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P.L. 2008, CHAPTER 111, *approved December 4, 2008*
Assembly, No. 2871 (*First Reprint*)

1 AN ACT concerning termination of lease agreements in rental
2 premises, supplementing Title 46 of the Revised Statutes, and
3 amending P.L.1971, c.223.
4

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

8 1. (New section) Sections 1 through 8 of P.L. , c. (C.)
9 (pending before the Legislature as this bill) shall be known and may
10 be cited as the “New Jersey Safe Housing Act.”
11

12 2. (New section) The Legislature finds and declares:

13 a. Domestic violence is a serious crime that materially affects
14 the health and safety of numerous New Jersey tenants and there are
15 thousands of persons in this State who are regularly beaten,
16 tortured, sexually assaulted and, in some cases, killed by their
17 spouses or cohabitants;

18 b. The inability to terminate a lease and its corresponding
19 financial obligations may prevent domestic violence victims from
20 leaving abusive relationships and seeking help;

21 c. Domestic violence victims require an efficient method of
22 terminating their lease obligations to escape abuse without that
23 damaging their credit and rental history and, consequently, their
24 ability to secure other safe housing; and

25 d. ¹**[Ongoing domestic abuse presents a risk and a nuisance to**
26 **neighbors and the landlord of the property where the violence**
27 **occurs]** The assistance and cooperation of the entire community,
28 including landlords, neighbors, and employers, is necessary to
29 reduce the incidence of domestic violence in our State¹.
30

31 3. (New section) ¹**[Any]** The tenant may terminate any¹ lease
32 of a residential property that has been leased and used by the tenant
33 solely for the purpose of providing a dwelling place for the tenant,
34 or for the tenant’s family, ¹**[may be terminated]**¹ prior to the
35 expiration date thereof, ¹**[only]**¹ if the tenant ¹fulfills all
36 requirements and procedures as established by P.L. , c. (C.)
37 (pending before the Legislature as this bill) and¹ provides the
38 landlord with:

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:

¹Assembly AHO committee amendments adopted September 15, 2008.

- 1 a. written notice that the tenant or a child of the tenant faces an
 2 imminent threat of serious physical harm from another named
 3 person if the tenant remains on the 'leased' premises; and
- 4 b. '[a certified copy of either] any' of the following:
- 5 (1) 'a certified copy of' a permanent restraining order issued by
 6 a court pursuant to section 13 of "The Domestic Violence
 7 Protection Act of 1991," P.L.1991, c.261 (C.2C:25-29), and
 8 protecting the tenant from the person named in the written notice;
 9 '[or]'
- 10 (2) 'a certified copy of' a permanent restraining order from
 11 another jurisdiction, issued pursuant to the jurisdiction's laws
 12 concerning domestic violence, and protecting the tenant from the
 13 person named in the written notice¹;
- 14 (3) a law enforcement agency record documenting the domestic
 15 violence, or certifying that the tenant or a child of the tenant is a
 16 victim of domestic violence;
- 17 (4) medical documentation of the domestic violence provided by
 18 a health care provider;
- 19 (5) certification, provided by a certified Domestic Violence
 20 Specialist, or the director of a designated domestic violence agency,
 21 that the tenant or a child of the tenant is a victim of domestic
 22 violence; or
- 23 (6) other documentation or certification, provided by a licensed
 24 social worker, that the tenant or a child of the tenant is a victim of
 25 domestic violence¹.
- 26
- 27 4. (New section) a. Lease terminations pursuant to section 3 of
 28 P.L. , c. (C.) (pending before the Legislature as this bill)
 29 shall take effect on the '[fortieth] thirtieth' day following receipt
 30 by the landlord of notice complying with section 3 of
 31 P.L. , c. (C.) (pending before the Legislature as this bill),
 32 unless the landlord and tenant agree on an earlier termination date.
 33 The rent shall be paid, pro rata, up to the time a lease terminates
 34 pursuant to this section.
- 35 b. A lease '[will terminate] terminates' under section 3 of
 36 P.L. , c. (C.) (pending before the Legislature as this bill)
 37 only if the victim of domestic violence acts in good faith 'and
 38 fulfills all requirements and procedures as established by section 3
 39 of P.L. , c. (C.)' in terminating the lease.
- 40 c. If there are tenants on the lease other than the tenant who has
 41 given notice of termination as described in section 3 of
 42 P.L. , c. '(C.)' (pending before the Legislature as this bill)
 43 '[is a victim of domestic abuse]', those co-tenants' lease also
 44 terminates ' , notwithstanding any provisions in section 2 of
 45 P.L.1974, c.49 (C.2A:18-61.1) requiring certain grounds for
 46 eviction to the contrary¹. The co-tenants '[who did not give notice

1 may be released from any financial obligations due under the
2 previously existing rental agreement and the]¹ may enter into a new
3 lease ¹[with] , for a new term, at the option of¹ the landlord.
4 Nothing ¹in¹ this section shall prohibit any co-tenants of the victim
5 of domestic violence from holding over if holding over is permitted
6 by the landlord.

7 ¹[d. The tenant's liability for rent under this subsection is
8 subject to any duty of the landlord to mitigate damages.¹

9
10 5. (New section) Where the leased premises are under the
11 control of a public housing authority or redevelopment agency, the
12 victim of domestic violence shall give notice in accordance with
13 any relevant regulations pertaining to public housing leases. When
14 the terms of the tenancy are controlled by a publicly-funded
15 housing assistance contract, notice and security deposit terms,
16 requirements, and protections shall conform and be subject to
17 restrictions, limitations or other requirements imposed by State or
18 federal law.

19
20 6. (New section) The parties to a lease agreement creating a
21 tenancy in residential rental property may not agree to waive any
22 rights or remedies arising under P.L. , c. (C.) (pending before
23 the Legislature as this bill).

