

2A:18-61.1

LEGISLATIVE HISTORY CHECKLIST

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(Eviction)

NJSA: 2A:18-61.1

LAWS OF: 1997 CHAPTER: 228

BILL NO: S1093

SPONSOR(S): Bryant

DATE INTRODUCED: May 9, 1996

COMMITTEE: ASSEMBLY: ---

SENATE: Urban Policy

AMENDED DURING PASSAGE: Yes Amendments during passage denoted
Second reprint enacted by superscript numbers

DATE OF PASSAGE: ASSEMBLY: May 22, 1997

SENATE: October 24, 1996

DATE OF APPROVAL: August 25, 1997

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: No

SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

See newspaper clipping--attached:

"Bill allows eviction...", 8-26-97, Atlantic City Press.

Also attached: Federal guidelines--as mentioned in statements.

KBP:pp

P.L. 1997, CHAPTER 228, *approved August 25, 1997*
Senate, No. 1093 (*First Reprint*)

1 AN ACT concerning procedures for eviction from certain rental
2 premises and amending P.L.1974, c.49.

3

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

6

7 1. Section 2 of P.L.1974, c.49 (C.2A:18-61.1) is amended to read
8 as follows:

9 2. No lessee or tenant or the assigns, under-tenants or legal
10 representatives of such lessee or tenant may be removed by the
11 Superior Court from any house, building, mobile home or land in a
12 mobile home park or tenement leased for residential purposes, other
13 than (1)owner-occupied premises with not more than two rental units
14 or a hotel, motel or other guest house or part thereof rented to a
15 transient guest or seasonal tenant; (2) a dwelling unit which is held in
16 trust on behalf of a member of the immediate family of the person or
17 persons establishing the trust, provided that the member of the
18 immediate family on whose behalf the trust is established permanently
19 occupies the unit; and (3) a dwelling unit which is permanently
20 occupied by a member of the immediate family of the owner of that
21 unit, provided, however, that exception (2) or (3) shall apply only in
22 cases in which the member of the immediate family has a
23 developmental disability, except upon establishment of one of the
24 following grounds as good cause:

25 a. The person fails to pay rent due and owing under the lease
26 whether the same be oral or written.

27 b. The person has continued to be, after written notice to cease, so
28 disorderly as to destroy the peace and quiet of the occupants or other
29 tenants living in said house or neighborhood.

30 c. The person has willfully or by reason of gross negligence caused

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly floor amendments adopted March 13, 1997.

1 or allowed destruction, damage or injury to the premises.

2 d. The person has continued, after written notice to cease, to
3 substantially violate or breach any of the landlord's rules and
4 regulations governing said premises, provided such rules and
5 regulations are reasonable and have been accepted in writing by the
6 tenant or made a part of the lease at the beginning of the lease term.

7 e. (1) The person has continued, after written notice to cease, to
8 substantially violate or breach any of the covenants or agreements
9 contained in the lease for the premises where a right of reentry is
10 reserved to the landlord in the lease for a violation of such covenant
11 or agreement, provided that such covenant or agreement is reasonable
12 and was contained in the lease at the beginning of the lease term.

13 (2) In public housing under the control of a public housing
14 authority or redevelopment agency, the person has substantially
15 violated or breached any of the covenants or agreements contained in
16 the lease for the premises pertaining to illegal uses of controlled
17 dangerous substances, or other illegal activities, whether or not a right
18 of reentry is reserved to the landlord in the lease for a violation of such
19 covenant or agreement, provided that such covenant or agreement
20 conforms to federal guidelines regarding such lease provisions and was
21 contained in the lease at the beginning of the lease term.

22 f. The person has failed to pay rent after a valid notice to quit and
23 notice of increase of said rent, provided the increase in rent is not
24 unconscionable and complies with any and all other laws or municipal
25 ordinances governing rent increases.

26 g. The landlord or owner (1) seeks to permanently board up or
27 demolish the premises because he has been cited by local or State
28 housing inspectors for substantial violations affecting the health and
29 safety of tenants and it is economically unfeasible for the owner to
30 eliminate the violations; (2) seeks to comply with local or State
31 housing inspectors who have cited him for substantial violations
32 affecting the health and safety of tenants and it is unfeasible to so
33 comply without removing the tenant; simultaneously with service of
34 notice of eviction pursuant to this clause, the landlord shall notify the
35 Department of Community Affairs of the intention to institute
36 proceedings and shall provide the department with such other
37 information as it may require pursuant to rules and regulations. The
38 department shall inform all parties and the court of its view with
39 respect to the feasibility of compliance without removal of the tenant
40 and may in its discretion appear and present evidence; (3) seeks to
41 correct an illegal occupancy because he has been cited by local or
42 State housing inspectors or zoning officers and it is unfeasible to
43 correct such illegal occupancy without removing the tenant; or (4) is
44 a governmental agency which seeks to permanently retire the premises
45 from the rental market pursuant to a redevelopment or land clearance
46 plan in a blighted area. In those cases where the tenant is being

1 removed for any reason specified in this subsection, no warrant for
2 possession shall be issued until P.L.1967, c.79 (C.52:31B-1 et seq.)
3 and P.L.1971, c.362 (C.20:4-1 et seq.) have been complied with.

4 h. The owner seeks to retire permanently the residential building
5 or the mobile home park from residential use or use as a mobile home
6 park, provided this subsection shall not apply to circumstances
7 covered under subsection g. of this section.

8 i. The landlord or owner proposes, at the termination of a lease,
9 reasonable changes of substance in the terms and conditions of the
10 lease, including specifically any change in the term thereof, which the
11 tenant, after written notice, refuses to accept; provided that in cases
12 where a tenant has received a notice of termination pursuant to
13 subsection g. of section 3 of P.L.1974, c.49 (C.2A:18-61.2), or has a
14 protected tenancy status pursuant to section 9 of the "Senior Citizens
15 and Disabled Protected Tenancy Act," P.L.1981, c.226
16 (C.2A:18-61.30), or pursuant to the "Tenant Protection Act of 1992,"
17 P.L.1991, c.509 (C.2A:18-61.40 et al.), the landlord or owner shall
18 have the burden of proving that any change in the terms and conditions
19 of the lease, rental or regulations both is reasonable and does not
20 substantially reduce the rights and privileges to which the tenant was
21 entitled prior to the conversion.

