed, shall inspect each such window guard under
36 their control to ensure that it remains sound and in conformance
37 with the provisions of P.L.1995, c.120 (C.55:13A-7.12 et seq.), and
38 shall enter a record of such inspection in a log, which shall be
39 maintained as a permanent record so long as the window guard
40 remains installed, and for five years thereafter, and which shall be
41 available upon request to the department or its duly authorized
42 representative.

43 f. A tenant or unit owner may file a complaint with the
44 commissioner for the failure to comply with the provisions of
45 P.L.1995, c.120 (C.55:13A-7.12 et seq.). The commissioner shall
46 investigate complaints within a reasonable time period. The
47 commissioner may impose penalties authorized under the "Hotel

1 and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.)
2 for violations concerning the installation of child-protection
3 window guards and may institute a criminal complaint for a repeat
4 conviction after the imposition of a \$5,000 civil penalty for a
5 continuing violation pursuant to section 19 of P.L.1967, c.76
6 (C.55:13A-19).

7 g. To the extent that a violation of P.L.1995, c.120 (C.55:13A-
8 7.12 et seq.) has occurred within a rental unit in a common interest
9 community, such violation shall be noticed to, and resultant
10 penalties imposed upon, the unit owner of such rental unit and not
11 the unit owners' association.

12 h. To the extent that a violation of P.L.1995, c.120 (C.55:13A-
13 7.12 et seq.) has occurred within the common areas of a common
14 interest community, such violation shall be noticed to, and resultant
15 penalties imposed upon, the unit owners' association.

16 (cf: P.L.1995, c.120, s.2)

17

18 3. Section 3 of P.L.1995, c.120 (C.55:13A-7.14) is amended to
19 read as follows:

20 3. a. All leases offered to tenants in multiple dwellings shall
21 contain a notice, conspicuously set forth therein in prominent
22 boldface type, advising tenants and prospective tenants of the
23 availability of window guards under [this act] P.L.1995, c.120
24 (C.55:13A-7.12 et seq.) and the need for a tenant to request in
25 writing the installation of window guards.

26 b. (1) At the time of lease signing, the owner, lessor, agent or
27 other person who manages or controls a unit of dwelling space in a
28 multiple dwelling shall verbally inform the tenant of the tenant's
29 right to request the installation of window guards under P.L.1995,
30 c.120 (C.55:13A-7.12 et seq.). Verification that this verbal notice
31 was provided and understood shall be set forth in a written
32 document, aside from the lease document itself, which written
33 document shall acknowledge that the tenant was made aware of the
34 right to request the installation of window guards and which shall¹
35 be signed by both the tenant and the owner, lessor, agent or other
36 person who manages or controls the unit of dwelling space .

37 (2) (a) The owner, lessor, agent or other person who manages or
38 controls a multiple dwelling unit or a rental unit within a common
39 interest community shall cause to be delivered to each dwelling unit
40 [an annual] so managed or controlled, twice annually, a notice, in
41 form and manner prescribed by the commissioner, advising
42 occupants of the obligation of the said owner, lessor, agent or other
43 person to install child-protection window guards pursuant to section
44 2 of [this act] P.L.1995, c.120 (C.55:13A-7.13). For the purposes
45 of this section, an owner of a rental unit located within a common
46 interest community, and not the unit owners' association, shall be
47 deemed to be the managing agent of that rental unit. A lease

1 provision notifying a tenant of the availability of window guards
2 may satisfy one of the notice requirements of this subparagraph.

3 (b) The owner, lessor, unit owners' association, agent or other
4 person who manages or controls the common areas of a multiple
5 dwelling shall cause to be delivered to each dwelling unit, twice
6 annually, a notice, in form and manner prescribed by the
7 commissioner, advising occupants of the obligation of the said
8 owner, lessor, unit owners' association, agent or other person to
9 install child-protection window guards pursuant to section 2 of
10 P.L.1995, c.120 (C.55:13A-7.13). A lease provision notifying a
11 tenant of the availability of window guards may satisfy one of the
12 notice requirements of this subparagraph.

13 (3) The owner, lessor, unit owners' association, agent or other
14 person who manages or controls the common areas of a multiple
15 dwelling shall cause to be conspicuously posted and prominently
16 displayed in the common areas of that dwelling a notice: advising
17 the occupants of the obligation of the owner, lessor, unit owners'
18 association, agent or other person to install child-protection window
19 guards pursuant to section 2 of P.L.1995, c.120 (C.55:13A-7.13)
20 and advising tenants to check their window guards on a regular
21 basis and to report any problems or concerns to the owner, lessor,
22 unit owners' association, agent or other person who manages or
23 controls the multiple dwelling.

24 c. Notwithstanding any municipal ordinance to the contrary,
25 expenditures not exceeding \$20 per window guard installed in a
26 dwelling unit that are made pursuant to [this act] P.L.1995, c.120
27 (C.55:13A-7.12 et seq.) [shall be deemed to be capital improvement
28 costs, which may] may be passed on to the [tenants of the multiple
29 dwelling] tenant who requested installation of the window guard.
30 (cf: P.L.1995, c.120, s.3)

31
32 4. Section 4 of P.L.1995, c.120 (C.55:13A-7.15) is amended to
33 read as follows:

34 4. No tenant or occupant of a multiple dwelling unit, or any
35 other person, shall obstruct or interfere with the installation of
36 child-protection window guards required under section 2 of [this
37 act] P.L.1995, c.120 (C.55:13A-7.13) , nor shall any person remove
38 or otherwise render ineffective such window guards; provided,
39 however, that the owner or the representative of the owner may
40 remove window guards from an unoccupied unit or, with the
41 consent of the tenant, from a unit in which no child 10 years of age
42 or under resides or is regularly present for a substantial period of
43 time; and provided, further, that the owner or the representative of
44 the owner shall remove window guards when requested to do so by
45 the tenant in writing.

1 (cf: P.L.1995, c.120, s.4)

1 5. Section 5 of P.L.1995, c.120 (C.55:13A-7.16) is amended to
2 read as follows:

3 5. a. The commissioner is hereby authorized to make and
4 promulgate, pursuant to the "Administrative Procedure Act,"
5 P.L.1968, c.410 (C.52:14B-1 et seq.), all regulations necessary to
6 carry out [this act] P.L.1995, c.120 (C.55:13A-7.12 et seq.),
7 including, but not limited to, regulations regarding the design,
8 construction, and installation of window guards. The commissioner
9 shall promulgate model forms and lease provisions for the notices
10 required to be provided pursuant to P.L.1995, c.120 (C.55:13A-7.12
11 et seq.) and specifications for inspections and log-keeping
12 requirements.

13 b. The commissioner shall establish guidelines for orientation
14 programs designed to educate tenants about the safe use and
15 manipulation of window guards and their rights concerning child-
16 protection window guards pursuant to P.L.1995, c.120 (C.55:13A-
17 7.12 et seq.) and ensure that an orientation program is offered
18 annually prior to March 1 of each year in the following:

19 (1) every multiple dwelling of at least four stories in height
20 which was built with public funds or public assistance, or financed,
21 in whole or in part, by a loan guaranteed or insured by the federal
22 government or any agency thereof, including the allocation of low-
23 income tax credits; and

24 (2) every multiple dwelling of at least four stories in height in
25 which a recipient of State or federal rental assistance resides.