24
25 7. (New section) Nothing in P.L. , c. (C.) (pending before
26 the Legislature as this bill) shall operate to alter, limit or impair the
27 terms of lease agreements existing at the time of the adoption of
28 P.L. , c. (C.) (pending before the Legislature as this bill).

29
30 8. (New section) A landlord shall not disclose information
31 documenting domestic ¹[abuse] violence¹ that has been provided
32 to the landlord by a victim of domestic ¹[abuse] violence¹ pursuant
33 to section 3 of P.L. , c. (C.) (pending before the Legislature
34 as this bill). The information shall not be entered into any shared
35 database or provided to any person or entity, but may be used when
36 required as evidence in an eviction proceeding, action for unpaid
37 rent or damages arising out the tenancy, with the consent of the
38 tenant, or as otherwise required by law.

39
40 9. Section 3 of P.L.1971, c.223 (C.46:8-21.1) is amended to read
41 as follows:

42 3. Within 30 days after the termination of the tenant's lease or
43 licensee's agreement, the owner or lessee shall return by personal
44 delivery, registered or certified mail the sum so deposited plus the
45 tenant's portion of the interest or earnings accumulated thereon, less
46 any charges expended in accordance with the terms of a contract,
47 lease, or agreement, to the tenant or licensee, or, in the case of a

1 lease terminated pursuant to P.L.1971, c.318 (C.46:8-9.1), the
2 executor or administrator of the estate of the tenant or licensee or
3 the surviving spouse of the tenant or licensee so terminating the
4 lease. The interest or earnings and any such deductions shall be
5 itemized and the tenant, licensee, executor, administrator or
6 surviving spouse notified thereof by personal delivery, registered or
7 certified mail. Notwithstanding the provisions of this or any other
8 section of law to the contrary, no deductions shall be made from a
9 security deposit of a tenant who remains in possession of the rental
10 premises.

11 Within five business days after:

12 a. the tenant is caused to be displaced by fire, flood,
13 condemnation, or evacuation, and

14 b. an authorized public official posts the premises with a notice
15 prohibiting occupancy; or

16 c. any building inspector, in consultation with a relocation
17 officer, where applicable, has certified within 48 hours that
18 displacement is expected to continue longer than seven days and has
19 so notified the owner or lessee in writing, the owner or lessee shall
20 have available and return to the tenant or the tenant's designated
21 agent upon his demand the sum so deposited plus the tenant's
22 portion of the interest or earnings accumulated thereon, less any
23 charges expended in accordance with the terms of the contract,
24 lease or agreement and less any rent due and owing at the time of
25 displacement.

26 Within ~~['five]~~ 15¹ business days after a lease terminates as
27 described in section 3 of P.L. , c. (C.) (pending before the
28 Legislature as this bill), the owner or lessee shall have available and
29 return to the tenant or the tenant's designated agent upon his
30 demand any money or advance of rent deposited as security plus the
31 tenant's portion of the interest or earnings accumulated thereon,
32 ¹including the portion any money or advance of rent due to a victim
33 of domestic violence terminating a lease pursuant to section 3 of
34 P.L. , c. (C.) (pending before the Legislature as this bill),¹
35 less any charges expended in accordance with the terms of the
36 contract, lease or agreement and less any rent due and owing at the
37 time of the lease terminated. ¹['If multiple tenants individually
38 contributed distinguishable shares of a security deposit, the owner
39 or lessee shall return, as described in this paragraph, each share
40 separately to the tenant from whom the share was received.]¹

41 Such net sum shall continue to be available to be returned upon
42 demand during normal business hours for a period of 30 days at a
43 location in the same municipality in which the subject leased
44 property is located and shall be accompanied by an itemized
45 statement of the interest or earnings and any deductions. The owner
46 or lessee may, by mutual agreement with the municipal clerk, have
47 the municipal clerk of the municipality in which the subject leased

1 property is located return said net sum in the same manner. Within
2 three business days after receiving notification of the displacement,
3 the owner or lessee shall provide written notice to a displaced
4 tenant by personal delivery or mail to the tenant's last known
5 address. In the event that a lease terminates as described in section
6 3 of P.L. , c. (C.) (pending before the Legislature as this
7 bill), within three business days after the termination, the owner or
8 lessee shall provide written notice to the victim of domestic
9 violence by personal delivery or mail to the tenant's last known
10 address. Such notice shall include, but not be limited to, the
11 location at which and the hours and days during which said net sum
12 shall be available to him. The owner or lessee shall provide a
13 duplicate notice in the same manner to the relocation officer.
14 Where a relocation officer has not been designated, the duplicate
15 notice shall be provided to the municipal clerk. When the last
16 known address of the tenant is that from which he was displaced
17 and the mailbox of that address is not accessible during normal
18 business hours, the owner or lessee shall also post such notice at
19 each exterior public entrance of the property from which the tenant
20 was displaced. Notwithstanding the provisions of P.L.1963, c.73
21 (C.47:1A-1 et seq.), or any other law to the contrary, the municipal
22 clerk, and any designee, agent or employee of the municipal clerk,
23 shall not knowingly disclose or otherwise make available personal
24 information about any victim of domestic '[abuse] violence' that
25 the clerk or any designee, agent or employee has obtained pursuant
26 to the procedures described in section 3 of P.L.1971, c.223 (C.46:8-
27 21.1).

28 Any such net sum not demanded by and returned to the tenant or
29 the tenant's designated agent within the period of 30 days shall be
30 redeposited or reinvested by the owner or lessee in an appropriate
31 interest bearing or dividend yielding account in the same investment
32 company, State or federally chartered bank, savings bank or savings
33 and loan association from which it was withdrawn. In the event that
34 said displaced tenant resumes occupancy of the premises, said
35 tenant shall redeliver to the owner or lessee one-third of the security
36 deposit immediately, one-third in 30 days and one-third 60 days
37 from the date of reoccupancy. Upon the failure of said tenant to
38 make such payments of the security deposit, the owner or lessee
39 may institute legal action for possession of the premises in the same
40 manner that is authorized for nonpayment of rent.