22 j. The person, after written notice to cease, has habitually and
23 without legal justification failed to pay rent which is due and owing.

24 k. The landlord or owner of the building or mobile home park is
25 converting from the rental market to a condominium, cooperative or
26 fee simple ownership of two or more dwelling units or park sites,
27 except as hereinafter provided in subsection l. of this section. Where
28 the tenant is being removed pursuant to this subsection, no warrant for
29 possession shall be issued until this act has been complied with. No
30 action for possession shall be brought pursuant to this subsection
31 against a senior citizen tenant or disabled tenant with protected
32 tenancy status pursuant to the "Senior Citizens and Disabled Protected
33 Tenancy Act," P.L.1981, c.226 (C.2A:18-61.22 et al.), or against a
34 qualified tenant under the "Tenant Protection Act of 1992," P.L.1991,
35 c.509 (C.2A:18-61.40 et al.), as long as the agency has not terminated
36 the protected tenancy status or the protected tenancy period has not
37 expired.

38 l. (1) The owner of a building or mobile home park, which is
39 constructed as or being converted to a condominium, cooperative or
40 fee simple ownership, seeks to evict a tenant or sublessee whose initial
41 tenancy began after the master deed, agreement establishing the
42 cooperative or subdivision plat was recorded, because the owner has
43 contracted to sell the unit to a buyer who seeks to personally occupy
44 it and the contract for sale calls for the unit to be vacant at the time of
45 closing. However, no action shall be brought against a tenant under
46 paragraph (1) of this subsection unless the tenant was given a

1 statement in accordance with section 6 of P.L.1975, c.311
2 (C.2A:18-61.9);

3 (2) The owner of three or less condominium or cooperative units
4 seeks to evict a tenant whose initial tenancy began by rental from an
5 owner of three or less units after the master deed or agreement
6 establishing the cooperative was recorded, because the owner seeks to
7 personally occupy the unit, or has contracted to sell the unit to a buyer
8 who seeks to personally occupy it and the contract for sale calls for
9 the unit to be vacant at the time of closing;

10 (3) The owner of a building of three residential units or less seeks
11 to personally occupy a unit, or has contracted to sell the residential
12 unit to a buyer who wishes to personally occupy it and the contract for
13 sale calls for the unit to be vacant at the time of closing.

14 m. The landlord or owner conditioned the tenancy upon and in
15 consideration for the tenant's employment by the landlord or owner as
16 superintendent, janitor or in some other capacity and such employment
17 is being terminated.

18 n. The person has been convicted of or pleaded guilty to, or if a
19 juvenile, has been adjudicated delinquent on the basis of an act which
20 if committed by an adult would constitute an offense under the
21 "Comprehensive Drug Reform Act of 1987," N.J.S.2C:35-1 et al.
22 involving the use, possession, manufacture, dispensing or distribution
23 of a controlled dangerous substance, controlled dangerous substance
24 analog or drug paraphernalia within the meaning of that act within or
25 upon the leased premises or the building or complex of buildings and
26 land appurtenant thereto, or the mobile home park, in which those
27 premises are located, and has not in connection with his sentence for
28 that offense either (1) successfully completed or (2) been admitted to
29 and continued upon probation while completing, a drug rehabilitation
30 program pursuant to N.J.S.2C:35-14; or, being the tenant or lessee of
31 such leased premises, knowingly harbors or harbored therein a person
32 who has been so convicted or has so pleaded, or otherwise permits or
33 permitted such a person to occupy those premises for residential
34 purposes, whether continuously or intermittently, except that this
35 subsection shall not apply to a person harboring or permitting a
36 juvenile to occupy the premises if the juvenile has been adjudicated
37 delinquent upon the basis of an act which if committed by an adult
38 would constitute the offense of use or possession under the said act.
39 No action for removal may be brought pursuant to this subsection
40 more than two years after the date of the adjudication or conviction or
41 more than two years after the person's release from incarceration
42 whichever is the later.

43 o. The person has been convicted of or pleaded guilty to, or if a
44 juvenile, has been adjudicated delinquent on the basis of an act which
45 if committed by an adult would constitute an offense under
46 N.J.S.2C:12-1 or N.J.S.2C:12-3 involving assault, or terroristic threats

1 against the landlord, a member of the landlord's family or an employee
2 of the landlord; or, being the tenant or lessee of such leased premises,
3 knowingly harbors or harbored therein a person who has been so
4 convicted or has so pleaded, or otherwise permits or permitted such
5 a person to occupy those premises for residential purposes, whether
6 continuously or intermittently. No action for removal may be brought
7 pursuant to this subsection more than two years after the adjudication
8 or conviction or more than two years after the person's release from
9 incarceration whichever is the later.

10 p. The person has been found, by a preponderance of the evidence,
11 liable in a civil action for removal commenced under this act for an
12 offense under N.J.S.2C:12-1 or N.J.S.2C:12-3 involving assault or
13 terroristic threats against the landlord, a member of the landlord's
14 family or an employee of the landlord, or under the "Comprehensive
15 Drug Reform Act of 1987," N.J.S.2C:35-1 et al., involving the use,
16 possession, manufacture, dispensing or distribution of a controlled
17 dangerous substance, controlled dangerous substance analog or drug
18 paraphernalia within the meaning of that act within or upon the leased
19 premises or the building or complex of buildings and land appurtenant
20 thereto, or the mobile home park, in which those premises are located,
21 and has not in connection with his sentence for that offense either (1)
22 successfully completed or (2) been admitted to and continued upon
23 probation while completing a drug rehabilitation program pursuant to
24 N.J.S.2C:35-14; or, being the tenant or lessee of such leased premises,
25 knowingly harbors or harbored therein a person who committed such
26 an offense, or otherwise permits or permitted such a person to occupy
27 those premises for residential purposes, whether continuously or
28 intermittently, except that this subsection shall not apply to a person
29 who harbors or permits a juvenile to occupy the premises if the
30 juvenile has been adjudicated delinquent upon the basis of an act which
31 if committed by an adult would constitute the offense of use or
32 possession under the said "Comprehensive Drug Reform Act of 1987."