26 Notice of the orientation program shall be posted in appropriate
27 common areas of the building at least two weeks prior to the date of
28 the program.

29 (cf: P.L.1995, c.120, s.5)

30
31 6. Section 19 of P.L.1967, c.76 (C.55:13A-19) is amended to
32 read as follows:

33 19. (a) No person shall

34 (1) Obstruct, hinder, delay or interfere with, by force or
35 otherwise, the commissioner in the exercise of any power or the
36 discharge of any function or duty under the provisions of [this act]
37 P.L.1967, c.76 (C.55:13A-1 et seq.); or

38 (2) Prepare, utter or render any false statement, report,
39 document, plans or specifications permitted or required to be
40 prepared, uttered or rendered under the provisions of [this act]
41 P.L.1967, c.76 (C.55:13A-1 et seq.); or

42 (3) Render ineffective or inoperative any protective equipment
43 installed, or intended to be installed, in any hotel or multiple
44 dwelling; or

45 (4) Refuse or fail to comply with any lawful ruling, action, order
46 or notice of the commissioner; or

1 (5) Violate, or cause to be violated, any of the provisions of
2 [this act] P.L.1967, c.76 (C.55:13A-1 et seq.).

3 (b) Any person who violates, or causes to be violated, any
4 provision of subsection (a) of this section shall be liable to a penalty
5 of not less than \$50.00 nor more than \$500.00 for each violation,
6 and a penalty of not less than \$500.00 nor more than \$5,000.00 for
7 each continuing violation. Penalties imposed for violations relating
8 to child-protection window guards pursuant to the provisions of
9 P.L.1995, c.120 (C.55:13A-7.12 et seq.) shall be no less than \$100
10 for each window or incident. Whenever a violator is convicted of
11 knowingly continuing to violate a provision of P.L.1995, c.120
12 (C.55:13A-7.12 et seq.) relating to child-protection window guards
13 after the imposition of a penalty of \$5,000 pursuant to this section,
14 the violator shall be guilty of a crime of the fourth degree. Where
15 any violation of subsection (a) of this section is of a continuing
16 nature, each day during which such continuing violation remains
17 unabated after the date fixed by the commissioner in any order or
18 notice for the correction or termination of such continuing violation,
19 shall constitute an additional, separate and distinct violation, except
20 during the time an appeal from said order may be taken or is
21 pending. The commissioner, in the exercise of his administrative
22 authority pursuant to this act, may levy and collect penalties in the
23 amounts set forth in this section. Where the administrative penalty
24 order has not been satisfied within 30 days of its issuance the
25 penalty may be sued for, and recovered by and in the name of the
26 commissioner in a civil action by a summary proceeding under "The
27 Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et
28 seq.) in the Superior Court.

29 (c) Any person shall be deemed to have violated, or to have
30 caused to be violated, any provision of subsection (a) of this section
31 whenever any officer, agent or employee thereof, under the control
32 of and with the knowledge of said person shall have violated or
33 caused to be violated any of the provisions of subsection (a) of this
34 section.

35 (d) The commissioner may cancel and revoke any permit,
36 approval or certificate required or permitted to be granted or issued
37 to any person pursuant to the provisions of this act if the
38 commissioner shall find that any such person has violated, or
39 caused to be violated, any of the provisions of subsection (a) of this
40 section.

41 (e) Any penalties collected pursuant to this section levied as the
42 result of a violation of subsection (w) of section 7 of P.L.1967, c.76
43 (C.55:13A-7) and which occurred pursuant to inspection for
44 lead-based paint hazards shall be deposited in the Lead Hazard
45 Control Assistance fund established pursuant to section 4 of
46 P.L.2003, c.311 (C.52:27D-437.4). Penalties levied as the result of
47 multiple violations shall be allocated to the Lead Hazard RHM

1 Control Assistance fund in such proportion as the commissioner
2 shall prescribe.
3 (cf: P.L.2003, c.311, s.20)
4

5 7. This act shall take effect immediately.
6
7

8 STATEMENT
9

10 This bill is designed to strengthen the protections afforded to
11 children of tenants residing in multiple dwellings by enhancing the
12 provisions of law concerning child-protection window guards.

13 Although current law, originally adopted in 1995, requires
14 landlords to install child-protection window guards upon the written
15 request of a tenant, incidents of children falling out of windows
16 have continued to occur. Most recently, this past August, five-year
17 old Zahir Atkins fell to his death from a 15th-floor window, despite
18 the presence of a window guard. In 2003, two-year old Raquan
19 Ellis died after plunging from a 17th-floor window, also despite the
20 presence of a window guard. In both instances, the windows
21 opened wider than four inches above the top of the window guard
22 allowing the children to climb out.

23 Department of Community Affairs regulations have allowed
24 landlords to install rigid metal stops in the upper tracks of a bottom
25 window in order to prevent the bottom window from being raised
26 more than four inches above the window guard. Department
27 inspections reveal that these stops are often removed in order to
28 increase ventilation during the heat of the summer, resulting in
29 allowing bottom windows to be raised more than four inches above
30 the top of the window guard, thus defeating the purpose of the
31 window guards. To their credit, the department has adopted
32 emergency regulations to prohibit this practice.

33 This bill would require the Commissioner of Community Affairs
34 to develop specifications for double hung windows so to ensure that
35 window guards protect the full openable area of each lower
36 window. The specifications would provide that all window guards
37 must be designed and installed so that the space between the lowest
38 section of the top horizontal bar of the window guard and the
39 bottom of the upper window sash is less than four inches. While
40 the installation of rigid metal stops in the upper tracks of a bottom
41 window or other attempts to limit the ability to raise the bottom
42 window would not be an acceptable method of satisfying the
43 specifications, window stops could may be utilized as a safety
44 enhancement when used in addition to properly installed window
45 guards.

46 Additionally, current law differentiates between tenants living in
47 apartment buildings from tenants renting a unit in a common

1 interest community such as a condominium or cooperative. Current
2 law does not afford tenants renting from owners of units in common
3 interest communities with the power to request the installation of
4 window guards by their landlord. Often these types of buildings
5 were constructed originally as apartments, but were later converted
6 to the condominium or cooperative type of ownership. The
7 provisions of this bill would extend the protections of child-
8 protection window guards to tenants residing in these types of
9 housing. Some unit owners' associations, which manage the
10 common areas of common interest communities, have rules which
11 prohibit the installation of child-protection window guards on an
12 esthetic basis. The bill would prohibit unit owners' associations
13 from enforcing such rules.

14 The bill provides that for the purposes of the law requiring a
15 window guard to be installed upon the request of certain tenants, the
16 owner of a rental unit within a common interest community will be
17 deemed to be the managing agent of the rental unit, and not the unit
18 owners' association. The unit owners' association will be
19 responsible, however, to install window guards on windows in
20 common areas of the community property which are maintained by
21 the association. The bill also clarifies that any violations which
22 may be issued concerning window guards installed in rental units
23 shall be issued to the owner of the rental unit, and not to the unit
24 owners' association managing the common elements of the common
25 interest community, and that violations concerning window guards
26 installed in common areas would be issued to the unit owners'
27 association.

