

August 24, 1972

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LEGISLATIVE HISTORY OF R.S. 2A:42-85 thru 97
(Actions, etc., for maintenance of safe and sanitary housing)

Previous bills:

1970 - A599

L. 1971, Chapter 224 - S2237

April 22 - Introduced by Knowlton, Schiaffo, Woodcock

May 10 - Passed in Senate.

May 10 - Passed in Assembly under emergency resolution.

June 21 - Approved, Chapter 224, 1971.

Not amended during passage.

No statement.

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Hearings and reports:

The New Jersey Landlord-Tenant Relationship Study Commission held public hearings and issued an interim report to the Governor and Legislature in which this legislation was specifically recommended. See page 27 of the interim report.

974.90 New Jersey Landlord Tenant Relationship
H842 Study Commission.
1970 Interim Report.

Newspaper clippings:

Coleman, Chester L. "Bills 'favored' for tenant relief" NEN 1/28/71

Culnan, Dennis M. "Cahill pledges support to tenants' rights bills" C-P, 1/29/71.

"Rent bill nears vote in Senate" TET 5/7/71.

Baglivo, Angelo, "Rent holdout passes" NEN 5/11/71.

Headick, Dave, "Final Okay given rent withholding" TET 5/11/71.

JH/PC

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SENATE, No. 2237

STATE OF NEW JERSEY

INTRODUCED APRIL 22, 1971

By Senators SCHIAFFO, DICKINSON, KNOWLTON, ITALIANO,
HAGEDORN, SCIRO, SCHOEM and WALLWORK

Referred to Committee on Air and Water Pollution and Public Health

AN ACT promoting safe and sanitary housing for tenants of sub-
standard dwellings and supplementing chapter 42 of Title 2A
of the New Jersey Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. The Legislature finds:

2 a. Many citizens of the State of New Jersey are required to
3 reside in dwelling units which fail to meet minimum standards
4 of safety and sanitation;

5 b. It is essential to the health, safety and general welfare of the
6 people of the State that owners of substandard dwelling units
7 be encouraged to provide safe and sanitary housing accommoda-
8 tions for the public to whom such accommodations are offered;

9 c. It is necessary, in order to insure the improvement of sub-
10 standard dwelling units, to authorize the tenants dwelling therein
11 to deposit their rents with a court appointed administrator until
12 such dwelling units satisfy minimum standards of safety and
13 sanitation.

1 2. The following terms whenever used or referred to in this
2 act shall have the following respective meanings, unless a different
3 meaning clearly appears from the context.

4 a. "Public officer" shall mean the officer, officers, board or body
5 who is or are authorized by the governing body of a municipality
6 to supervise the physical condition of dwellings within such mu-
7 nicipality pursuant to this act.

8 b. "Owner" shall mean the holder or holders of the title in fee
9 simple.

10 c. "Parties in interest" shall mean all individuals, associations
11 and corporations who have interests of record in a dwelling, and
12 who are in actual possession thereof and any person authorized to
13 receive rents payable for housing space in a dwelling.

14 d. "Dwelling" means and includes all rental premises or units
15 used for dwelling purposes except owner-occupied premises with
16 not more than two rental units.

17 e. "Housing space" means that portion of a dwelling rented
18 or offered for rent for living or dwelling purposes in which cooking
19 equipment is supplied, and includes all privileges, services, fur-
20 nishings, furniture, equipment, facilities, and improvements con-
21 nected with the use or occupancy of such portion of the property.
22 The term shall not mean or include public housing or dwelling
23 space in any hotel, motel or established guest house, commonly
24 regarded as a hotel, motel or established guest house, as the case
25 may be, in the community in which it is located.

26 f. "Bureau of Housing Inspection" means the Bureau of Hous-
27 ing Inspection in the Division of Housing and Urban Renewal in
28 the Department of Community Affairs.

29 g. "Division of Local Finance" means the Division of Local
30 Finance in the Department of Community Affairs.

31 h. "Substandard dwelling" means any dwelling determined to
32 be substandard by the public officer.