33 For purposes of this section, (1) "developmental disability" means
34 any disability which is defined as such pursuant to section 3 of
35 P.L.1977, c.82 (C.30:6D-3); (2) "member of the immediate family"
36 means a person's spouse, parent, child or sibling, or a spouse, parent,
37 child or sibling of any of them; and (3) "permanently" occupies or
38 occupied means that the occupant maintains no other domicile at
39 which the occupant votes, pays rent or property taxes or at which rent
40 or property taxes are paid on the occupant's behalf.

41 (cf: P.L.1995, c.269, s.1)

42

43 2. Section 3 of P.L.1974, c.49 (C.2A:18-61.2) is amended to read
44 as follows:

45 3. No judgment of possession shall be entered for any premises
46 covered by section 2 of this act, except in the nonpayment of rent

1 under subsection a. or f. of section 2, unless the landlord has made
2 written demand and given written notice for delivery of possession of
3 the premises. The following notice shall be required:

4 a. For an action alleging disorderly conduct under subsection b. of
5 section 2, [~~or~~ ¹or¹ injury to the premises under subsection c. of
6 section 2 , ¹[any grounds under paragraph (2) of subsection e. of
7 section 2.]¹ or any grounds under subsection m., n., o. or p. of section
8 2, three days' notice prior to the institution of the action for
9 possession;

10 b. For an action alleging continued violation of rules and
11 regulations under subsection d. of section 2, or substantial breach of
12 covenant under subsection e. of section 2, or habitual failure to pay
13 rent, one month's notice prior to the institution of the action for
14 possession;

15 c. For an action alleging any grounds under subsection g. of
16 section 2, three months' notice prior to the institution of the action;

17 d. For an action alleging permanent retirement under subsection h.
18 of section 2, 18 months' notice prior to the institution of the action
19 and, provided that, where there is a lease in effect, no action may be
20 instituted until the lease expires;

21 e. For an action alleging refusal of acceptance of reasonable lease
22 changes under subsection i. of section 2, one month's notice prior to
23 institution of action;

24 f. For an action alleging any grounds under subsection l. of section
25 2, two months' notice prior to the institution of the action and,
26 provided that where there is a written lease in effect no action shall be
27 instituted until the lease expires;

28 g. For an action alleging any grounds under subsection k. of
29 section 2, three years' notice prior to the institution of action, and
30 provided that where there is a written lease in effect, no action shall be
31 instituted until the lease expires.

32 ¹h. In public housing under the control of a public housing
33 authority or redevelopment agency, for an action alleging substantial
34 breach of contract under paragraph (2) of subsection e. of section 2,
35 the period of notice required prior to the institution of an action for
36 possession shall be in accordance with federal regulations pertaining
37 to public housing leases.¹

38 The notice in each of the foregoing instances shall specify in detail
39 the cause of the termination of the tenancy and shall be served either
40 personally upon the tenant or lessee or such person in possession by
41 giving him a copy thereof, or by leaving a copy thereof at his usual
42 place of abode with some member of his family above the age of 14
43 years, or by certified mail; if the certified letter is not claimed, notice
44 shall be sent by regular mail.

45 (cf: P.L.1989, c.294, s.2)

1 3. This act shall take effect on the first day of the fourth month
2 next following enactment.

3

4

5

6

7 Provides for easier eviction of certain drug offenders from public
8 housing projects.

SENATE, No. 1093

STATE OF NEW JERSEY

INTRODUCED MAY 9, 1996

By Senator BRYANT

1 AN ACT concerning procedures for eviction from certain rental
2 premises and amending P.L.1974, c.49.

3

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

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8 as follows:

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11 Superior Court from any house, building, mobile home or land in a
12 mobile home park or tenement leased for residential purposes, other
13 than (1)owner-occupied premises with not more than two rental units
14 or a hotel, motel or other guest house or part thereof rented to a
15 transient guest or seasonal tenant; (2) a dwelling unit which is held in
16 trust on behalf of a member of the immediate family of the person or
17 persons establishing the trust, provided that the member of the
18 immediate family on whose behalf the trust is established permanently
19 occupies the unit; and (3) a dwelling unit which is permanently
20 occupied by a member of the immediate family of the owner of that
21 unit, provided, however, that exception (2) or (3) shall apply only in
22 cases in which the member of the immediate family has a
23 developmental disability, except upon establishment of one of the
24 following grounds as good cause:

25 a. The person fails to pay rent due and owing under the lease
26 whether the same be oral or written.

27 b. The person has continued to be, after written notice to cease, so
28 disorderly as to destroy the peace and quiet of the occupants or other
29 tenants living in said house or neighborhood.

30 c. The person has willfully or by reason of gross negligence caused
31 or allowed destruction, damage or injury to the premises.

32 d. The person has continued, after written notice to cease, to
33 substantially violate or breach any of the landlord's rules and
34 regulations governing said premises, provided such rules and

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

Matter underlined thus is new matter.

1 regulations are reasonable and have been accepted in writing by the
2 tenant or made a part of the lease at the beginning of the lease term.

3 e. (1) The person has continued, after written notice to cease, to
4 substantially violate or breach any of the covenants or agreements
5 contained in the lease for the premises where a right of reentry is
6 reserved to the landlord in the lease for a violation of such covenant
7 or agreement, provided that such covenant or agreement is reasonable
8 and was contained in the lease at the beginning of the lease term.