28 This bill would extend the ability to request window guards to
29 tenants of rental units in which a child under 10 years of age is
30 regularly present for a substantial period of time. Current law only
31 allows tenants to request window guards if the child resides in the
32 unit.

33 The bill would require owners to provide tenants with
34 orientations on the safe use and manipulation of window guards,
35 upon installation and annually thereafter.

36 The bill would require owners to inspect window guards under
37 their control at least two times a year and to maintain an inspection
38 log as a permanent record, which would be made available to the
39 department upon request.

40 The bill would enhance the procedures for notifying tenants of
41 their rights under this law by: requiring all multiple dwelling leases
42 to contain a notice in boldface type, requiring landlords to verbally
43 inform tenants of their rights under this law at lease signing which
44 would be evidenced by a written document separate from the lease
45 itself, requiring owners of multiple dwelling units and those in
46 control of the common elements to provide, twice annually, notice
47 of the right to request the installation of window guards in units and

1 in common areas, and requiring a prominent posting of these rights
2 in common areas of multiple dwellings.

3 The bill would authorize the Commissioner of Community
4 Affairs to adopt rules setting forth circumstances under which a
5 tenant could request the installation of child-protection window
6 guards on a first floor window. Under certain circumstances, the
7 type or location of a first floor window could pose a serious risk of
8 injury. The bill also clarifies that the window guard requirement
9 does not apply in cases where the window is not designed to be
10 opened.

11 The bill would require the Commissioner of Community Affairs
12 to promulgate model forms and lease provisions for the notices
13 required to be provided to tenants concerning the availability of
14 child-protection window guards and to adopt specifications for
15 owner inspections and log-keeping requirements.

16 The bill would require the Department of Community Affairs to
17 establish guidelines for window-guard orientation programs and to
18 ensure that orientation programs are run annually in every multiple
19 dwelling of at least four stories in height which contains publicly
20 subsidized housing.

21 The bill would enhance the penalty provisions governing
22 violations of child-protection window guard requirements by
23 establishing a minimum penalty of \$100 per window or incident and
24 subjecting repeat offenders to criminal penalties.

25 Finally, the bill would cap the amount of window guard
26 expenditures that landlords may pass along to tenants at the amount
27 of \$20 per window guard installed in a dwelling unit, despite the
28 existence of municipal ordinances to the contrary.

ASSEMBLY HOUSING AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO

[First Reprint]
SENATE, No. 458

STATE OF NEW JERSEY

DATED: MAY 11, 2006

The Assembly Housing and Local Government Committee reports favorably Senate Bill No. 458 (1R).

This bill is designed to strengthen the protections afforded to children of tenants residing in multiple dwellings by enhancing the provisions of law concerning child-protection window guards.

The current child-protection window guard law was adopted in 1995 in response to the tragic death of Robert E. Dwight, Jr. Although current law requires landlords to install child-protection window guards upon the written request of a tenant, incidents of children falling out of windows have continued to occur. Most recently, this past August 2005, five-year old Zahir Atkins fell to his death from a 15th-floor window, despite the presence of a window guard. In 2003, two-year old Raquan Ellis died after plunging from a 17th-floor window, also despite the presence of a window guard. In both instances, the windows opened wider than four inches above the top of the window guard allowing the children to climb out. The bill would name the State's child-protection window guard law in memory of these three children.

State regulations require rigid metal stops in the upper tracks of a bottom window in order to prevent the bottom window from being raised more than four inches above the window guard. Department inspections have revealed that tampering with these stops has occurred, most likely to increase air ventilation during the heat of the summer. As a result, some bottom windows were raised more than four inches above the top of the window guard, thus defeating the purpose of the window guards. The department has adopted emergency regulations to prohibit this practice.

This bill, would require the Commissioner of Community Affairs to develop specifications for double hung windows to ensure that window guards protect the full openable area of each lower window. The specifications would provide that all window guards must be designed and installed so that the space between the lowest section of the top horizontal bar of the window guard and the bottom of the upper window sash is less than four inches. While the installation of rigid

metal stops in the upper tracks of a bottom window or other attempts to limit the ability to raise the bottom window would not be an acceptable method of satisfying the specifications, the bill allows for the utilization of window stops as a safety enhancement when used in addition to properly installed window guards.

Additionally, current law does not clearly afford tenants renting from owners of units in common interest communities, such as condominiums and cooperatives, the power to request the installation of window guards by their landlord. The provisions of this bill would extend the protections of child-protection window guards to tenants residing in these types of housing, requiring the owner of a rental unit in such housing to be deemed the landlord and the responsible party for installation. The unit owners' association will be responsible, however, to install window guards on windows in common areas of the community property which are maintained by the association. Some unit owners' associations, which manage the common areas of common interest communities, have rules which prohibit the installation of child-protection window guards on esthetic grounds. The bill would prohibit unit owners' associations from enforcing such rules.

This bill would extend the ability to request window guards to tenants of rental units in which a child under 10 years of age is regularly present for a substantial period of time. Current law only allows tenants to request window guards if the child resides in the unit.

The bill would require owners to provide tenants with orientations on the safe use and manipulation of window guards, upon installation and annually thereafter. The bill would require owners to inspect window guards under their control at least two times a year and to maintain an inspection log as a permanent record, which would be made available to the department upon request.

The bill would enhance the procedures for notifying tenants of their rights under this law by: requiring all multiple dwelling leases to contain a notice in boldface type, requiring landlords to verbally inform tenants of their rights under this law at lease signing which would be evidenced by a written document separate from the lease itself, requiring owners of multiple dwelling units and those in control of the common elements to provide, twice annually, notice of the right to request the installation of window guards in units and in common areas, and requiring a prominent posting of these rights in common areas of multiple dwellings.

The bill would authorize the Commissioner of Community Affairs to adopt rules setting forth circumstances under which a tenant could request the installation of child-protection window guards on a first floor window. Under certain circumstances, the type or location of a first floor window could pose a serious risk of injury. The bill also clarifies that the window guard requirement does not apply in cases where the window is not designed to be opened. Further, the bill

provides that the requirement to install window guards will not apply to seasonal rental units.

The bill would require the Commissioner of Community Affairs to promulgate model forms and lease provisions for the notices required to be provided to tenants concerning the availability of child-protection window guards and to adopt specifications for owner inspections and log-keeping requirements.

The bill would require the Department of Community Affairs to establish guidelines for window-guard orientation programs and to ensure that orientation programs are run annually in every multiple dwelling of at least four stories in height which contains publicly-subsidized housing.

The bill would enhance the penalty provisions governing violations of child-protection window guard requirements by establishing a minimum penalty of \$100 per window or incident and subjecting repeat offenders to criminal penalties.

Finally, the bill would cap the amount of window guard expenditures that landlords may pass along to tenants at the amount of \$20 per window guard installed in a dwelling unit, despite the existence of municipal ordinances to the contrary.

This bill is identical to Assembly Bill No. 2023 ACA which was reported favorably by the committee today.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 458

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 26, 2006

The Senate Community and Urban Affairs Committee reports favorably and with committee amendments Senate Bill No. 458.

This bill is designed to strengthen the protections afforded to children of tenants residing in multiple dwellings by enhancing the provisions of law concerning child-protection window guards.