41 The Commissioner of Community Affairs, the Public Advocate,
42 the Attorney General, or any State entity which made deposits on
43 behalf of a tenant may impose a civil penalty against an owner or
44 lessee who has willfully and intentionally withheld deposits in
45 violation of section 1 of P.L.1967, c.265 (C.46:8-19), when the
46 deposits were made by or on behalf of a tenant who has received
47 financial assistance through any State or federal program, including
48 welfare or rental assistance. An owner or lessee of a tenant on

1 whose behalf deposits were made by a State entity and who has
2 willfully and intentionally withheld such deposits in violation of
3 this section shall be liable for a civil penalty of not less than \$500
4 or more than \$2,000 for each offense. The penalty prescribed in
5 this paragraph shall be collected and enforced by summary
6 proceedings pursuant to the "Penalty Enforcement Law of 1999,"
7 P.L.1999, c.274 (C.2A:58-10 et seq.). The State entity which made
8 such deposits on behalf of a tenant shall be entitled to any penalty
9 amounts recovered pursuant to such proceedings.

10 In any action by a tenant, licensee, executor, administrator or
11 surviving spouse, or other person acting on behalf of a tenant,
12 licensee, executor, administrator or surviving spouse, for the return
13 of moneys due under this section, the court upon finding for the
14 tenant, licensee, executor, administrator or surviving spouse shall
15 award recovery of double the amount of said moneys, together with
16 full costs of any action and, in the court's discretion, reasonable
17 attorney's fees.

18 (cf: P.L.2007, c.9, s.2)

19

20 ¹10. (New section) The provisions of P.L. , c. (C.) shall
21 not apply to any lease for the seasonal use or rental of real property.
22 For purposes of this paragraph "seasonal use or rental" means use or
23 rental for a term of not more than 125 consecutive days for
24 residential purposes by a person having a permanent place of
25 residence elsewhere, but shall not include use or rental of living
26 quarters for seasonal, temporary or migrant farm workers in
27 connection with any work or place where work is being performed.
28 The landlord shall have the burden of proving that the use or rental
29 of the residential property is seasonal.¹

30

31 ¹[10.] 11.¹ This act shall take effect immediately.

32

33

34

35

36 Permits victim of domestic abuse to terminate residential lease
37 under certain circumstances; provides procedure for tenant to
38 recover security deposit.

ASSEMBLY, No. 2871

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED MAY 22, 2008

Sponsored by:

Assemblywoman SANDRA LOVE

District 4 (Camden and Gloucester)

Assemblyman PAUL D. MORIARTY

District 4 (Camden and Gloucester)

SYNOPSIS

Permits victim of domestic abuse to terminate residential lease under certain circumstances; provides procedure for tenant to recover security deposit.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/13/2008)

1 AN ACT concerning termination of lease agreements in rental
2 premises, supplementing Title 46 of the Revised Statutes, and
3 amending P.L.1971, c.223.

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5 **BE IT ENACTED** by the Senate and General Assembly of the State
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9 (pending before the Legislature as this bill) shall be known and may
10 be cited as the “New Jersey Safe Housing Act.”

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12 2. (New section) The Legislature finds and declares:

13 a. Domestic violence is a serious crime that materially affects
14 the health and safety of numerous New Jersey tenants and there are
15 thousands of persons in this State who are regularly beaten,
16 tortured, sexually assaulted and, in some cases, killed by their
17 spouses or cohabitants;

18 b. The inability to terminate a lease and its corresponding
19 financial obligations may prevent domestic violence victims from
20 leaving abusive relationships and seeking help;

21 c. Domestic violence victims require an efficient method of
22 terminating their lease obligations to escape abuse without that
23 damaging their credit and rental history and, consequently, their
24 ability to secure other safe housing; and

25 d. Ongoing domestic abuse presents a risk and a nuisance to
26 neighbors and the landlord of the property where the violence
27 occurs.

28
29 3. (New section) Any lease of a residential property that has
30 been leased and used by the tenant solely for the purpose of
31 providing a dwelling place for the tenant, or for the tenant’s family,
32 may be terminated prior to the expiration date thereof, only if the
33 tenant provides the landlord with:

34 a. written notice that the tenant or a child of the tenant faces an
35 imminent threat of serious physical harm from another named
36 person if the tenant remains on the premises; and

37 b. a certified copy of either of the following:

38 (1) a permanent restraining order issued by a court pursuant to
39 section 13 of “The Domestic Violence Protection Act of 1991,”
40 P.L.1991, c.261 (C.2C:25-29), and protecting the tenant from the
41 person named in the written notice; or

42 (2) a permanent restraining order from another jurisdiction, issued
43 pursuant to the jurisdiction’s laws concerning domestic violence,
44 and protecting the tenant from the person named in the written
45 notice.

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.

A2871 LOVE, MORIARTY

1 4. (New section) a. Lease terminations pursuant to section 3 of
2 P.L. , c. (C.) (pending before the Legislature as this bill)
3 shall take effect on the fortieth day following receipt by the
4 landlord of notice complying with section 3 of P.L. , c. (C.)
5 (pending before the Legislature as this bill), unless the landlord and
6 tenant agree on an earlier termination date. The rent shall be paid,
7 pro rata, up to the time a lease terminates pursuant to this section.

8 b. A lease will terminate under section 3 of P.L. , c. (C.)
9 (pending before the Legislature as this bill) only if the victim of
10 domestic violence acts in good faith in terminating the lease.

11 c. If there are tenants on the lease other than the tenant who has
12 given notice of termination as described in section 3 of P.L. , c.
13 (pending before the Legislature as this bill) is a victim of domestic
14 abuse, those co-tenants' lease also terminates. The co-tenants who
15 did not give notice may be released from any financial obligations
16 due under the previously existing rental agreement and the may
17 enter into a new lease with the landlord. Nothing this section shall
18 prohibit any co-tenants of the victim of domestic violence from
19 holding over if holding over is permitted by the landlord.