9 (2) In public housing under the control of a public housing
10 authority or redevelopment agency, the person has substantially
11 violated or breached any of the covenants or agreements contained in
12 the lease for the premises pertaining to illegal uses of controlled
13 dangerous substances, or other illegal activities, whether or not a right
14 of reentry is reserved to the landlord in the lease for a violation of such
15 covenant or agreement, provided that such covenant or agreement
16 conforms to federal guidelines regarding such lease provisions and was
17 contained in the lease at the beginning of the lease term.

18 f. The person has failed to pay rent after a valid notice to quit and
19 notice of increase of said rent, provided the increase in rent is not
20 unconscionable and complies with any and all other laws or municipal
21 ordinances governing rent increases.

22 g. The landlord or owner (1) seeks to permanently board up or
23 demolish the premises because he has been cited by local or State
24 housing inspectors for substantial violations affecting the health and
25 safety of tenants and it is economically unfeasible for the owner to
26 eliminate the violations; (2) seeks to comply with local or State
27 housing inspectors who have cited him for substantial violations
28 affecting the health and safety of tenants and it is unfeasible to so
29 comply without removing the tenant; simultaneously with service of
30 notice of eviction pursuant to this clause, the landlord shall notify the
31 Department of Community Affairs of the intention to institute
32 proceedings and shall provide the department with such other
33 information as it may require pursuant to rules and regulations. The
34 department shall inform all parties and the court of its view with
35 respect to the feasibility of compliance without removal of the tenant
36 and may in its discretion appear and present evidence; (3) seeks to
37 correct an illegal occupancy because he has been cited by local or
38 State housing inspectors or zoning officers and it is unfeasible to
39 correct such illegal occupancy without removing the tenant; or (4) is
40 a governmental agency which seeks to permanently retire the premises
41 from the rental market pursuant to a redevelopment or land clearance
42 plan in a blighted area. In those cases where the tenant is being
43 removed for any reason specified in this subsection, no warrant for
44 possession shall be issued until P.L.1967, c.79 (C.52:31B-1 et seq.)
45 and P.L.1971, c.362 (C.20:4-1 et seq.) have been complied with.

46 h. The owner seeks to retire permanently the residential building

1 or the mobile home park from residential use or use as a mobile home
2 park, provided this subsection shall not apply to circumstances
3 covered under subsection g. of this section.

4 i. The landlord or owner proposes, at the termination of a lease,
5 reasonable changes of substance in the terms and conditions of the
6 lease, including specifically any change in the term thereof, which the
7 tenant, after written notice, refuses to accept; provided that in cases
8 where a tenant has received a notice of termination pursuant to
9 subsection g. of section 3 of P.L.1974, c.49 (C.2A:18-61.2), or has a
10 protected tenancy status pursuant to section 9 of the "Senior Citizens
11 and Disabled Protected Tenancy Act," P.L.1981, c.226
12 (C.2A:18-61.30), or pursuant to the "Tenant Protection Act of 1992,"
13 P.L.1991, c.509 (C.2A:18-61.40 et al.), the landlord or owner shall
14 have the burden of proving that any change in the terms and conditions
15 of the lease, rental or regulations both is reasonable and does not
16 substantially reduce the rights and privileges to which the tenant was
17 entitled prior to the conversion.

18 j. The person, after written notice to cease, has habitually and
19 without legal justification failed to pay rent which is due and owing.

20 k. The landlord or owner of the building or mobile home park is
21 converting from the rental market to a condominium, cooperative or
22 fee simple ownership of two or more dwelling units or park sites,
23 except as hereinafter provided in subsection l. of this section. Where
24 the tenant is being removed pursuant to this subsection, no warrant for
25 possession shall be issued until this act has been complied with. No
26 action for possession shall be brought pursuant to this subsection
27 against a senior citizen tenant or disabled tenant with protected
28 tenancy status pursuant to the "Senior Citizens and Disabled Protected
29 Tenancy Act," P.L.1981, c.226 (C.2A:18-61.22 et al.), or against a
30 qualified tenant under the "Tenant Protection Act of 1992," P.L.1991,
31 c.509 (C.2A:18-61.40 et al.), as long as the agency has not terminated
32 the protected tenancy status or the protected tenancy period has not
33 expired.

34 l. (1) The owner of a building or mobile home park, which is
35 constructed as or being converted to a condominium, cooperative or
36 fee simple ownership, seeks to evict a tenant or sublessee whose initial
37 tenancy began after the master deed, agreement establishing the
38 cooperative or subdivision plat was recorded, because the owner has
39 contracted to sell the unit to a buyer who seeks to personally occupy
40 it and the contract for sale calls for the unit to be vacant at the time of
41 closing. However, no action shall be brought against a tenant under
42 paragraph (1) of this subsection unless the tenant was given a
43 statement in accordance with section 6 of P.L.1975, c.311
44 (C.2A:18-61.9);

45 (2) The owner of three or less condominium or cooperative units
46 seeks to evict a tenant whose initial tenancy began by rental from an

1 owner of three or less units after the master deed or agreement
2 establishing the cooperative was recorded, because the owner seeks to
3 personally occupy the unit, or has contracted to sell the unit to a buyer
4 who seeks to personally occupy it and the contract for sale calls for
5 the unit to be vacant at the time of closing;

6 (3) The owner of a building of three residential units or less seeks
7 to personally occupy a unit, or has contracted to sell the residential
8 unit to a buyer who wishes to personally occupy it and the contract for
9 sale calls for the unit to be vacant at the time of closing.

10 m. The landlord or owner conditioned the tenancy upon and in
11 consideration for the tenant's employment by the landlord or owner as
12 superintendent, janitor or in some other capacity and such employment
13 is being terminated.