The current child-protection window guard law was adopted in 1995 in response to the tragic death of Robert E. Dwight, Jr. Although current law requires landlords to install child-protection window guards upon the written request of a tenant, incidents of children falling out of windows have continued to occur. Most recently, this past August 2005, five-year old Zahir Atkins fell to his death from a 15th-floor window, despite the presence of a window guard. In 2003, two-year old Raquan Ellis died after plunging from a 17th-floor window, also despite the presence of a window guard. In both instances, the windows opened wider than four inches above the top of the window guard allowing the children to climb out. This bill, as amended by the committee, would name the State's child-protection window guard law in memory of these three children.

In the past, Department of Community Affairs regulations have allowed landlords to install rigid metal stops in the upper tracks of a bottom window in order to prevent the bottom window from being raised more than four inches above the window guard. Department inspections reveal that these stops are often removed in order to increase ventilation during the heat of the summer, resulting in allowing bottom windows to be raised more than four inches above the top of the window guard, thus defeating the purpose of the window guards. To their credit, in response to this past summer's fatality, the department adopted emergency regulations to prohibit this practice.

This bill, as amended by the committee, would require the Commissioner of Community Affairs to develop specifications for double hung windows so to ensure that window guards protect the full openable area of each lower window. The specifications would provide that all window guards must be designed and installed so that the space between the lowest section of the top horizontal bar of the window guard and the bottom of the upper window sash is less than

four inches. While the installation of rigid metal stops in the upper tracks of a bottom window or other attempts to limit the ability to raise the bottom window would not be an acceptable method of satisfying the specifications, the bill allows for the utilization of window stops as a safety enhancement when used in addition to properly installed window guards.

Additionally, current law differentiates between tenants living in apartment buildings from tenants renting a unit in a common interest community such as a condominium or cooperative. Current law does not afford tenants renting from owners of units in common interest communities the power to request the installation of window guards by their landlord. Often these types of buildings were constructed originally as apartments, but were later converted to the condominium or cooperative type of ownership. The provisions of this bill would extend the protections of child-protection window guards to tenants residing in these types of housing. Some unit owners' associations, which manage the common areas of common interest communities, have rules which prohibit the installation of child-protection window guards on esthetic grounds. The bill would prohibit unit owners' associations from enforcing such rules.

The bill provides that for the purposes of the law requiring a window guard to be installed upon the request of certain tenants, the owner of a rental unit within a common interest community will be deemed to be the managing agent of the rental unit, and not the unit owners' association. The unit owners' association will be responsible, however, to install window guards on windows in common areas of the community property which are maintained by the association. The bill also clarifies that any violations which may be issued concerning window guards installed in rental units shall be issued to the owner of the rental unit, and not to the unit owners' association managing the common elements of the common interest community, and that violations concerning window guards installed in common areas would be issued to the unit owners' association.

This bill would extend the ability to request window guards to tenants of rental units in which a child under 10 years of age is regularly present for a substantial period of time. Current law only allows tenants to request window guards if the child resides in the unit.

The bill would require owners to provide tenants with orientations on the safe use and manipulation of window guards, upon installation and annually thereafter.

The bill would require owners to inspect window guards under their control at least two times a year and to maintain an inspection log as a permanent record, which would be made available to the department upon request.

The bill would enhance the procedures for notifying tenants of their rights under this law by: requiring all multiple dwelling leases to contain a notice in boldface type, requiring landlords to verbally

inform tenants of their rights under this law at lease signing which would be evidenced by a written document separate from the lease itself, requiring owners of multiple dwelling units and those in control of the common elements to provide, twice annually, notice of the right to request the installation of window guards in units and in common areas, and requiring a prominent posting of these rights in common areas of multiple dwellings.

The bill would authorize the Commissioner of Community Affairs to adopt rules setting forth circumstances under which a tenant could request the installation of child-protection window guards on a first floor window. Under certain circumstances, the type or location of a first floor window could pose a serious risk of injury. The bill also clarifies that the window guard requirement does not apply in cases where the window is not designed to be opened. Further, the bill, as amended by the committee, provides that the requirement to install window guards will not apply to seasonal rental units.

The bill would require the Commissioner of Community Affairs to promulgate model forms and lease provisions for the notices required to be provided to tenants concerning the availability of child-protection window guards and to adopt specifications for owner inspections and log-keeping requirements.

The bill would require the Department of Community Affairs to establish guidelines for window-guard orientation programs and to ensure that orientation programs are run annually in every multiple dwelling of at least four stories in height which contains publicly subsidized housing.

The bill would enhance the penalty provisions governing violations of child-protection window guard requirements by establishing a minimum penalty of \$100 per window or incident and subjecting repeat offenders to criminal penalties.

Finally, the bill would cap the amount of window guard expenditures that landlords may pass along to tenants at the amount of \$20 per window guard installed in a dwelling unit, despite the existence of municipal ordinances to the contrary.

The committee amended the bill to:

- name the State's child-protection window guard law the "Robert E. Dwight, Jr, Raquan Ellis and Zahir Atkins Memorial Child-Protection Window Guard Law" in memory of three children whose untimely death led to the adoption and enhancement of the law;
- except out seasonal rental units from the ambit of the bill;
- clarify that a lease notice provision would only be required in cooperative proprietary leases of cooperatives formed after the bill's effective date; and

- provide that the opportunity to ask that window guards be installed in common areas in common interest communities would be limited to owners or occupants of dwelling units in which children reside or are regularly present for a substantial period of time.

ASSEMBLY, No. 2023

STATE OF NEW JERSEY
212th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2006 SESSION

Sponsored by:

Assemblyman JERRY GREEN

District 22 (Middlesex, Somerset and Union)

Assemblyman CRAIG A. STANLEY

District 28 (Essex)

SYNOPSIS

Enhances protections afforded under child-protection window guard law.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/12/2006)

1 AN ACT concerning child-protection window guards and amending
2 P.L.1995, c.120.

3

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

6

7 1. Section 1 of P.L.1995, c.120 (C.55:13A-7.12) is amended to
8 read as follows:

9 1. As used in this act **[,]** :

10 "child-protection window guard" or "window guard" means a
11 bar, screen or grille assembly designed to be installed in a window
12 for the purpose of preventing accidental fall or ejection of a child
13 through the window. It shall be so designed, constructed and
14 installed that no person of the age of 10 years or younger may
15 through accident, ignorance or inadvertence, remove, open or
16 dislodge it so as to permit such fall or ejection. Such window
17 guards shall conform to specifications developed by the
18 commissioner regarding design, construction and installation so as
19 to accomplish the purpose of this act. A municipality may adopt
20 standards that afford tenants greater protections than are provided
21 pursuant to the commissioner's specifications.

22 The commissioner' s specifications for double hung windows
23 shall ensure that window guards protect the full openable area of
24 each lower window. The specifications shall provide that all
25 window guards shall be designed and installed as to ensure that any
26 space between the lowest section of the top horizontal bar of the
27 window guard and the bottom of the upper sash is less than four
28 inches. Installation of rigid metal stops in the upper tracks of a
29 bottom window or other attempts to limit the ability to raise the
30 bottom window shall not be an acceptable method of satisfying the
31 specifications provided for in this section. Window stops may be
32 utilized as a safety enhancement when used in addition to installed
33 window guards.