20 d. The tenant's liability for rent under this subsection is subject
21 to any duty of the landlord to mitigate damages.

22
23 5. (New section) Where the leased premises are under the
24 control of a public housing authority or redevelopment agency, the
25 victim of domestic violence shall give notice in accordance with
26 any relevant regulations pertaining to public housing leases. When
27 the terms of the tenancy are controlled by a publicly-funded
28 housing assistance contract, notice and security deposit terms,
29 requirements, and protections shall conform and be subject to
30 restrictions, limitations or other requirements imposed by State or
31 federal law.

32
33 6. (New section) The parties to a lease agreement creating a
34 tenancy in residential rental property may not agree to waive any
35 rights or remedies arising under P.L. , c. (C.) (pending before
36 the Legislature as this bill).

37
38 7. (New section) Nothing in P.L. , c. (C.) (pending before
39 the Legislature as this bill) shall operate to alter, limit or impair the
40 terms of lease agreements existing at the time of the adoption of
41 P.L. , c. (C.) (pending before the Legislature as this bill).

42
43 8. (New section) A landlord shall not disclose information
44 documenting domestic abuse that has been provided to the landlord
45 by a victim of domestic abuse pursuant to section 3 of P.L. , c.
46 (C.) (pending before the Legislature as this bill). The information
47 shall not be entered into any shared database or provided to any
48 person or entity, but may be used when required as evidence in an

1 eviction proceeding, action for unpaid rent or damages arising out
2 the tenancy, with the consent of the tenant, or as otherwise required
3 by law.

4
5 9. Section 3 of P.L.1971, c.223 (C.46:8-21.1) is amended to read
6 as follows:

7 3. Within 30 days after the termination of the tenant's lease or
8 licensee's agreement, the owner or lessee shall return by personal
9 delivery, registered or certified mail the sum so deposited plus the
10 tenant's portion of the interest or earnings accumulated thereon, less
11 any charges expended in accordance with the terms of a contract,
12 lease, or agreement, to the tenant or licensee, or, in the case of a
13 lease terminated pursuant to P.L.1971, c.318 (C.46:8-9.1), the
14 executor or administrator of the estate of the tenant or licensee or
15 the surviving spouse of the tenant or licensee so terminating the
16 lease. The interest or earnings and any such deductions shall be
17 itemized and the tenant, licensee, executor, administrator or
18 surviving spouse notified thereof by personal delivery, registered or
19 certified mail. Notwithstanding the provisions of this or any other
20 section of law to the contrary, no deductions shall be made from a
21 security deposit of a tenant who remains in possession of the rental
22 premises.

23 Within five business days after:

24 a. the tenant is caused to be displaced by fire, flood,
25 condemnation, or evacuation, and

26 b. an authorized public official posts the premises with a notice
27 prohibiting occupancy; or

28 c. any building inspector, in consultation with a relocation
29 officer, where applicable, has certified within 48 hours that
30 displacement is expected to continue longer than seven days and has
31 so notified the owner or lessee in writing, the owner or lessee shall
32 have available and return to the tenant or the tenant's designated
33 agent upon his demand the sum so deposited plus the tenant's
34 portion of the interest or earnings accumulated thereon, less any
35 charges expended in accordance with the terms of the contract,
36 lease or agreement and less any rent due and owing at the time of
37 displacement.

38 Within five business days after a lease terminates as described in
39 section 3 of P.L. , c. (C.) (pending before the Legislature as
40 this bill), the owner or lessee shall have available and return to the
41 tenant or the tenant's designated agent upon his demand any money
42 or advance of rent deposited as security plus the tenant's portion of
43 the interest or earnings accumulated thereon, less any charges
44 expended in accordance with the terms of the contract, lease or
45 agreement and less any rent due and owing at the time of the lease
46 terminated. If multiple tenants individually contributed
47 distinguishable shares of a security deposit, the owner or lessee

1 shall return, as described in this paragraph, each share separately to
2 the tenant from whom the share was received.

3 Such net sum shall continue to be available to be returned upon
4 demand during normal business hours for a period of 30 days at a
5 location in the same municipality in which the subject leased
6 property is located and shall be accompanied by an itemized
7 statement of the interest or earnings and any deductions. The owner
8 or lessee may, by mutual agreement with the municipal clerk, have
9 the municipal clerk of the municipality in which the subject leased
10 property is located return said net sum in the same manner. Within
11 three business days after receiving notification of the displacement,
12 the owner or lessee shall provide written notice to a displaced
13 tenant by personal delivery or mail to the tenant's last known
14 address. In the event that a lease terminates as described in section
15 3 of P.L. , c. (C.) (pending before the Legislature as this bill),
16 within three business days after the termination, the owner or lessee
17 shall provide written notice to the victim of domestic violence by
18 personal delivery or mail to the tenant's last known address. Such
19 notice shall include, but not be limited to, the location at which and
20 the hours and days during which said net sum shall be available to
21 him. The owner or lessee shall provide a duplicate notice in the
22 same manner to the relocation officer. Where a relocation officer
23 has not been designated, the duplicate notice shall be provided to
24 the municipal clerk. When the last known address of the tenant is
25 that from which he was displaced and the mailbox of that address is
26 not accessible during normal business hours, the owner or lessee
27 shall also post such notice at each exterior public entrance of the
28 property from which the tenant was displaced. Notwithstanding the
29 provisions of P.L.1963, c.73 (C.47:1A-1 et seq.), or any other law
30 to the contrary, the municipal clerk, and any designee, agent or
31 employee of the municipal clerk, shall not knowingly disclose or
32 otherwise make available personal information about any victim of
33 domestic abuse that the clerk or any designee, agent or employee
34 has obtained pursuant to the procedures described in section 3 of
35 P.L.1971, c.223 (C.46:8-21.1).