14 n. The person has been convicted of or pleaded guilty to, or if a
15 juvenile, has been adjudicated delinquent on the basis of an act which
16 if committed by an adult would constitute an offense under the
17 "Comprehensive Drug Reform Act of 1987," N.J.S.2C:35-1 et al.
18 involving the use, possession, manufacture, dispensing or distribution
19 of a controlled dangerous substance, controlled dangerous substance
20 analog or drug paraphernalia within the meaning of that act within or
21 upon the leased premises or the building or complex of buildings and
22 land appurtenant thereto, or the mobile home park, in which those
23 premises are located, and has not in connection with his sentence for
24 that offense either (1) successfully completed or (2) been admitted to
25 and continued upon probation while completing, a drug rehabilitation
26 program pursuant to N.J.S.2C:35-14; or, being the tenant or lessee of
27 such leased premises, knowingly harbors or harbored therein a person
28 who has been so convicted or has so pleaded, or otherwise permits or
29 permitted such a person to occupy those premises for residential
30 purposes, whether continuously or intermittently, except that this
31 subsection shall not apply to a person harboring or permitting a
32 juvenile to occupy the premises if the juvenile has been adjudicated
33 delinquent upon the basis of an act which if committed by an adult
34 would constitute the offense of use or possession under the said act.
35 No action for removal may be brought pursuant to this subsection
36 more than two years after the date of the adjudication or conviction or
37 more than two years after the person's release from incarceration
38 whichever is the later.

39 o. The person has been convicted of or pleaded guilty to, or if a
40 juvenile, has been adjudicated delinquent on the basis of an act which
41 if committed by an adult would constitute an offense under
42 N.J.S.2C:12-1 or N.J.S.2C:12-3 involving assault, or terroristic threats
43 against the landlord, a member of the landlord's family or an employee
44 of the landlord; or, being the tenant or lessee of such leased premises,
45 knowingly harbors or harbored therein a person who has been so
46 convicted or has so pleaded, or otherwise permits or permitted such

1 a person to occupy those premises for residential purposes, whether
2 continuously or intermittently. No action for removal may be brought
3 pursuant to this subsection more than two years after the adjudication
4 or conviction or more than two years after the person's release from
5 incarceration whichever is the later.

6 p. The person has been found, by a preponderance of the evidence,
7 liable in a civil action for removal commenced under this act for an
8 offense under N.J.S.2C:12-1 or N.J.S.2C:12-3 involving assault or
9 terroristic threats against the landlord, a member of the landlord's
10 family or an employee of the landlord, or under the "Comprehensive
11 Drug Reform Act of 1987," N.J.S.2C:35-1 et al., involving the use,
12 possession, manufacture, dispensing or distribution of a controlled
13 dangerous substance, controlled dangerous substance analog or drug
14 paraphernalia within the meaning of that act within or upon the leased
15 premises or the building or complex of buildings and land appurtenant
16 thereto, or the mobile home park, in which those premises are located,
17 and has not in connection with his sentence for that offense either (1)
18 successfully completed or (2) been admitted to and continued upon
19 probation while completing a drug rehabilitation program pursuant to
20 N.J.S.2C:35-14; or, being the tenant or lessee of such leased premises,
21 knowingly harbors or harbored therein a person who committed such
22 an offense, or otherwise permits or permitted such a person to occupy
23 those premises for residential purposes, whether continuously or
24 intermittently, except that this subsection shall not apply to a person
25 who harbors or permits a juvenile to occupy the premises if the
26 juvenile has been adjudicated delinquent upon the basis of an act which
27 if committed by an adult would constitute the offense of use or
28 possession under the said "Comprehensive Drug Reform Act of 1987."

29 For purposes of this section, (1) "developmental disability" means
30 any disability which is defined as such pursuant to section 3 of
31 P.L.1977, c.82 (C.30:6D-3); (2) "member of the immediate family"
32 means a person's spouse, parent, child or sibling, or a spouse, parent,
33 child or sibling of any of them; and (3) "permanently" occupies or
34 occupied means that the occupant maintains no other domicile at
35 which the occupant votes, pays rent or property taxes or at which rent
36 or property taxes are paid on the occupant's behalf.
37 (cf: P.L.1995, c.269, s.1)

38

39 2. Section 3 of P.L.1974, c.49 (C.2A:18-61.2) is amended to read
40 as follows:

41 3. No judgment of possession shall be entered for any premises
42 covered by section 2 of this act, except in the nonpayment of rent
43 under subsection a. or f. of section 2, unless the landlord has made
44 written demand and given written notice for delivery of possession of
45 the premises. The following notice shall be required:

46 a. For an action alleging disorderly conduct under subsection b. of

1 section 2, [or] injury to the premises under subsection c. of section 2,
2 any grounds under paragraph (2) of subsection e. of section 2, or any
3 grounds under subsection m., n., o. or p. of section 2, three days'
4 notice prior to the institution of the action for possession;

5 b. For an action alleging continued violation of rules and
6 regulations under subsection d. of section 2, or substantial breach of
7 covenant under subsection e. of section 2, or habitual failure to pay
8 rent, one month's notice prior to the institution of the action for
9 possession;

10 c. For an action alleging any grounds under subsection g. of
11 section 2, three months' notice prior to the institution of the action;

12 d. For an action alleging permanent retirement under subsection h.
13 of section 2, 18 months' notice prior to the institution of the action
14 and, provided that, where there is a lease in effect, no action may be
15 instituted until the lease expires;

16 e. For an action alleging refusal of acceptance of reasonable lease
17 changes under subsection i. of section 2, one month's notice prior to
18 institution of action;

19 f. For an action alleging any grounds under subsection l. of section
20 2, two months' notice prior to the institution of the action and,
21 provided that where there is a written lease in effect no action shall be
22 instituted until the lease expires;

23 g. For an action alleging any grounds under subsection k. of
24 section 2, three years' notice prior to the institution of action, and
25 provided that where there is a written lease in effect, no action shall be
26 instituted until the lease expires.

27 The notice in each of the foregoing instances shall specify in detail
28 the cause of the termination of the tenancy and shall be served either
29 personally upon the tenant or lessee or such person in possession by
30 giving him a copy thereof, or by leaving a copy thereof at his usual
31 place of abode with some member of his family above the age of 14
32 years, or by certified mail; if the certified letter is not claimed, notice
33 shall be sent by regular mail.

34 (cf: P.L.1989, c.294, s.2)

35

36 3. This act shall take effect on the first day of the fourth month
37 next following enactment.

