

2 A: 18 - 61.1

LEGISLATIVE HISTORY CHECKLIST
Compiled by the NJ State Law Library

NJSA: 2A:18-61.1 (Tenants-removal)

LAWS OF: 1991 CHAPTER: 307

Bill No: A3251

Sponsor(s): Watson and others

Date Introduced: March 22, 1990

Committee: Assembly: Housing
Senate: County & Municipal Government

Amended during passage: Yes Amendments during passage
denoted by asterisks

Date of Passage: Assembly: February 21, 1991
Senate: July 29, 1991

Date of Approval: November 7, 1991

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes
Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: No

Following were printed:

Reports: No

Hearings: No

KBG/dgw

[FIRST REPRINT]
ASSEMBLY, No. 3251

STATE OF NEW JERSEY

INTRODUCED MARCH 22, 1990

By Assemblymen WATSON, CIMINO, Gill and Schwartz

1 AN ACT concerning removal of residential lessees and tenants in
2 certain cases, and amending P.L.1974, c.49.

3

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

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

8 2. No lessee or tenant or the assigns, under-tenants or legal
9 representatives of such lessee or tenant may be removed by the
10 ¹[county district court or the]¹ Superior Court from any house,
11 building, mobile home or land in a mobile home park or tenement
12 leased for residential purposes, other than ¹(1)¹ owner-occupied
13 premises with not more than two rental units or a hotel, motel or
14 other guest house or part thereof rented to a transient guest or
15 seasonal tenant¹; (2) a dwelling unit which is held in trust on
16 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
19 permanently occupies the unit and; (3) a dwelling unit which is
20 permanently occupied by a member of the immediate family of
21 the owner of that unit, provided, however, that exception (2) or
22 (3) shall apply only in cases in which the member of the
23 immediate family has a developmental disability¹, except upon
24 establishment of one of the 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
28 cease, so disorderly as to destroy the peace and quiet of the
29 occupants or other tenants living in said house or neighborhood;

30 c. The person has willfully or by reason of gross negligence
31 caused 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
35 regulations are reasonable and have been accepted in writing by
36 the tenant or made a part of the lease at the beginning of the
37 lease term;

38 e. The person has continued, after written notice to cease, to
39 substantially violate or breach any of the covenants or
40 agreements contained in the lease for the premises where a right

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:

¹ Senate SCM committee amendments adopted June 10, 1991.

1 of reentry is reserved to the landlord in the lease for a violation
2 of such covenant or agreement, provided that such covenant or
3 agreement is reasonable and was contained in the lease at the
4 beginning of the lease term;

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

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

35 h. The owner seeks to retire permanently the residential
36 building or the mobile home park from residential use or use as a
37 mobile home park, provided this subsection shall not apply to
38 circumstances covered under subsection g. of this section;

39 i. The landlord or owner proposes, at the termination of a
40 lease, reasonable changes of substance in the terms and
41 conditions of the lease, including specifically any change in the
42 term thereof, which the tenant, after written notice, refuses to
43 accept; provided that in cases where a tenant has received a
44 notice of termination pursuant to subsection g. of section 3 of
45 P.L.1974, c.49 (C.2A:18-61.2), or has a protected tenancy status
46 pursuant to section 9 of the "Senior Citizens and Disabled
47 Protected Tenancy Act," P.L.1981, c.226 (C.2A:18-61.22 et al.),
48 the landlord or owner shall have the burden of proving that any
49 change in the terms and conditions of the lease, rental or
50 regulations both is reasonable and does not substantially reduce

1 the rights and privileges to which the tenant was entitled prior to
2 the conversion;

3 j. The person, after written notice to cease, has habitually and
4 without legal justification failed to pay rent which is due and
5 owing;

6 k. The landlord or owner of the building or mobile home park is
7 converting from the rental market to a condominium, cooperative
8 or fee simple ownership of two or more dwelling units or park
9 sites, except as hereinafter provided in subsection l. of this
10 section. Where the tenant is being removed pursuant to this
11 subsection, no warrant for possession shall be issued until this act
12 has been complied with. No action for possession shall be brought
13 pursuant to this subsection against a senior citizen tenant or
14 disabled tenant with protected tenancy status pursuant to the
15 "Senior Citizens and Disabled Protected Tenancy Act," P.L.1981,
16 c.226 (C.2A:18-61.22 et al.), as long as the agency has not
17 terminated the protected tenancy status or the protected tenancy
18 period has not expired;

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

30 (2) The owner of three or less condominium or cooperative
31 units seeks to evict a tenant whose initial tenancy began by
32 rental from an owner of three or less units after the master deed
33 or agreement establishing the cooperative was recorded, because
34 the owner seeks to personally occupy the unit, or has contracted
35 to sell the unit to a buyer who seeks to personally occupy it and
36 the contract for sale calls for the unit to be vacant at the time of
37 closing;