33 i. "State Housing Code" means the code adopted by the Bureau
34 of Housing Inspection pursuant to P. L. 1966, c. 168 (C. 2A:42-74
35 et seq.).

1 3. A proceeding by a public officer, tenant, or tenants of a dwell-
2 ing for a judgment directing the deposit of rents into court and
3 their use for the purpose of remedying conditions in substantial
4 violation of the standards of fitness for human habitation estab-
5 lished under the State or local housing codes or regulations may
6 be maintained in a court of competent jurisdiction. The place of
7 trial of the proceeding shall be within the county in which the
8 real property or a portion thereof from which the rents issue is
9 situated.

1 4. The public officer or any tenant occupying a dwelling may
2 maintain a proceeding as provided in this act, upon the ground
3 that there exists in such dwellings or in housing space thereof a
4 lack of heat or of running water or of light or of electricity or of
5 adequate sewage disposal facilities, or any other condition or
6 conditions in substantial violation of the standards of fitness for
7 human habitation established under the State or local housing or
8 health codes or regulations or any other condition dangerous to
9 life, health or safety.

1 5. a. A proceeding prescribed by this act shall be commenced
2 by the service of a petition and notice of a petition. A notice of
3 petition may be issued only by a judge or a clerk of the court.

4 b. Notice of the proceeding shall be given to the nonpetitioning
5 tenant occupying the dwelling by affixing a copy of the petition
6 upon a conspicuous part of the subject dwelling.

1 6. The petition shall:

2 a. Set forth material facts showing that there exists in such
3 dwelling or any housing space thereof one or more of the following:
4 a lack of heat or of running water or of light or electricity or of
5 adequate sewage disposal facilities, or any other condition or
6 conditions in substantial violation of the standards of fitness for
7 human habitation established under the State or local housing or
8 health codes or regulations or any other condition dangerous to
9 life, health or safety.

10 b. Set forth that the facts shown in subsection a. of this section
11 have been brought to the attention of the owner or any individual
12 designated by him as the manager of said dwelling and that he has
13 failed to take any action thereon within a reasonable period.

14 c. Set forth that the petitioner is a tenant of the subject dwelling
15 or is the public officer of the municipality in which the subject
16 dwelling is located.

17 d. Set forth a brief description of the nature of the work required
18 to remove or remedy the condition and an estimate as to the cost
19 thereof.

20 e. Set forth the amount of rent due from each petitioning tenant,
21 if any, monthly.

22 f. State the relief sought.

1 7. It shall be a sufficient defense to the proceeding, if the owner
2 or any mortgagee or lienor of record establishes that:

3 a. The condition or conditions alleged in the petition did not
4 in fact exist or that such condition or conditions have been removed
5 or remedied; or

6 b. Such condition or conditions have been caused maliciously
7 or by abnormal or unusual use by a petitioning tenant or tenants
8 or members of the family or families of such petitioner or peti-
9 tioners.

10 c. Any tenant or resident of the dwelling has refused entry to
11 the owner or his agent to a portion of the premises for the purpose
12 of correcting such condition or conditions.

1 8. The court shall proceed in a summary manner and shall render
2 a judgment either:

3 a. Dismissing the petition for failure to affirmatively establish
4 the allegations thereof or because of the affirmative establishment
5 by the owner or a mortgagee or lienor of record of a defense or
6 defenses specified in this act; or