36 Any such net sum not demanded by and returned to the tenant or
37 the tenant's designated agent within the period of 30 days shall be
38 redeposited or reinvested by the owner or lessee in an appropriate
39 interest bearing or dividend yielding account in the same investment
40 company, State or federally chartered bank, savings bank or savings
41 and loan association from which it was withdrawn. In the event that
42 said displaced tenant resumes occupancy of the premises, said
43 tenant shall redeliver to the owner or lessee one-third of the security
44 deposit immediately, one-third in 30 days and one-third 60 days
45 from the date of reoccupancy. Upon the failure of said tenant to
46 make such payments of the security deposit, the owner or lessee
47 may institute legal action for possession of the premises in the same
48 manner that is authorized for nonpayment of rent.

1 The Commissioner of Community Affairs, the Public Advocate,
2 the Attorney General, or any State entity which made deposits on
3 behalf of a tenant may impose a civil penalty against an owner or
4 lessee who has willfully and intentionally withheld deposits in
5 violation of section 1 of P.L.1967, c.265 (C.46:8-19), when the
6 deposits were made by or on behalf of a tenant who has received
7 financial assistance through any State or federal program, including
8 welfare or rental assistance. An owner or lessee of a tenant on
9 whose behalf deposits were made by a State entity and who has
10 willfully and intentionally withheld such deposits in violation of
11 this section shall be liable for a civil penalty of not less than \$500
12 or more than \$2,000 for each offense. The penalty prescribed in
13 this paragraph shall be collected and enforced by summary
14 proceedings pursuant to the "Penalty Enforcement Law of 1999,"
15 P.L.1999, c.274 (C.2A:58-10 et seq.). The State entity which made
16 such deposits on behalf of a tenant shall be entitled to any penalty
17 amounts recovered pursuant to such proceedings.

18 In any action by a tenant, licensee, executor, administrator or
19 surviving spouse, or other person acting on behalf of a tenant,
20 licensee, executor, administrator or surviving spouse, for the return
21 of moneys due under this section, the court upon finding for the
22 tenant, licensee, executor, administrator or surviving spouse shall
23 award recovery of double the amount of said moneys, together with
24 full costs of any action and, in the court's discretion, reasonable
25 attorney's fees.

26 (cf: P.L.2007, c.9, s.2)

27

28 10. This act shall take effect immediately.

29

30

31

STATEMENT

32

33 The bill permits a victim of domestic violence to terminate a
34 lease agreement by providing the landlord written notice
35 accompanied by evidence of domestic abuse. The victim may use a
36 restraining order against another person or a criminal complaint as
37 evidence to terminate the victim's lease.

38 Under this legislation, a lease for residential property terminates
39 40 days after the victim of domestic violence gives the victim's
40 landlord written notice. The tenant remains responsible for rent
41 through this period. Any co-tenants may make a new lease with the
42 landlord.

43 This legislation also provides procedures for the victim to
44 recover the victim's security deposit without returning to the leased
45 premises and without providing a forwarding address to the
46 landlord. The victim or the landlord may choose that the municipal
47 clerk return the deposit. This bill also forbids the landlord or the
48 clerk to disclose the victim's personal information.

ASSEMBLY HOUSING AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2871

with committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 15, 2008

The Assembly Housing and Local Government Committee reports favorably and with committee amendments Assembly Bill No. 2871.

As amended by the committee, this bill supplements the procedures already available to a victim of domestic violence who wishes terminate a residential lease. The Legislature has found that landlord cooperation is a key component in combating domestic abuse in this State. If enacted, this legislation would permit a victim of domestic violence to terminate a lease agreement at the victim's option by providing a landlord with written notice accompanied by evidence of domestic violence. As amended, the bill specifies that the written notice indicate that the tenant fears harm from another person if the tenant remains on the leased premises. Pursuant to the bill's provisions, the victim may use a restraining order, a law enforcement agency record, the certification of a professional, or medical documentation as evidence of domestic violence.

This legislation provides that, when the tenant acts in good faith, the lease agreement terminates 30 days after the tenant provides notice accompanied by evidence. This new procedure for terminating a lease operates in addition to other grounds for good cause to terminate a lease. The bill also permits co-tenants of the individual breaking a lease agreement to hold over with the landlord's permission after the lease agreement is broken. This legislation also does not alter the existing duty of the landlord to mitigate damages when a tenancy ends.

Under the bill as amended, the landlord must return the victim's security deposit 15 days after the lease terminates. This legislation establishes procedures that permit the victim to recover a security deposit without returning to the previously leased premises and without providing a forwarding address to the landlord. The victim or the landlord may choose that the municipal clerk return the deposit. This bill also prohibits disclosure of the victim's personal information by the landlord or the clerk.

As amended, this legislation does not apply to seasonal rentals with terms of 125 days or less.

COMMITTEE AMENDMENTS

The committee amended the bill to:

(1) Refine the legislative findings to clarify that community participation and cooperation are critical to eliminating the problem of domestic violence in New Jersey.

(2) Eliminate ambiguous language in the first paragraph of section 3, and to require the domestic violence victim's lease to terminate if the tenant gives proper notice pursuant to subsections a. and b.

Eliminate ambiguous language in section 3 that appeared to limit a tenant's currently existing rights to terminate a lease.

(3) Specify that the victim of domestic violence must fulfill all the procedural requirements of the bill in order to terminate the lease.

(4) Specify that the tenant must notify the landlord that the tenant fears imminent harm on the leased premises.

(5) Broaden the category of evidence of domestic violence that a victim may use to terminate the lease pursuant to the bill to include:

- Certification from a law enforcement agency or officer that the victim is a victim of domestic violence
- Medical documentation that the tenant or child is victim of domestic abuse
- Certification of the domestic violence from either a Certified Domestic Violence Specialist or the director of a domestic violence agency
- Documentation or certification of the domestic violence provided by a licensed social worker

(6) Provide that a lease termination takes effect 30 days after written notice of termination from a victim of domestic abuse to a landlord.