38 (3) The owner of a building of three residential units or less
39 seeks to personally occupy a unit, or has contracted to sell the
40 residential unit to a buyer who wishes to personally occupy it and
41 the contract for sale calls for the unit to be vacant at the time of
42 closing;

43 m. The landlord or owner conditioned the tenancy upon and in
44 consideration for the tenant's employment by the landlord or
45 owner as superintendent, janitor or in some other capacity and
46 such employment is being terminated;

47 n. The person has been convicted of or pleaded guilty to, or if
48 a juvenile, has been adjudicated delinquent on the basis of an act
49 which if committed by an adult would constitute an offense under
50 the "Comprehensive Drug Reform Act of 1987," N.J.S.2C:35-1

1 et al. involving the use, possession, manufacture, dispensing or
2 distribution of a controlled dangerous substance, controlled
3 dangerous substance analog or drug paraphernalia within the
4 meaning of that act within or upon the leased premises or the
5 building or complex of buildings and land appurtenant thereto, or
6 the mobile home park, in which those premises are located, and
7 has not in connection with his sentence for that offense either (1)
8 successfully completed or (2) been admitted to and continued
9 upon probation while completing, a drug rehabilitation program
10 pursuant to N.J.S.2C:35-14; or, being the tenant or lessee of such
11 leased premises, knowingly harbors therein a person who has been
12 so convicted or has so pleaded, or otherwise permits such a
13 person to occupy those premises for residential purposes, whether
14 continuously or intermittently, except that this subsection shall
15 not apply to a person who harbors or permits a juvenile to occupy
16 the premises if the juvenile has been adjudicated delinquent upon
17 the basis of an act which if committed by an adult would
18 constitute the offense of use or possession under the said act.

19 o. The person has been convicted of or pleaded guilty to, or if
20 a juvenile, has been adjudicated delinquent on the basis of an act
21 which if committed by an adult would constitute an offense under
22 N.J.S.2C:12-1 or N.J.S.2C:12-3 involving assault, or terroristic
23 threats against the landlord, a member of the landlord's family
24 or an employee of the landlord; or, being the tenant or lessee of
25 such leased premises, knowingly harbors therein a person who has
26 been so convicted or has so pleaded, or otherwise permits such a
27 person to occupy those premises for residential purposes, whether
28 continuously or intermittently.

29 p. The person has been found, by a preponderance of the
30 evidence, liable in a civil action for removal commenced under
31 this act for an offense under N.J.S.2C:12-1 or N.J.S.2C:12-3
32 involving assault or terroristic threats against the landlord, a
33 member of the landlord's family or an employee of the landlord,
34 or under the "Comprehensive Drug Reform Act of 1987,"
35 N.J.S.2C:35-1 et al., involving the use, possession, manufacture,
36 dispensing or distribution of a controlled dangerous substance,
37 controlled dangerous substance analog or drug paraphernalia
38 within the meaning of that act within or upon the leased premises
39 or the building or complex of buildings and land appurtenant
40 thereto, or the mobile home park, in which those premises are
41 located, and has not in connection with his sentence for that
42 offense either (1) successfully completed or (2) been admitted to
43 and continued upon probation while completing a drug
44 rehabilitation program pursuant to N.J.S.2C:35-14; or, being the
45 tenant or lessee of such leased premises, knowingly harbors
46 therein a person who committed such an offense, or otherwise
47 permits such a person to occupy those premises for residential
48 purposes, whether continuously or intermittently, except that this
49 subsection shall not apply to a person who harbors or permits a
50 juvenile to occupy the premises if the juvenile has been

1 adjudicated delinquent upon the basis of an act which if
2 committed by an adult would constitute the offense of use or
3 possession under the said "Comprehensive Drug Reform Act of
4 1987."

5 For purposes of this section, (1) ¹["owner-occupied" means
6 occupied for residential purposes by a person or persons
7 possessing or sharing title to the premises, or by a member or
8 members of the immediate family of any such person]
9 "developmental disability" means any disability which is defined
10 as such pursuant to section 3 of P.L.1977, c.82 (C.30:6D-3)¹ ;
11 ¹[and]¹ (2) "member of the immediate family" means a person's
12 spouse, parent, child or sibling, or a spouse, parent, child or
13 sibling of ¹[a member of the person's immediate family] any of
14 them; and (3) "permanently" occupies or occupied means that the
15 occupant maintains no other domicile at which the occupant
16 votes, pays rent or property taxes or at which rent or property
17 taxes are paid on the occupant's behalf¹.

18 (cf: P.L.1991, c.91, s.68)

19 2. This act shall take effect immediately.

20

21

22

HOUSING AND CONSTRUCTION

23

24

25

Permits removal of residential tenants from certain premises
under certain conditions.

1 adjudicated delinquent upon the basis of an act which if
2 committed by an adult would constitute the offense of use or
3 possession under the said "Comprehensive Drug Reform Act of
4 1987."