7 b. Directing that (1) the rents due on the date of the entry of
8 such judgment from the petitioning tenant, if any, and the rents
9 due on the dates of service of the judgment on all other tenants
10 occupying such dwelling, from such other tenants, shall be de-
11 posited with the clerk of the court; (2) any rents to become due
12 in the future from such petitioner and from all other tenants
13 occupying such dwelling shall be deposited with such clerk as
14 they fall due; (3) such deposited rents shall be used, subject
15 to the court's direction, to the extent necessary to remedy the
16 condition or conditions alleged in the petition and (4) upon the
17 completion of such work in accordance with such judgment, any
18 remaining surplus shall be turned over to the owner, together
19 with a complete accounting of the rents deposited and the costs
20 incurred; and granting such other and further relief as to the
21 court may seem just and proper. A certified copy of such judg-
22 ment shall be served personally upon each nonpetitioning tenant
23 occupying such dwelling. If personal service on any such non-
24 petitioning tenant cannot be made with due diligence, service
25 on such tenant shall be made by affixing a certified copy of such
26 judgment on the entrance door of such tenant's apartment and, in
27 addition, within 1 day after such affixing, by sending a certified
28 copy thereof by registered mail, return receipt requested, to such
29 tenant. Any right of the owner or parties in interest of such
30 dwelling to collect such rent moneys from any petitioning tenant
31 of such dwelling on or after the date of entry of such judgment,
32 and from any nonpetitioning tenant of such dwelling on or after
33 the date of service of such judgment on such nonpetitioning
34 tenant as herein provided, shall be void and unenforceable to
35 the extent that such petitioning or nonpetitioning tenant, as the
36 case may be, has deposited such moneys with the clerk of the
37 court in accordance with the terms of such judgment, regardless
38 of whether such right of the owner arises from a lease, contract,
39 agreement or understanding heretofore or hereafter made or
40 entered into or arises as a matter of law from the relationship
41 of the parties or otherwise. Any such rent moneys received by
42 the owner or parties in interest shall be deposited immediately
43 with the clerk of the court by such owner or parties in interest. It
44 shall be a valid defense in any action or proceeding against any
45 such tenant to recover possession of real property for the non-
46 payment of rent or for use or occupation to prove that the rent
47 alleged to be unpaid was deposited with the clerk of the court
48 in accordance with the terms of a judgment entered under this
49 section.

1 9. a. If, after a trial, the court shall determine that the facts
2 alleged in the petition have been affirmatively established by
3 the petitioner, that no defense thereto specified in this act has
4 been affirmatively established by the owner or a mortgagee or
5 lienor of record, and that the facts alleged in the petition warrant
6 the granting of the relief sought, and if the owner or any mort-
7 gagee or lienor of record or parties in interest in the property,
8 shall apply to the court to be permitted to remove or remedy
9 the conditions specified in such petition and shall (1) demonstrate
10 the ability promptly to undertake the work required; and (2)
11 post security for the performance thereof within the time, and in
12 the amount and manner deemed necessary by the court, then the
13 court, in lieu of rendering judgment as provided in this act, may
14 issue an order permitting such person to perform the work within
15 a time fixed by the court.

16 b. If, after the issuance of an order pursuant to subdivision
17 a. of this section, but before the time fixed in such order for the
18 completion of the work prescribed therein, it shall appear to the
19 petitioner that the person permitted to do the same is not proceed-
20 ing with due diligence, the petitioners may apply to the court on
21 notice to those persons who have appeared in the proceeding for a
22 hearing to determine whether judgment should be rendered im-
23 mediately as provided in subdivision c. of this section.

24 c. If, upon a hearing authorized in subdivision b. hereof, the
25 court shall determine that such owner, mortgagee, lienor or parties
26 in interest is not proceeding with due diligence, or upon the failure
27 of such owner, mortgagee, lienor or parties in interest to complete
28 the work in accordance with the provisions of said order, the
29 court shall render a final judgment appointing an administrator
30 as authorized in this act. Such judgment shall direct the ad-
31 ministrator to apply the security posted by such person to the
32 removing or remedying of the condition or conditions specified
33 in the petition. In the event that the amount of such security
34 should be insufficient for such purpose, such judgment shall
35 direct the deposit of rents with the clerk, as authorized by this
36 act, to the extent of such deficiency. In the event that such security
37 should exceed the amount required to remove or remedy such
38 condition or conditions, such judgment shall direct the administra-
39 tor to file with the court, upon completion of the work prescribed
40 therein, a full accounting of the amount of such security and
41 the expenditures made pursuant to such judgment, and to turn
42 over such surplus to the person who posted such security, together
43 with a copy of such accounting.