(7) Modify conditional language in section 4 of the bill to make it stylistically consistent with existing language in the general laws.

(8) Specify in section 4 that a domestic violence victim's lease only ends if the victim follows all procedures required to terminate the lease and acts in good faith.

(9) Make technical corrections to subsection c. of section 4 to specify that this bill operates within the procedures already established for the grounds for removal of tenants in Title 2A of the New Jersey Statutes.

(10) Eliminate reference to landlord's duty to mitigate damages, which is redundant because the duty to mitigate exists in law already.

(11) Replace the term "domestic abuse" in sections 8 and 9 of the bill with the term "domestic violence" to make the language of this bill internally consistent and to conform terminology in the bill the language already used in the Statutes.

(12) Require a landlord to return a security deposit within 15 days to a tenant terminating a lease pursuant to this legislation.

(13) Provide that this new procedure does not apply in the case of seasonal rentals with terms of 125 days or less.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 2871

STATE OF NEW JERSEY

DATED: OCTOBER 2, 2008

The Senate Community and Urban Affairs Committee reports favorably Assembly Bill No. 2871 (1R).

This bill supplements the procedures already available to a victim of domestic violence who wishes to terminate a residential lease. The bill permits a victim of domestic violence to terminate a lease agreement by providing a landlord with written notice accompanied by evidence of domestic violence.

When the tenant acts in good faith, the lease agreement terminates 30 days after the tenant provides notice accompanied by evidence of domestic violence. This new procedure for terminating a lease operates in addition to other grounds for good cause to terminate a lease. The bill also permits co-tenants of the individual breaking a lease agreement to hold over with the landlord's permission after the lease agreement is broken. This legislation does not alter the existing duty of the landlord to mitigate damages when a tenancy ends.

Under the bill, the landlord must return the victim's security deposit 15 days after the lease terminates. This legislation establishes procedures that permit the victim to recover a security deposit without having to return to the previously leased premises and without providing a forwarding address to the landlord. The victim or the landlord may choose that the municipal clerk return the deposit. This bill also prohibits disclosure of the victim's personal information by the landlord or the clerk.

The bill does not apply to seasonal rentals with terms of 125 days or less.

This bill is identical to Senate, No. 1894, as amended and reported by the committee today.

SENATE, No. 1894

STATE OF NEW JERSEY
213th LEGISLATURE

INTRODUCED JUNE 5, 2008

Sponsored by:

Senator FRED H. MADDEN, JR.

District 4 (Camden and Gloucester)

Senator DANA L. REDD

District 5 (Camden and Gloucester)

SYNOPSIS

Permits victim of domestic abuse to terminate residential lease under certain circumstances; provides procedure for tenant to recover security deposit.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning termination of lease agreements in rental
2 premises, supplementing Title 46 of the Revised Statutes, and
3 amending P.L.1971, c.223.

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

7
8 1. (New section) Sections 1 through 8 of P.L. , c. (C.)
9 (pending before the Legislature as this bill) shall be known and may
10 be cited as the “New Jersey Safe Housing Act.”

11
12 2. (New section) The Legislature finds and declares:

13 a. Domestic violence is a serious crime that materially affects
14 the health and safety of numerous New Jersey tenants and there are
15 thousands of persons in this State who are regularly beaten,
16 tortured, sexually assaulted and, in some cases, killed by their
17 spouses or cohabitants;

18 b. The inability to terminate a lease and its corresponding
19 financial obligations may prevent domestic violence victims from
20 leaving abusive relationships and seeking help;

21 c. Domestic violence victims require an efficient method of
22 terminating their lease obligations to escape abuse without that
23 damaging their credit and rental history and, consequently, their
24 ability to secure other safe housing; and

25 d. Ongoing domestic abuse presents a risk and a nuisance to
26 neighbors and the landlord of the property where the violence
27 occurs.

28
29 3. (New section) Any lease of a residential property that has
30 been leased and used by the tenant solely for the purpose of
31 providing a dwelling place for the tenant, or for the tenant’s family,
32 may be terminated prior to the expiration date thereof, only if the
33 tenant provides the landlord with:

34 a. written notice that the tenant or a child of the tenant faces an
35 imminent threat of serious physical harm from another named
36 person if the tenant remains on the premises; and

37 b. a certified copy of either of the following:

38 (1) a permanent restraining order issued by a court pursuant to
39 section 13 of “The Domestic Violence Protection Act of 1991,” P.L.
40 1991, c.261 (C.2C:25-29), and protecting the tenant from the person
41 named in the written notice; or

42 (2) a permanent restraining order from another jurisdiction,
43 issued pursuant to the jurisdiction’s laws concerning domestic
44 violence, and protecting the tenant from the person named in the
45 written notice.

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 4. (New section) a. Lease terminations pursuant to section 3 of
2 P.L. , c. (C.) (pending before the Legislature as this bill)
3 shall take effect on the fortieth day following receipt by the
4 landlord of notice complying with section 3 of P.L. , c. (C.)
5 (pending before the Legislature as this bill), unless the landlord and
6 tenant agree on an earlier termination date. The rent shall be paid,
7 pro rata, up to the time a lease terminates pursuant to this section.

8 b. A lease will terminate under section 3 of P.L. , c. (C.)
9 (pending before the Legislature as this bill) only if the victim of
10 domestic violence acts in good faith in terminating the lease.

11 c. If there are tenants on the lease other than the tenant who has
12 given notice of termination as described in section 3 of P.L. ,
13 c. (pending before the Legislature as this bill) is a victim of
14 domestic abuse, those co-tenants' lease also terminates. The co-
15 tenants who did not give notice may be released from any financial
16 obligations due under the previously existing rental agreement and
17 the may enter into a new lease with the landlord. Nothing this
18 section shall prohibit any co-tenants of the victim of domestic
19 violence from holding over if holding over is permitted by the
20 landlord.