34 "common interest community" means a horizontal property
35 regime, condominium, cooperative, or mutual housing corporation
36 in which some of the property, known as common elements, is
37 owned as tenants-in-common by all of the property owners.

38 "unit owners' association" means the association organized for
39 the purpose of management of the common elements and facilities
40 of a common interest community.

41 (cf: P.L.1995, c.120, s.1)

42

43 2. Section 2 of P.L.1995, c.120 (C.55:13A-7.13) is amended to
44 read as follows:

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 2. a. (1) Except as provided in subsection b. of this section, the
2 owner, lessor, agent or other person who manages or controls a
3 multiple dwelling, other than a multiple dwelling which is part of a
4 common interest community, shall, upon the written request of a
5 tenant of a unit in which a child or children 10 years of age or under
6 reside or will reside or are regularly present for a substantial period
7 of time, provide, install and maintain **[a]** approved child-protection
8 window **[guard]** guards on the windows of **[each]** the dwelling
9 unit **[in which a child or children 10 years of age or under reside]**
10 and on any windows in the public halls of a multiple dwelling in
11 which any child or children of such age reside or are regularly
12 present for a substantial period of time.

13 (2) (a) Except as provided in subsection b. of this section, the
14 owner, lessor, agent or other person who controls a unit of dwelling
15 space in a multiple dwelling within a common interest community,
16 upon the written request of a tenant of a unit in which a child or
17 children 10 years of age or under reside or will reside or are
18 regularly present for a substantial period of time, shall provide,
19 install and maintain child-protection window guards on the
20 windows of the unit.

21 (b) The owner, lessor, agent or other person who controls a unit
22 of dwelling space in a multiple dwelling within a common interest
23 community shall provide written notice to the unit owners'
24 association whenever a tenant of a unit, in which a child or children
25 10 years of age or under reside or will reside or are regularly
26 present for a substantial period of time, has requested that child-
27 protection window guards be installed on the windows in the
28 common areas of the common interest community.

29 (3) (a) Except as provided in subsection b. of this section, upon
30 the written request of an owner or an occupant of a dwelling unit of
31 a multiple dwelling within a common interest community, the unit
32 owners' association shall install and maintain child-protection
33 window guards on the windows which are determined to be in
34 common areas of the community property and maintained by the
35 association.

36 (b) A unit owners' association shall not adopt or seek to enforce
37 any restrictions or architectural controls which would prohibit or
38 impede the installation of a window guard in compliance with
39 P.L.1995, c.120 (C.55:13A-7.12 et seq.).

40 b. The requirements of subsection a. of this section shall apply
41 to all windows, except those windows which give access to a fire
42 escape **[or]**, which are not designed to open, or which are on the
43 first floor; provided, however, that the requirements of subsection a.
44 of this section shall apply to first floor windows in such
45 circumstances as the commissioner may provide by rule. **[In**
46 addition, the provisions of this act shall not apply to any window in
47 (1) an owner occupied dwelling unit, (2) a dwelling unit which is a

1 part of a condominium or which is held by a proprietary lessee
2 under a cooperative form of ownership, or (3) a dwelling unit
3 occupied by a shareholder in a mutual housing corporation.]

4 c. Any child-protection window guard installed pursuant to [this
5 act] P.L.1995, c.120 (C.55:13A-7.12 et seq.) shall conform to the
6 requirements of the State Uniform Construction Code with respect
7 to means of emergency egress, and a window guard installed on an
8 emergency egress window shall be releasable or removable from the
9 inside without use of a key, tool or excessive force. Window
10 guards installed on all other windows shall be designed,
11 constructed, and installed so that they may not deliberately or
12 through accident, ignorance or inadvertence, be removed, opened,
13 or dislodged without the use of a key or tool.

14 d. (1) Upon installation of a child-protection window guard in a
15 dwelling unit, and annually thereafter, the owner, lessor, agent or
16 other person who manages and controls that dwelling unit shall
17 provide the tenant with an orientation concerning the safe use and
18 manipulation of window guards in accordance with guidelines
19 established by the Commissioner of Community Affairs pursuant to
20 section 5 of P.L.1995, c.120 (C.55:13A-7.16).

21 (2) Upon installation of a child-protection window guard in the
22 common areas of a multiple dwelling, and annually thereafter, the
23 owner, lessor, unit owners' association, agent or other person who
24 manages and controls the common areas of the multiple dwelling
25 shall provide the occupants of the multiple dwelling with an
26 orientation concerning the safe use and manipulation of window
27 guards in accordance with guidelines established by the
28 Commissioner of Community Affairs pursuant to section 5 of
29 P.L.1995, c.120 (C.55:13A-7.16).

30 e. At least twice annually, the owner, lessor, unit owners'
31 association, agent or other person who manages and controls a unit
32 of dwelling space in a multiple dwelling, the common areas of the
33 multiple dwelling, or both, in which child protection window guards
34 have been installed, shall inspect each such window guard under
35 their control to ensure that it remains sound and in conformance
36 with the provisions of P.L.1995, c.120 (C.55:13A-7.12 et seq.), and
37 shall enter a record of such inspection in a log, which shall be
38 maintained as a permanent record so long as the window guard
39 remains installed, and for five years thereafter, and which shall be
40 available upon request to the department or its duly authorized
41 representative.

42 f. A tenant or unit owner may file a complaint with the
43 commissioner for the failure to comply with the provisions of
44 P.L.1995, c.120 (C.55:13A-7.12 et seq.). The commissioner shall
45 investigate complaints within a reasonable time period. The
46 commissioner may impose penalties authorized under the "Hotel
47 and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.)

1 for violations concerning the installation of child-protection
2 window guards and may institute a criminal complaint for a repeat
3 conviction after the imposition of a \$5,000 civil penalty for a
4 continuing violation pursuant to section 19 of P.L.1967, c.76
5 (C.55:13A-19).

6 g. To the extent that a violation of P.L.1995, c.120 (C.55:13A-
7 7.12 et seq.) has occurred within a rental unit in a common interest
8 community, such violation shall be noticed to, and resultant
9 penalties imposed upon, the unit owner of such rental unit and not
10 the unit owners' association.

11 h. To the extent that a violation of P.L.1995, c.120 (C.55:13A-
12 7.12 et seq.) has occurred within the common areas of a common
13 interest community, such violation shall be noticed to, and resultant
14 penalties imposed upon, the unit owners' association.

15 (cf: P.L.1995, c.120, s.2)

16

17 3. Section 3 of P.L.1995, c.120 (C.55:13A-7.14) is amended to
18 read as follows:

19 3. a. All leases offered to tenants in multiple dwellings shall
20 contain a notice, conspicuously set forth therein in prominent
21 boldface type, advising tenants and prospective tenants of the
22 availability of window guards under **[this act]** P.L.1995, c.120
23 (C.55:13A-7.12 et seq.) and the need for a tenant to request in
24 writing the installation of window guards.

25 b. (1) At the time of lease signing, the owner, lessor, agent or
26 other person who manages or controls a unit of dwelling space in a
27 multiple dwelling shall verbally inform the tenant of the tenant's
28 right to request the installation of window guards under P.L.1995,
29 c.120 (C.55:13A-7.12 et seq.). Verification that this verbal notice
30 was provided and understood shall be set forth in a written
31 document, aside from the lease document itself, which written
32 document shall acknowledge that the tenant was made aware of the
33 right to request the installation of window guards and which shall¹
34 be signed by both the tenant and the owner, lessor, agent or other
35 person who manages or controls the unit of dwelling space .