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STATEMENT

41

42 This bill amends the statutes regarding eviction to make it easier to
43 for a tenant in public housing under the control of a housing authority
44 or redevelopment agency to be evicted for illegal drug activities or
45 other illegal activities such as those involving weapons, in violation of
46 that tenant's lease provisions.

1 Public housing has long been considered by the courts to be
2 "housing of last resort" thus creating an impediment to the eviction of
3 tenants who engage in illegal drug activity and other illegal activities.
4 This has led to intolerable conditions in many public housing projects.
5 In order to make public housing safe and decent, and to impart the
6 viewpoint that it is a privilege, rather than a right, to reside in public
7 housing, the federal Department of Housing and Urban Development
8 (HUD) has drafted guidelines encouraging public housing authorities
9 to include provisions in public housing leases to allow for eviction if
10 a tenant engages in illegal drug activity or other illegal activities such
11 as those dealing with weapons. These guidelines are in accordance
12 with President Clinton's "one strike and you're out" policy for tenants
13 of public housing.

14 The bill would not require a criminal conviction in order for the
15 public housing tenant to be evicted, since eviction would be based on
16 a contractual violation. In addition, the bill provides that the tenant
17 may be removed after three days' notice by the housing authority upon
18 its finding that a violation of the lease provision has occurred.

19

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23 Provides for easier eviction of certain drug offenders from public
24 housing projects.

[Passed Both Houses]

[First Reprint]

SENATE, No. 1093

STATE OF NEW JERSEY

INTRODUCED MAY 9, 1996

By Senators BRYANT, GORMLEY, McGreevey, Rice,
O'Connor, LaRossa, Sacco, Assemblywoman Cruz-Perez and
Assemblyman Garcia

1 AN ACT concerning procedures for eviction from certain rental
2 premises and amending P.L.1974, c.49.

3

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

6

7 1. Section 2 of P.L.1974, c.49 (C.2A:18-61.1) is amended to read
8 as follows:

9 2. No lessee or tenant or the assigns, under-tenants or legal
10 representatives of such lessee or tenant may be removed by the
11 Superior Court from any house, building, mobile home or land in a
12 mobile home park or tenement leased for residential purposes, other
13 than (1)owner-occupied premises with not more than two rental units
14 or a hotel, motel or other guest house or part thereof rented to a
15 transient guest or seasonal tenant; (2) a dwelling unit which is held in
16 trust on behalf of a member of the immediate family of the person or
17 persons establishing the trust, provided that the member of the
18 immediate family on whose behalf the trust is established permanently
19 occupies the unit; and (3) a dwelling unit which is permanently
20 occupied by a member of the immediate family of the owner of that
21 unit, provided, however, that exception (2) or (3) shall apply only in
22 cases in which the member of the immediate family has a
23 developmental disability, except upon establishment of one of the
24 following grounds as good cause:

25 a. The person fails to pay rent due and owing under the lease
26 whether the same be oral or written.

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly floor amendments adopted March 13, 1997.

- 1 b. The person has continued to be, after written notice to cease, so
2 disorderly as to destroy the peace and quiet of the occupants or other
3 tenants living in said house or neighborhood.
- 4 c. The person has willfully or by reason of gross negligence caused
5 or allowed destruction, damage or injury to the premises.
- 6 d. The person has continued, after written notice to cease, to
7 substantially violate or breach any of the landlord's rules and
8 regulations governing said premises, provided such rules and
9 regulations are reasonable and have been accepted in writing by the
10 tenant or made a part of the lease at the beginning of the lease term.
- 11 e. (1) The person has continued, after written notice to cease, to
12 substantially violate or breach any of the covenants or agreements
13 contained in the lease for the premises where a right of reentry is
14 reserved to the landlord in the lease for a violation of such covenant
15 or agreement, provided that such covenant or agreement is reasonable
16 and was contained in the lease at the beginning of the lease term.
- 17 (2) In public housing under the control of a public housing
18 authority or redevelopment agency, the person has substantially
19 violated or breached any of the covenants or agreements contained in
20 the lease for the premises pertaining to illegal uses of controlled
21 dangerous substances, or other illegal activities, whether or not a right
22 of reentry is reserved to the landlord in the lease for a violation of such
23 covenant or agreement, provided that such covenant or agreement
24 conforms to federal guidelines regarding such lease provisions and was
25 contained in the lease at the beginning of the lease term.
- 26 f. The person has failed to pay rent after a valid notice to quit and
27 notice of increase of said rent, provided the increase in rent is not
28 unconscionable and complies with any and all other laws or municipal
29 ordinances governing rent increases.
- 30 g. The landlord or owner (1) seeks to permanently board up or
31 demolish the premises because he has been cited by local or State
32 housing inspectors for substantial violations affecting the health and
33 safety of tenants and it is economically unfeasible for the owner to
34 eliminate the violations; (2) seeks to comply with local or State
35 housing inspectors who have cited him for substantial violations
36 affecting the health and safety of tenants and it is unfeasible to so
37 comply without removing the tenant; simultaneously with service of
38 notice of eviction pursuant to this clause, the landlord shall notify the
39 Department of Community Affairs of the intention to institute
40 proceedings and shall provide the department with such other
41 information as it may require pursuant to rules and regulations. The
42 department shall inform all parties and the court of its view with
43 respect to the feasibility of compliance without removal of the tenant
44 and may in its discretion appear and present evidence; (3) seeks to
45 correct an illegal occupancy because he has been cited by local or
46 State housing inspectors or zoning officers and it is unfeasible to

1 correct such illegal occupancy without removing the tenant; or (4) is
2 a governmental agency which seeks to permanently retire the premises
3 from the rental market pursuant to a redevelopment or land clearance
4 plan in a blighted area. In those cases where the tenant is being
5 removed for any reason specified in this subsection, no warrant for
6 possession shall be issued until P.L.1967, c.79 (C.52:31B-1 et seq.)
7 and P.L.1971, c.362 (C.20:4-1 et seq.) have been complied with.