21 d. The tenant's liability for rent under this subsection is subject
22 to any duty of the landlord to mitigate damages.

23

24 5. (New section) Where the leased premises are under the
25 control of a public housing authority or redevelopment agency, the
26 victim of domestic violence shall give notice in accordance with
27 any relevant regulations pertaining to public housing leases. When
28 the terms of the tenancy are controlled by a publicly-funded
29 housing assistance contract, notice and security deposit terms,
30 requirements, and protections shall conform and be subject to
31 restrictions, limitations or other requirements imposed by State or
32 federal law.

33

34 6. (New section) The parties to a lease agreement creating a
35 tenancy in residential rental property may not agree to waive any
36 rights or remedies arising under P.L. , c. (C.) (pending before
37 the Legislature as this bill).

38

39 7. (New section) Nothing in P.L. , c. (C.) (pending before
40 the Legislature as this bill) shall operate to alter, limit or impair the
41 terms of lease agreements existing at the time of the adoption of
42 P.L. , c. (C.) (pending before the Legislature as this bill).

43

44 8. (New section) A landlord shall not disclose information
45 documenting domestic abuse that has been provided to the landlord
46 by a victim of domestic abuse pursuant to section 3 of P.L. , c.
47 (C.) (pending before the Legislature as this bill). The information
48 shall not be entered into any shared database or provided to any

1 person or entity, but may be used when required as evidence in an
2 eviction proceeding, action for unpaid rent or damages arising out
3 the tenancy, with the consent of the tenant, or as otherwise required
4 by law.

5

6 9. Section 3 of P.L.1971, c.223 (C.46:8-21.1) is amended to read
7 as follows:

8 3. Within 30 days after the termination of the tenant's lease or
9 licensee's agreement, the owner or lessee shall return by personal
10 delivery, registered or certified mail the sum so deposited plus the
11 tenant's portion of the interest or earnings accumulated thereon, less
12 any charges expended in accordance with the terms of a contract,
13 lease, or agreement, to the tenant or licensee, or, in the case of a
14 lease terminated pursuant to P.L.1971, c.318 (C.46:8-9.1), the
15 executor or administrator of the estate of the tenant or licensee or
16 the surviving spouse of the tenant or licensee so terminating the
17 lease. The interest or earnings and any such deductions shall be
18 itemized and the tenant, licensee, executor, administrator or
19 surviving spouse notified thereof by personal delivery, registered or
20 certified mail. Notwithstanding the provisions of this or any other
21 section of law to the contrary, no deductions shall be made from a
22 security deposit of a tenant who remains in possession of the rental
23 premises.

24 Within five business days after:

25 a. the tenant is caused to be displaced by fire, flood,
26 condemnation, or evacuation, and

27 b. an authorized public official posts the premises with a notice
28 prohibiting occupancy; or

29 c. any building inspector, in consultation with a relocation
30 officer, where applicable, has certified within 48 hours that
31 displacement is expected to continue longer than seven days and has
32 so notified the owner or lessee in writing, the owner or lessee shall
33 have available and return to the tenant or the tenant's designated
34 agent upon his demand the sum so deposited plus the tenant's
35 portion of the interest or earnings accumulated thereon, less any
36 charges expended in accordance with the terms of the contract,
37 lease or agreement and less any rent due and owing at the time of
38 displacement.

39 Within five business days after a lease terminates as described in
40 section 3 of P.L. , c. (C.) (pending before the Legislature as
41 this bill), the owner or lessee shall have available and return to the
42 tenant or the tenant's designated agent upon his demand any money
43 or advance of rent deposited as security plus the tenant's portion of
44 the interest or earnings accumulated thereon, less any charges
45 expended in accordance with the terms of the contract, lease or
46 agreement and less any rent due and owing at the time of the lease
47 terminated.

1 Such net sum shall continue to be available to be returned upon
2 demand during normal business hours for a period of 30 days at a
3 location in the same municipality in which the subject leased
4 property is located and shall be accompanied by an itemized
5 statement of the interest or earnings and any deductions. The owner
6 or lessee may, by mutual agreement with the municipal clerk, have
7 the municipal clerk of the municipality in which the subject leased
8 property is located return said net sum in the same manner. Within
9 three business days after receiving notification of the displacement,
10 the owner or lessee shall provide written notice to a displaced
11 tenant by personal delivery or mail to the tenant's last known
12 address. In the event that a lease terminates as described in section
13 3 of P.L. , c. (C.) (pending before the Legislature as this bill),
14 within three business days after the termination, the owner or lessee
15 shall provide written notice to the victim of domestic violence by
16 personal delivery or mail to the tenant's last known address. Such
17 notice shall include, but not be limited to, the location at which and
18 the hours and days during which said net sum shall be available to
19 him. The owner or lessee shall provide a duplicate notice in the
20 same manner to the relocation officer. Where a relocation officer
21 has not been designated, the duplicate notice shall be provided to
22 the municipal clerk. When the last known address of the tenant is
23 that from which he was displaced and the mailbox of that address is
24 not accessible during normal business hours, the owner or lessee
25 shall also post such notice at each exterior public entrance of the
26 property from which the tenant was displaced. Notwithstanding the
27 provisions of P.L.1963, c.73 (C.47:1A-1 et seq.), or any other law
28 to the contrary, the municipal clerk, and any designee, agent or
29 employee of the municipal clerk, shall not knowingly disclose or
30 otherwise make available personal information about any victim of
31 domestic abuse that the clerk or any designee, agent or employee
32 has obtained pursuant to the procedures described in section 3 of
33 P.L.1971, c.223 (C.46:8-21.1).