36 (2) (a) The owner, lessor, agent or other person who manages or
37 controls a multiple dwelling unit or a rental unit within a common
38 interest community shall cause to be delivered to each dwelling unit
39 **[an annual]** so managed or controlled, twice annually, a notice, in
40 form and manner prescribed by the commissioner, advising
41 occupants of the obligation of the said owner, lessor, agent or other
42 person to install child-protection window guards pursuant to section
43 2 of [this act] P.L.1995, c.120 (C.55:13A-7.13). For the purposes
44 of this section, an owner of a rental unit located within a common
45 interest community, and not the unit owners' association, shall be
46 deemed to be the managing agent of that rental unit. A lease

1 provision notifying a tenant of the availability of window guards
2 may satisfy one of the notice requirements of this subparagraph.

3 (b) The owner, lessor, unit owners' association, agent or other
4 person who manages or controls the common areas of a multiple
5 dwelling shall cause to be delivered to each dwelling unit, twice
6 annually, a notice, in form and manner prescribed by the
7 commissioner, advising occupants of the obligation of the said
8 owner, lessor, unit owners' association, agent or other person to
9 install child-protection window guards pursuant to section 2 of
10 P.L.1995, c.120 (C.55:13A-7.13). A lease provision notifying a
11 tenant of the availability of window guards may satisfy one of the
12 notice requirements of this subparagraph.

13 (3) The owner, lessor, unit owners' association, agent or other
14 person who manages or controls the common areas of a multiple
15 dwelling shall cause to be conspicuously posted and prominently
16 displayed in the common areas of that dwelling a notice: advising
17 the occupants of the obligation of the owner, lessor, unit owners'
18 association, agent or other person to install child-protection window
19 guards pursuant to section 2 of P.L.1995, c.120 (C.55:13A-7.13)
20 and advising tenants to check their window guards on a regular
21 basis and to report any problems or concerns to the owner, lessor,
22 unit owners' association, agent or other person who manages or
23 controls the multiple dwelling.

24 c. Notwithstanding any municipal ordinance to the contrary,
25 expenditures not exceeding \$20 per window guard installed in a
26 dwelling unit that are made pursuant to [this act] P.L.1995, c.120
27 (C.55:13A-7.12 et seq.) [shall be deemed to be capital improvement
28 costs, which may] may be passed on to the [tenants of the multiple
29 dwelling] tenant who requested installation of the window guard.
30 (cf: P.L.1995, c.120, s.3)

31
32 4. Section 4 of P.L.1995, c.120 (C.55:13A-7.15) is amended to
33 read as follows:

34 4. No tenant or occupant of a multiple dwelling unit, or any
35 other person, shall obstruct or interfere with the installation of
36 child-protection window guards required under section 2 of [this
37 act] P.L.1995, c.120 (C.55:13A-7.13) , nor shall any person remove
38 or otherwise render ineffective such window guards; provided,
39 however, that the owner or the representative of the owner may
40 remove window guards from an unoccupied unit or, with the
41 consent of the tenant, from a unit in which no child 10 years of age
42 or under resides or is regularly present for a substantial period of
43 time; and provided, further, that the owner or the representative of
44 the owner shall remove window guards when requested to do so by
45 the tenant in writing.

46 (cf: P.L.1995, c.120, s.4)

1 5. Section 5 of P.L.1995, c.120 (C.55:13A-7.16) is amended to
2 read as follows:

3 5. a. The commissioner is hereby authorized to make and
4 promulgate, pursuant to the "Administrative Procedure Act,"
5 P.L.1968, c.410 (C.52:14B-1 et seq.), all regulations necessary to
6 carry out [this act] P.L.1995, c.120 (C.55:13A-7.12 et seq.),
7 including, but not limited to, regulations regarding the design,
8 construction, and installation of window guards. The commissioner
9 shall promulgate model forms and lease provisions for the notices
10 required to be provided pursuant to P.L.1995, c.120 (C.55:13A-7.12
11 et seq.) and specifications for inspections and log-keeping
12 requirements.

13 b. The commissioner shall establish guidelines for orientation
14 programs designed to educate tenants about the safe use and
15 manipulation of window guards and their rights concerning child-
16 protection window guards pursuant to P.L.1995, c.120 (C.55:13A-
17 7.12 et seq.) and ensure that an orientation program is offered
18 annually prior to March 1 of each year in the following:

19 (1) every multiple dwelling of at least four stories in height
20 which was built with public funds or public assistance, or financed,
21 in whole or in part, by a loan guaranteed or insured by the federal
22 government or any agency thereof, including the allocation of low-
23 income tax credits; and

24 (2) every multiple dwelling of at least four stories in height in
25 which a recipient of State or federal rental assistance resides.

26 Notice of the orientation program shall be posted in appropriate
27 common areas of the building at least two weeks prior to the date of
28 the program.

29 (cf: P.L.1995, c.120, s.5)

30
31 6. Section 19 of P.L.1967, c.76 (C.55:13A-19) is amended to
32 read as follows:

33 19. (a) No person shall

34 (1) Obstruct, hinder, delay or interfere with, by force or
35 otherwise, the commissioner in the exercise of any power or the
36 discharge of any function or duty under the provisions of **[this act]**
37 P.L.1967, c.76 (C.55:13A-1 et seq.); or

38 (2) Prepare, utter or render any false statement, report,
39 document, plans or specifications permitted or required to be
40 prepared, uttered or rendered under the provisions of **[this act]**
41 P.L.1967, c.76 (C.55:13A-1 et seq.); or

42 (3) Render ineffective or inoperative any protective equipment
43 installed, or intended to be installed, in any hotel or multiple
44 dwelling; or

45 (4) Refuse or fail to comply with any lawful ruling, action, order
46 or notice of the commissioner; or

1 (5) Violate, or cause to be violated, any of the provisions of
2 [this act] P.L.1967, c.76 (C.55:13A-1 et seq.).

3 (b) Any person who violates, or causes to be violated, any
4 provision of subsection (a) of this section shall be liable to a penalty
5 of not less than \$50.00 nor more than \$500.00 for each violation,
6 and a penalty of not less than \$500.00 nor more than \$5,000.00 for
7 each continuing violation. Penalties imposed for violations relating
8 to child-protection window guards pursuant to the provisions of
9 P.L.1995, c.120 (C.55:13A-7.12 et seq.) shall be no less than \$100
10 for each window or incident. Whenever a violator is convicted of
11 knowingly continuing to violate a provision of P.L.1995, c.120
12 (C.55:13A-7.12 et seq.) relating to child-protection window guards
13 after the imposition of a penalty of \$5,000 pursuant to this section,
14 the violator shall be guilty of a crime of the fourth degree. Where
15 any violation of subsection (a) of this section is of a continuing
16 nature, each day during which such continuing violation remains
17 unabated after the date fixed by the commissioner in any order or
18 notice for the correction or termination of such continuing violation,
19 shall constitute an additional, separate and distinct violation, except
20 during the time an appeal from said order may be taken or is
21 pending. The commissioner, in the exercise of his administrative
22 authority pursuant to this act, may levy and collect penalties in the
23 amounts set forth in this section. Where the administrative penalty
24 order has not been satisfied within 30 days of its issuance the
25 penalty may be sued for, and recovered by and in the name of the
26 commissioner in a civil action by a summary proceeding under "The
27 Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et
28 seq.) in the Superior Court.