44 d. The court is authorized and empowered, in implementing a
45 judgment rendered pursuant to this act, to appoint an adminis-
46 trator who may be a public officer of the municipality wherein the
47 subject dwelling is situated; an incorporated or unincorporated
48 association, or other responsible person or persons, except that no
49 owner, mortgagee or lienor of the subject dwelling shall be ap-
50 pointed an administrator of said dwelling.

51 The administrator is authorized and empowered, subject to the
52 court's direction, to receive from the clerk such amounts of rent
53 moneys or security deposited with said clerk as may be necessary
54 to remove or remedy the condition or conditions specified in the
55 judgment.

1 10. The court shall require the keeping of written accounts
2 itemizing the receipts and expenditures under an order issued
3 pursuant to this act, which shall be open to inspection by the
4 owner, any mortgagee or lienor or parties in interest in such
5 receipts or expenditures. Upon motion of the court or the ad-
6 ministrator or of the owner, any mortgagee or lienor of record or
7 of parties in interest, the court may require a presentation or
8 settlement of the accounts with respect thereto. Notice of a
9 motion for presentation or settlement of such accounts shall be
10 served on the owner, any mortgagee or other lienor of record who
11 appeared in the proceeding and any parties in interest in such
12 receipts or expenditures.

1 11. The court may allow from the rent moneys or security on
2 deposit a reasonable amount for the services of an administrator
3 appointed under the provisions of this act. The administrator so
4 appointed shall furnish a bond, the amount and form of which shall
5 be approved by the court. The cost of such bond shall be paid
6 from the moneys so deposited.

1 12. Any provision of a lease or other agreement whereby any
2 provision of this act for the benefit of a tenant, resident or occupant
3 of a dwelling is waived, shall be deemed against public policy and
4 shall be void.

1 13. Owners of dwelling units subject to the provisions of this
2 act shall register with the clerk of the municipality upon forms
3 prescribed by and furnished by the Director, Division of Local
4 Finance. Every registration form shall include the name and
5 address of the owner and the name and address of an agent in
6 charge of the premises residing in the municipality in which said
7 premises are located. Said form shall be distributed by the Direc-
8 tor, Division of Local Finance, within 60 days after the effective
9 date of this act.

1 14. This act shall take effect immediately.

FROM THE OFFICE OF THE GOVERNOR

JUNE 21, 1971

FOR RELEASE:
IMMEDIATE

5-2237

Governor William T. Cahill today signed into law a package of four bills to provide greater protection for tenants.

In signing the bills, the Governor said that the intent is to assure tenants rights, correct abuses, and eliminate many of the undue hardships with which some tenants contend. The bills also establish equitable guidelines for landlord-tenant relations.

Briefly, the four bills set procedures for the deposit of rents, prohibit tenant lockouts, prevent the illegal seizure of a tenant's property and provide that tenants shall receive interest on security deposits.

Under Senate Bill 2237, sponsored by Senator Albert D. Schiaffo (R., Bergen), tenants living in dwellings determined by the courts to be substandard may deposit with a court-appointed administrator rent money to be used for necessary improvement of their living quarters. However, the bill also provides that landlords be notified by tenants of existing conditions and have the opportunity to voluntarily undertake improvements.

Assembly Bill 2233, sponsored by Assemblyman Martin E. Kravarik (R., Middlesex), prohibits the practice of locking tenants out of their apartments to avoid the cost of eviction proceedings against those who are delinquent.

Under Assembly Bill 2234, also sponsored by Assemblyman Kravarik, landlords are prevented from confiscating or selling the possessions of tenants who have not paid their rent without having a judicial hearing or notice.

Senate Bill 904, sponsored by Senator Robert E. Kay (R., Cape May), provides that the interest accrued on security deposits be credited to the payment of any rent that is due when a lease expires or is renewed. In addition, it provides that landlords are entitled to one percent of the accrued interest to cover the costs of administering the fund. The bill also provides that security deposits are limited to an amount equal to a month-and-a-half's rent. These security deposits must be returned with a statement itemizing any deductions within thirty days after termination of a lease. The Governor pointed out that the new legislation is the result of a cooperative effort between the builders, landlords, and tenant associations in the State.