8 h. The owner seeks to retire permanently the residential building
9 or the mobile home park from residential use or use as a mobile home
10 park, provided this subsection shall not apply to circumstances
11 covered under subsection g. of this section.

12 i. The landlord or owner proposes, at the termination of a lease,
13 reasonable changes of substance in the terms and conditions of the
14 lease, including specifically any change in the term thereof, which the
15 tenant, after written notice, refuses to accept; provided that in cases
16 where a tenant has received a notice of termination pursuant to
17 subsection g. of section 3 of P.L.1974, c.49 (C.2A:18-61.2), or has a
18 protected tenancy status pursuant to section 9 of the "Senior Citizens
19 and Disabled Protected Tenancy Act," P.L.1981, c.226
20 (C.2A:18-61.30), or pursuant to the "Tenant Protection Act of 1992,"
21 P.L.1991, c.509 (C.2A:18-61.40 et al.), the landlord or owner shall
22 have the burden of proving that any change in the terms and conditions
23 of the lease, rental or regulations both is reasonable and does not
24 substantially reduce the rights and privileges to which the tenant was
25 entitled prior to the conversion.

26 j. The person, after written notice to cease, has habitually and
27 without legal justification failed to pay rent which is due and owing.

28 k. The landlord or owner of the building or mobile home park is
29 converting from the rental market to a condominium, cooperative or
30 fee simple ownership of two or more dwelling units or park sites,
31 except as hereinafter provided in subsection l. of this section. Where
32 the tenant is being removed pursuant to this subsection, no warrant for
33 possession shall be issued until this act has been complied with. No
34 action for possession shall be brought pursuant to this subsection
35 against a senior citizen tenant or disabled tenant with protected
36 tenancy status pursuant to the "Senior Citizens and Disabled Protected
37 Tenancy Act," P.L.1981, c.226 (C.2A:18-61.22 et al.), or against a
38 qualified tenant under the "Tenant Protection Act of 1992," P.L.1991,
39 c.509 (C.2A:18-61.40 et al.), as long as the agency has not terminated
40 the protected tenancy status or the protected tenancy period has not
41 expired.

42 l. (1) The owner of a building or mobile home park, which is
43 constructed as or being converted to a condominium, cooperative or
44 fee simple ownership, seeks to evict a tenant or sublessee whose initial
45 tenancy began after the master deed, agreement establishing the
46 cooperative or subdivision plat was recorded, because the owner has

1 contracted to sell the unit to a buyer who seeks to personally occupy
2 it and the contract for sale calls for the unit to be vacant at the time of
3 closing. However, no action shall be brought against a tenant under
4 paragraph (1) of this subsection unless the tenant was given a
5 statement in accordance with section 6 of P.L.1975, c.311
6 (C.2A:18-61.9);

7 (2) The owner of three or less condominium or cooperative units
8 seeks to evict a tenant whose initial tenancy began by rental from an
9 owner of three or less units after the master deed or agreement
10 establishing the cooperative was recorded, because the owner seeks to
11 personally occupy the unit, or has contracted to sell the unit to a buyer
12 who seeks to personally occupy it and the contract for sale calls for
13 the unit to be vacant at the time of closing;

14 (3) The owner of a building of three residential units or less seeks
15 to personally occupy a unit, or has contracted to sell the residential
16 unit to a buyer who wishes to personally occupy it and the contract for
17 sale calls for the unit to be vacant at the time of closing.

18 m. The landlord or owner conditioned the tenancy upon and in
19 consideration for the tenant's employment by the landlord or owner as
20 superintendent, janitor or in some other capacity and such employment
21 is being terminated.

22 n. The person has been convicted of or pleaded guilty to, or if a
23 juvenile, has been adjudicated delinquent on the basis of an act which
24 if committed by an adult would constitute an offense under the
25 "Comprehensive Drug Reform Act of 1987," N.J.S.2C:35-1 et al.
26 involving the use, possession, manufacture, dispensing or distribution
27 of a controlled dangerous substance, controlled dangerous substance
28 analog or drug paraphernalia within the meaning of that act within or
29 upon the leased premises or the building or complex of buildings and
30 land appurtenant thereto, or the mobile home park, in which those
31 premises are located, and has not in connection with his sentence for
32 that offense either (1) successfully completed or (2) been admitted to
33 and continued upon probation while completing, a drug rehabilitation
34 program pursuant to N.J.S.2C:35-14; or, being the tenant or lessee of
35 such leased premises, knowingly harbors or harbored therein a person
36 who has been so convicted or has so pleaded, or otherwise permits or
37 permitted such a person to occupy those premises for residential
38 purposes, whether continuously or intermittently, except that this
39 subsection shall not apply to a person harboring or permitting a
40 juvenile to occupy the premises if the juvenile has been adjudicated
41 delinquent upon the basis of an act which if committed by an adult
42 would constitute the offense of use or possession under the said act.
43 No action for removal may be brought pursuant to this subsection
44 more than two years after the date of the adjudication or conviction or
45 more than two years after the person's release from incarceration
46 whichever is the later.

1 o. The person has been convicted of or pleaded guilty to, or if a
2 juvenile, has been adjudicated delinquent on the basis of an act which
3 if committed by an adult would constitute an offense under
4 N.J.S.2C:12-1 or N.J.S.2C:12-3 involving assault, or terroristic threats
5 against the landlord, a member of the landlord's family or an employee
6 of the landlord; or, being the tenant or lessee of such leased premises,
7 knowingly harbors or harbored therein a person who has been so
8 convicted or has so pleaded, or otherwise permits or permitted such
9 a person to occupy those premises for residential purposes, whether
10 continuously or intermittently. No action for removal may be brought
11 pursuant to this subsection more than two years after the adjudication
12 or conviction or more than two years after the person's release from
13 incarceration whichever is the later.