5 For purposes of this section, (1) "owner-occupied" means
6 occupied for residential purposes by a person or persons
7 possessing or sharing title to the premises, or by a member or
8 members of the immediate family of any such person; and (2)
9 "member of the immediate family" means a person's spouse,
10 parent, child or sibling, or a spouse, parent, child or sibling of a
11 member of the person's immediate family.

12 (cf: 1989, c.294, s.1)

13 2. This act shall take effect immediately.

14

15

16

17

Sponsor STATEMENT

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

36

37

HOUSING AND CONSTRUCTION

38

39

40

Permits removal of residential tenants from certain premises
under certain conditions.

ASSEMBLY HOUSING COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3251

STATE OF NEW JERSEY

DATED: SEPTEMBER 17, 1990

The Assembly Housing Committee reports Assembly Bill No. 3251 favorably, without amendment.

This State's "anti-eviction law" (P.L.1974, c.49; C.2A:18-61.1 et al.) currently exempts from its application "owner-occupied premises with not more than two rental units." To qualify for this exemption, the actual "owner" (*i.e.*, holder of title) to the premises must be resident thereon in order to be entitled to oust an incompatible tenant. This bill would extend the entitlement to those cases in which the actual owner, not resident on the premises, has installed a member of his or her "immediate family" as a tenant. The bill defines an "immediate family" member as a person's spouse, parent, child or sibling, and a spouse, parent, child or sibling of such an immediate family member is likewise a member of the person's immediate family.

The bill is intended to provide for those situations in which a person acquires residential premises in order to provide independent living quarters for a close relative who, for one reason or another, is not able to assume "ownership" of those premises.

SENATE COUNTY AND MUNICIPAL
GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3251

with Senate committee amendments

STATE OF NEW JERSEY

DATED: JUNE 10, 1991

The Senate County and Municipal Government Committee reports favorably Assembly Bill No. 3251 with Senate committee amendments.

Assembly Bill No. 3251, as amended by the committee, expands the definition of who may evict under the State's "anti-eviction law" (P.L.1974, c.49; C.2A:18-61.1 et al.) to address a specific situation which has arisen with regard to developmentally disabled persons.

Section 2 of P.L.1974, c.49 (C.2A:18-61.1) establishes the grounds for eviction and the residents of any dwellings that are exempted from its provisions may be subject to eviction without regard for the good cause provisions listed therein. That section of law currently exempts from its application "owner-occupied premises with not more than two rental units." To qualify for this exemption, however, the actual "owner" (*i.e.*, holder of title) to the premises must reside there.

Assembly Bill 3251 Sca extends the right of eviction to cover the following accommodations: (1) a dwelling unit which is held in trust on behalf of a member of the immediate family of the person or persons establishing the trust, provided that the member of the immediate family on whose behalf the trust is established permanently occupies the unit; and (2) a dwelling unit which is permanently occupied by a member of the immediate family of the owner of that unit.

The right to evict in these situations would only apply in cases in which the member of the immediate family has a "developmental disability." The term is used consistently with the definition contained in the "Developmentally Disabled Rights Act," P.L.1977, c.82 (C.30:6D-1 et seq.)

The bill defines an "immediate family" member to include a person's spouse, parent, child or sibling, and a spouse, parent, child or sibling of any of those persons. "Permanent" occupation is defined to mean that the occupant maintains no other domicile at which the occupant votes, pays rent or property taxes or at which rent or property taxes are paid on the occupant's behalf.

Although the "anti-eviction law" was meant to protect tenants from unreasonable eviction, it inadvertently creates considerable hardship for a class of tenants it might otherwise have meant to protect. Developmentally disabled adult relatives who live independently but with tenant companions or roommates in quarters owned by family members are not accorded the right to evict under

section 1 of P.L.1974, c.49 (C.2A:18-61.1) as non-owners. The right to evict is accorded only to owner-occupants; a developmentally disabled relative of an owner would not, therefore, be able to evict an inappropriate co-tenant nor would the owners have that right as non-residents.

Given the extreme shortage of space in community residences for the developmentally disabled and the desire, on the part of family members, for alternative living arrangements for their developmentally disabled relatives, it is the committee's intent to encourage the development of these alternatives. It is not the committee's intent, in protecting tenants, to increase the vulnerability of developmentally disabled persons in independent living situations by removing an important means of redress if those living arrangements are unsatisfactory. Nor is it the committee's intent to undermine the protections the Legislature meant to extend to tenants when it originally enacted the "anti-eviction" law in 1974.

The committee amended the bill to provide that the exemption from the good cause provisions of the "anti-eviction law" applies only to situations in which the developmentally disabled member of the immediate family of the owner permanently occupies the dwelling unit which is the subject of the exemption or occupies the dwelling unit which is being held in a trust established by a member of their immediate family.

The committee also amended the bill to define the terms "developmental disability," "member of the immediate family," and "permanently" occupies or occupied.

This bill as amended by the committee is identical to Senate Bill No. 3302 with amendments adopted by the committee on June 10, 1991.