29 (c) Any person shall be deemed to have violated, or to have
30 caused to be violated, any provision of subsection (a) of this section
31 whenever any officer, agent or employee thereof, under the control
32 of and with the knowledge of said person shall have violated or
33 caused to be violated any of the provisions of subsection (a) of this
34 section.

35 (d) The commissioner may cancel and revoke any permit,
36 approval or certificate required or permitted to be granted or issued
37 to any person pursuant to the provisions of this act if the
38 commissioner shall find that any such person has violated, or
39 caused to be violated, any of the provisions of subsection (a) of this
40 section.

41 (e) Any penalties collected pursuant to this section levied as the
42 result of a violation of subsection (w) of section 7 of P.L.1967, c.76
43 (C.55:13A-7) and which occurred pursuant to inspection for
44 lead-based paint hazards shall be deposited in the Lead Hazard
45 Control Assistance fund established pursuant to section 4 of
46 P.L.2003, c.311 (C.52:27D-437.4). Penalties levied as the result of
47 multiple violations shall be allocated to the Lead Hazard RHM

1 Control Assistance fund in such proportion as the
2 commissioners shall prescribe.
3 (cf: P.L.2003, c.311, s.20)
4

5 7. This act shall take effect immediately.
6
7

8 STATEMENT
9

10 This bill is designed to strengthen the protections afforded to
11 children of tenants residing in multiple dwellings by enhancing the
12 provisions of law concerning child-protection window guards.

13 Although current law, originally adopted in 1995, requires
14 landlords to install child-protection window guards upon the written
15 request of a tenant, incidents of children falling out of windows
16 have continued to occur. Most recently, this past August, five-year
17 old Zahir Atkins fell to his death from a 15th-floor window, despite
18 the presence of a window guard. In 2003, two-year old Raquan
19 Ellis died after plunging from a 17th-floor window, also despite the
20 presence of a window guard. In both instances, the windows
21 opened wider than four inches above the top of the window guard
22 allowing the children to climb out.

23 Department of Community Affairs regulations have allowed
24 landlords to install rigid metal stops in the upper tracks of a bottom
25 window in order to prevent the bottom window from being raised
26 more than four inches above the window guard. Department
27 inspections reveal that these stops are often removed in order to
28 increase ventilation during the heat of the summer, resulting in
29 allowing bottom windows to be raised more than four inches above
30 the top of the window guard, thus defeating the purpose of the
31 window guards. To their credit, the department has adopted
32 emergency regulations to prohibit this practice.

33 This bill would require the Commissioner of Community Affairs
34 to develop specifications for double hung windows so to ensure that
35 window guards protect the full openable area of each lower
36 window. The specifications would provide that all window guards
37 must be designed and installed so that the space between the lowest
38 section of the top horizontal bar of the window guard and the
39 bottom of the upper window sash is less than four inches. While
40 the installation of rigid metal stops in the upper tracks of a bottom
41 window or other attempts to limit the ability to raise the bottom
42 window would not be an acceptable method of satisfying the
43 specifications, window stops could may be utilized as a safety
44 enhancement when used in addition to properly installed window
45 guards.

46 Additionally, current law differentiates between tenants living in
47 apartment buildings from tenants renting a unit in a common

1 interest community such as a condominium or cooperative. Current
2 law does not afford tenants renting from owners of units in common
3 interest communities with the power to request the installation of
4 window guards by their landlord. Often these types of buildings
5 were constructed originally as apartments, but were later converted
6 to the condominium or cooperative type of ownership. The
7 provisions of this bill would extend the protections of child-
8 protection window guards to tenants residing in these types of
9 housing. Some unit owners' associations, which manage the
10 common areas of common interest communities, have rules which
11 prohibit the installation of child-protection window guards on an
12 esthetic basis. The bill would prohibit unit owners' associations
13 from enforcing such rules.

14 The bill provides that for the purposes of the law requiring a
15 window guard to be installed upon the request of certain tenants, the
16 owner of a rental unit within a common interest community will be
17 deemed to be the managing agent of the rental unit, and not the unit
18 owners' association. The unit owners' association will be
19 responsible, however, to install window guards on windows in
20 common areas of the community property which are maintained by
21 the association. The bill also clarifies that any violations which
22 may be issued concerning window guards installed in rental units
23 shall be issued to the owner of the rental unit, and not to the unit
24 owners' association managing the common elements of the common
25 interest community, and that violations concerning window guards
26 installed in common areas would be issued to the unit owners'
27 association.

28 This bill would extend the ability to request window guards to
29 tenants of rental units in which a child under 10 years of age is
30 regularly present for a substantial period of time. Current law only
31 allows tenants to request window guards if the child resides in the
32 unit.

33 The bill would require owners to provide tenants with
34 orientations on the safe use and manipulation of window guards,
35 upon installation and annually thereafter.

36 The bill would require owners to inspect window guards under
37 their control at least two times a year and to maintain an inspection
38 log as a permanent record, which would be made available to the
39 department upon request.

40 The bill would enhance the procedures for notifying tenants of
41 their rights under this law by: requiring all multiple dwelling leases
42 to contain a notice in boldface type, requiring landlords to verbally
43 inform tenants of their rights under this law at lease signing which
44 would be evidenced by a written document separate from the lease
45 itself, requiring owners of multiple dwelling units and those in
46 control of the common elements to provide, twice annually, notice
47 of the right to request the installation of window guards in units and

1 in common areas, and requiring a prominent posting of these rights
2 in common areas of multiple dwellings.

3 The bill would authorize the Commissioner of Community
4 Affairs to adopt rules setting forth circumstances under which a
5 tenant could request the installation of child-protection window
6 guards on a first floor window. Under certain circumstances, the
7 type or location of a first floor window could pose a serious risk of
8 injury. The bill also clarifies that the window guard requirement
9 does not apply in cases where the window is not designed to be
10 opened.

11 The bill would require the Commissioner of Community Affairs
12 to promulgate model forms and lease provisions for the notices
13 required to be provided to tenants concerning the availability of
14 child-protection window guards and to adopt specifications for
15 owner inspections and log-keeping requirements.

16 The bill would require the Department of Community Affairs to
17 establish guidelines for window-guard orientation programs and to
18 ensure that orientation programs are run annually in every multiple
19 dwelling of at least four stories in height which contains publicly
20 subsidized housing.

21 The bill would enhance the penalty provisions governing
22 violations of child-protection window guard requirements by
23 establishing a minimum penalty of \$100 per window or incident and
24 subjecting repeat offenders to criminal penalties.

25 Finally, the bill would cap the amount of window guard
26 expenditures that landlords may pass along to tenants at the amount
27 of \$20 per window guard installed in a dwelling unit, despite the
28 existence of municipal ordinances to the contrary.

ASSEMBLY HOUSING AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 2023

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 11, 2006

The Assembly Housing and Local Government Committee reports favorably with committee amendments Assembly Bill No. 2023.