14 p. The person has been found, by a preponderance of the evidence,
15 liable in a civil action for removal commenced under this act for an
16 offense under N.J.S.2C:12-1 or N.J.S.2C:12-3 involving assault or
17 terroristic threats against the landlord, a member of the landlord's
18 family or an employee of the landlord, or under the "Comprehensive
19 Drug Reform Act of 1987," N.J.S.2C:35-1 et al., involving the use,
20 possession, manufacture, dispensing or distribution of a controlled
21 dangerous substance, controlled dangerous substance analog or drug
22 paraphernalia within the meaning of that act within or upon the leased
23 premises or the building or complex of buildings and land appurtenant
24 thereto, or the mobile home park, in which those premises are located,
25 and has not in connection with his sentence for that offense either (1)
26 successfully completed or (2) been admitted to and continued upon
27 probation while completing a drug rehabilitation program pursuant to
28 N.J.S.2C:35-14; or, being the tenant or lessee of such leased premises,
29 knowingly harbors or harbored therein a person who committed such
30 an offense, or otherwise permits or permitted such a person to occupy
31 those premises for residential purposes, whether continuously or
32 intermittently, except that this subsection shall not apply to a person
33 who harbors or permits a juvenile to occupy the premises if the
34 juvenile has been adjudicated delinquent upon the basis of an act which
35 if committed by an adult would constitute the offense of use or
36 possession under the said "Comprehensive Drug Reform Act of 1987."

37 For purposes of this section, (1) "developmental disability" means
38 any disability which is defined as such pursuant to section 3 of
39 P.L.1977, c.82 (C.30:6D-3); (2) "member of the immediate family"
40 means a person's spouse, parent, child or sibling, or a spouse, parent,
41 child or sibling of any of them; and (3) "permanently" occupies or
42 occupied means that the occupant maintains no other domicile at
43 which the occupant votes, pays rent or property taxes or at which rent
44 or property taxes are paid on the occupant's behalf.
45 (cf: P.L.1995, c.269, s.1)

1 2. Section 3 of P.L.1974, c.49 (C.2A:18-61.2) is amended to read
2 as follows:

3 3. No judgment of possession shall be entered for any premises
4 covered by section 2 of this act, except in the nonpayment of rent
5 under subsection a. or f. of section 2, unless the landlord has made
6 written demand and given written notice for delivery of possession of
7 the premises. The following notice shall be required:

8 a. For an action alleging disorderly conduct under subsection b. of
9 section 2, [~~or~~] ¹or injury to the premises under subsection c. of
10 section 2, ¹[any grounds under paragraph (2) of subsection e. of
11 section 2.]¹ or any grounds under subsection m., n., o. or p. of section
12 2, three days' notice prior to the institution of the action for
13 possession;

14 b. For an action alleging continued violation of rules and
15 regulations under subsection d. of section 2, or substantial breach of
16 covenant under subsection e. of section 2, or habitual failure to pay
17 rent, one month's notice prior to the institution of the action for
18 possession;

19 c. For an action alleging any grounds under subsection g. of
20 section 2, three months' notice prior to the institution of the action;

21 d. For an action alleging permanent retirement under subsection h.
22 of section 2, 18 months' notice prior to the institution of the action
23 and, provided that, where there is a lease in effect, no action may be
24 instituted until the lease expires;

25 e. For an action alleging refusal of acceptance of reasonable lease
26 changes under subsection i. of section 2, one month's notice prior to
27 institution of action;

28 f. For an action alleging any grounds under subsection l. of section
29 2, two months' notice prior to the institution of the action and,
30 provided that where there is a written lease in effect no action shall be
31 instituted until the lease expires;

32 g. For an action alleging any grounds under subsection k. of
33 section 2, three years' notice prior to the institution of action, and
34 provided that where there is a written lease in effect, no action shall be
35 instituted until the lease expires.

36 ¹h. In public housing under the control of a public housing
37 authority or redevelopment agency, for an action alleging substantial
38 breach of contract under paragraph (2) of subsection e. of section 2,
39 the period of notice required prior to the institution of an action for
40 possession shall be in accordance with federal regulations pertaining
41 to public housing leases.¹

42 The notice in each of the foregoing instances shall specify in detail
43 the cause of the termination of the tenancy and shall be served either
44 personally upon the tenant or lessee or such person in possession by
45 giving him a copy thereof, or by leaving a copy thereof at his usual
46 place of abode with some member of his family above the age of 14

1 years, or by certified mail; if the certified letter is not claimed, notice
2 shall be sent by regular mail.
3 (cf: P.L.1989, c.294, s.2)

4
5 3. This act shall take effect on the first day of the fourth month
6 next following enactment.

7
8
9 _____
10
11 Provides for easier eviction of certain drug offenders from public
12 housing projects.

SENATE URBAN POLICY AND PLANNING COMMITTEE

STATEMENT TO

SENATE, No. 1093

STATE OF NEW JERSEY

DATED: OCTOBER 7, 1996

The Senate Urban Policy and Planning Committee reports favorably Senate Bill No. 1093.

Senate Bill No. 1093 amends the statutes regarding eviction to make it easier for a tenant in public housing under the control of a housing authority or redevelopment agency to be evicted for illegal drug activities or other illegal activities such as those involving weapons, in violation of that tenant's lease.

Specifically, the bill authorizes eviction of tenants of public housing under the control of a public housing authority or redevelopment agency who have been found to be in substantial violation or in breach of any of the covenants or agreements contained in the lease for the premises pertaining to illegal uses of controlled dangerous substances or other illegal activities, whether or not a right of reentry is reserved to the landlord in the lease for a violation of the covenant or agreement, so long as the covenant or agreement conforms to federal guidelines regarding such lease provisions and was contained in the lease at the beginning of the lease term.

Under current law, a tenant may be evicted upon a criminal conviction for illegal drug activity, which may take considerable time. This bill would not require a criminal conviction in order for a public housing tenant to be evicted on these grounds; instead, a contractual violation would become the basis for eviction. In addition, the bill provides that the tenant may be removed after three days' notice by a housing authority or other appropriate entity upon its finding that a violation of the lease provision has occurred.