34 Any such net sum not demanded by and returned to the tenant or
35 the tenant's designated agent within the period of 30 days shall be
36 redeposited or reinvested by the owner or lessee in an appropriate
37 interest bearing or dividend yielding account in the same investment
38 company, State or federally chartered bank, savings bank or savings
39 and loan association from which it was withdrawn. In the event that
40 said displaced tenant resumes occupancy of the premises, said
41 tenant shall redeliver to the owner or lessee one-third of the security
42 deposit immediately, one-third in 30 days and one-third 60 days
43 from the date of reoccupancy. Upon the failure of said tenant to
44 make such payments of the security deposit, the owner or lessee
45 may institute legal action for possession of the premises in the same
46 manner that is authorized for nonpayment of rent.

47 The Commissioner of Community Affairs, the Public Advocate,
48 the Attorney General, or any State entity which made deposits on

1 behalf of a tenant may impose a civil penalty against an owner or
2 lessee who has willfully and intentionally withheld deposits in
3 violation of section 1 of P.L.1967, c.265 (C.46:8-19), when the
4 deposits were made by or on behalf of a tenant who has received
5 financial assistance through any State or federal program, including
6 welfare or rental assistance. An owner or lessee of a tenant on
7 whose behalf deposits were made by a State entity and who has
8 willfully and intentionally withheld such deposits in violation of
9 this section shall be liable for a civil penalty of not less than \$500
10 or more than \$2,000 for each offense. The penalty prescribed in
11 this paragraph shall be collected and enforced by summary
12 proceedings pursuant to the "Penalty Enforcement Law of 1999,"
13 P.L.1999, c.274 (C.2A:58-10 et seq.). The State entity which made
14 such deposits on behalf of a tenant shall be entitled to any penalty
15 amounts recovered pursuant to such proceedings.

16 In any action by a tenant, licensee, executor, administrator or
17 surviving spouse, or other person acting on behalf of a tenant,
18 licensee, executor, administrator or surviving spouse, for the return
19 of moneys due under this section, the court upon finding for the
20 tenant, licensee, executor, administrator or surviving spouse shall
21 award recovery of double the amount of said moneys, together with
22 full costs of any action and, in the court's discretion, reasonable
23 attorney's fees.

24 (cf: P.L.2007, c.9, s.2)

25

26 10. This act shall take effect immediately.

27

28

29

STATEMENT

30

31 The bill permits a victim of domestic violence to terminate a
32 lease agreement by providing the landlord written notice
33 accompanied by evidence of domestic abuse. The victim may use a
34 restraining order against another person or a criminal complaint as
35 evidence to terminate the victim's lease.

36 Under this legislation, a lease for residential property terminates
37 40 days after the victim of domestic violence gives the victim's
38 landlord written notice. The tenant remains responsible for rent
39 through this period. Any co-tenants may make a new lease with the
40 landlord.

41 This legislation also provides procedures for the victim to
42 recover the victim's security deposit without returning to the leased
43 premises and without providing a forwarding address to the
44 landlord. The victim or the landlord may choose that the municipal
45 clerk return the deposit. This bill also forbids the landlord or the
46 clerk to disclose the victim's personal information.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 1894

with committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 2, 2008

The Senate Community and Urban Affairs Committee reports favorably and with committee amendments Senate Bill No. 1894.

As amended by the committee, this bill supplements the procedures already available to a victim of domestic violence who wishes terminate a residential lease. This bill, as amended, would permit a victim of domestic violence to terminate a lease agreement by providing a landlord with written notice accompanied by evidence of domestic violence. As amended, the bill specifies that the written notice must indicate that the tenant fears harm from another person if the tenant remains on the leased premises. Pursuant to the bill's provisions, the victim may use a restraining order, a law enforcement agency record, the certification of a professional, or medical documentation as evidence of domestic violence.

This bill, as amended, provides that, when the tenant acts in good faith, the lease agreement terminates 30 days after the tenant provides notice accompanied by evidence. This new procedure for terminating a lease operates in addition to other grounds for good cause to terminate a lease. The bill also permits co-tenants of the individual breaking a lease agreement to hold over with the landlord's permission after the lease agreement is broken. This legislation also does not alter the existing duty of the landlord to mitigate damages when a tenancy ends.

Under the bill as amended, the landlord must return the victim's security deposit 15 days after the lease terminates. This legislation establishes procedures that permit the victim to recover a security deposit without returning to the previously leased premises and without providing a forwarding address to the landlord. The victim or the landlord may choose that the municipal clerk return the deposit. This bill also prohibits disclosure of the victim's personal information by the landlord or the clerk.

As amended, this legislation does not apply to seasonal rentals with terms of 125 days or less.

The committee amended the bill to:

(1) Refine the legislative findings to clarify that community participation and cooperation are critical to eliminating the problem of domestic violence in New Jersey.

(2) Require the domestic violence victim's lease to terminate if the tenant gives proper notice.

(3) Specify that the victim of domestic violence must fulfill all the procedural requirements of the bill in order to terminate the lease.

(4) Specify that the tenant must notify the landlord that the tenant fears imminent harm on the leased premises.

(5) Broaden the category of evidence of domestic violence that a victim may use to terminate the lease pursuant to the bill to include:

- Certification from a law enforcement agency or officer that the tenant is a victim of domestic violence
- Medical documentation that the tenant or child is victim of domestic abuse
- Certification of the domestic violence from either a Certified Domestic Violence Specialist or the director of a domestic violence agency
- Documentation or certification of the domestic violence provided by a licensed social worker

(6) Provide that a lease termination takes effect 30 days after written notice of termination from a victim of domestic violence to a landlord.

(7) Replace the term "domestic abuse" in sections 8 and 9 of the bill with the term "domestic violence" to make the language of this bill internally consistent and to conform terminology in the bill with language already used in the Statutes.

(8) Require a landlord to return a security deposit within 15 days to a tenant terminating a lease pursuant to this legislation.

(9) Provide that this new procedure does not apply in the case of seasonal rentals with terms of 125 days or less.