This bill, as amended by committee, is designed to strengthen the protections afforded to children of tenants residing in multiple dwellings by enhancing the provisions of law concerning child-protection window guards.

Although current law, originally adopted in 1995, requires landlords to install child-protection window guards upon the written request of a tenant, incidents of children falling out of windows have continued to occur. Most recently, this past August, five-year old Zahir Atkins fell to his death from a 15th-floor window, despite the presence of a window guard. In 2003, two-year old Raquan Ellis died after plunging from a 17th-floor window, also despite the presence of a window guard. In both instances, the windows opened wider than four inches above the top of the window guard allowing the children to climb out. This bill, as amended by the committee, would name the State's child-protection window guard law in memory of these three children.

State regulations require rigid metal stops in the upper tracks of a bottom window in order to prevent the bottom window from being raised more than four inches above the window guard. Department inspections have reveal that tampering with these stops has occurred, most likely to increase air ventilation during the heat of the summer. As a result, some bottom windows were raised more than four inches above the top of the window guard, thus defeating the purpose of the window guards. The department has adopted emergency regulations to prohibit this practice.

This bill, would require the Commissioner of Community Affairs to develop specifications for double hung windows to ensure that window guards protect the full openable area of each lower window. The specifications would provide that all window guards must be designed and installed so that the space between the lowest section of the top horizontal bar of the window guard and the bottom of the upper window sash is less than four inches. While the installation of rigid

metal stops in the upper tracks of a bottom window or other attempts to limit the ability to raise the bottom window would not be an acceptable method of satisfying the specifications, the bill allows for the utilization of window stops as a safety enhancement when used in addition to properly installed window guards.

Additionally, current law does not clearly afford tenants renting from owners of units in common interest communities, such as condominiums and cooperatives, the power to request the installation of window guards by their landlord. The provisions of this bill would extend the protections of child-protection window guards to tenants residing in these types of housing, requiring the owner of a rental unit in such housing to be deemed the landlord and the responsible party for installation. The unit owners' association will be responsible, however, to install window guards on windows in common areas of the community property which are maintained by the association. Some unit owners' associations, which manage the common areas of common interest communities, have rules which prohibit the installation of child-protection window guards on esthetic grounds. The bill would prohibit unit owners' associations from enforcing such rules.

This bill would extend the ability to request window guards to tenants of rental units in which a child under 10 years of age is regularly present for a substantial period of time. Current law only allows tenants to request window guards if the child resides in the unit.

The bill would require owners to provide tenants with orientations on the safe use and manipulation of window guards, upon installation and annually thereafter. The bill would require owners to inspect window guards under their control at least two times a year and to maintain an inspection log as a permanent record, which would be made available to the department upon request.

The bill would enhance the procedures for notifying tenants of their rights under this law by: requiring all multiple dwelling leases to contain a notice in boldface type, requiring landlords to verbally inform tenants of their rights under this law at lease signing which would be evidenced by a written document separate from the lease itself, requiring owners of multiple dwelling units and those in control of the common elements to provide, twice annually, notice of the right to request the installation of window guards in units and in common areas, and requiring a prominent posting of these rights in common areas of multiple dwellings.

The bill would authorize the Commissioner of Community Affairs to adopt rules setting forth circumstances under which a tenant could request the installation of child-protection window guards on a first floor window. Under certain circumstances, the type or location of a first floor window could pose a serious risk of injury. The bill also clarifies that the window guard requirement does not apply in cases where the window is not designed to be opened. Further, the bill, as

amended by the committee, provides that the requirement to install window guards will not apply to seasonal rental units.

The bill would require the Commissioner of Community Affairs to promulgate model forms and lease provisions for the notices required to be provided to tenants concerning the availability of child-protection window guards and to adopt specifications for owner inspections and log-keeping requirements.

The bill would require the Department of Community Affairs to establish guidelines for window-guard orientation programs and to ensure that orientation programs are run annually in every multiple dwelling of at least four stories in height which contains publicly-subsidized housing.

The bill would enhance the penalty provisions governing violations of child-protection window guard requirements by establishing a minimum penalty of \$100 per window or incident and subjecting repeat offenders to criminal penalties.

Finally, the bill would cap the amount of window guard expenditures that landlords may pass along to tenants at the amount of \$20 per window guard installed in a dwelling unit, despite the existence of municipal ordinances to the contrary.

As amended by the committee, this bill is identical to Senate Bill No. 458 [1R] which was reported favorably by the committee today.

Committee amendments

The committee amended the bill to:

- name the State's child-protection window guard law the "Robert E. Dwight, Jr, Raquan Ellis and Zahir Atkins Memorial Child-Protection Window Guard Law" in memory of three children whose untimely death led to the adoption and enhancement of the law;
- except out seasonal rental units from the ambit of the bill;
- clarify that a lease notice provision would only be required in cooperative proprietary leases of cooperatives formed after the bill's effective date; and
- provide that the opportunity to ask that window guards be installed in common areas in common interest communities would be limited to owners or occupants of dwelling units in which children 10 years of age or younger reside or are regularly present for a substantial period of time.

Jul-31-06 Governor Corzine Signs Child Protection Window Guard Law

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GOVERNOR CORZINE SIGNS CHILD PROTECTION WINDOW GUARD LAW

NEWARK - Governor Jon S. Corzine today signed the Robert E. Dwight, Jr., Raquan Ellis and Zahir Atkins Memorial Child-Protection Window Guard Law.

The law, named in memory of three New Jersey children, provides new requirements for the installation and maintenance of child safety window guards and enhanced penalties.

"The tragedies that occurred to the Dwight, Ellis and Atkins families are something that no family should ever have to experience," said Governor Corzine who signed the bill at La Casa de Don Pedro, a Newark-based non-profit. "Now serving as an additional line of protection for New Jersey's children - alongside Megan's Law and the Amber Alert - is the Robert E. Dwight, Jr., Raquan Ellis and Zahir Atkins Memorial Child-Protection Window Guard Law."

According to the National SAFE KIDS Campaign, approximately 18 children ages 10 and under die each year from window fall-related injuries. An estimated 4,700 children ages 14 and under are treated in hospital emergency departments annually for injuries sustained from falling out of windows.

The state's window guard law adopted in 1995 requires landlords to install child-protection window guards upon the written request of a tenant. However, incidents of children falling from open windows continued to occur despite the presence of a window guard.

The new law provides new requirements for the installation and maintenance of child safety window guards and enhances penalties for failure to comply with the

law. These include increased civil penalties for first-time offenses and a fourth-degree criminal penalty for repeat violators.

The law specifies that all window guards must be designed and installed so that the space between lowest section of the top horizontal bar of the window guard and the bottom of the upper window sash is less than four inches. Window stops will be allowed as a safety enhancement device but only when used in addition to properly installed window guards.

The law also extends the category of tenants who would be entitled to window guards to renters of units in common interest communities such as a condominium or cooperative. In addition, the bill extends the ability to request window guards to tenants of rental units in which a child under 10 is regularly present for a substantial period of time. Previously, the law only allowed tenants to request window guards if the child resided in the unit.

The bill (S-458/ A-2023) was sponsored by Senators Ronald L. Rice and Sharpe James and Assemblymen Jerry Green and Craig Stanley. The bill was co-sponsored by Senator Diane B. Allen and Assemblyman Robert M. Gordon.