

# 46:8-9.2

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2005 **CHAPTER:** 112

**NJSA:** 46:8-9.2 (Early termination of residential leases by senior citizen tenant)

**BILL NO:** S2112 (Substituted for A3796)

**SPONSOR(S):** Gill and others

**DATE INTRODUCED:** December 13, 2004

**COMMITTEE:** **ASSEMBLY:**

**SENATE:** Community and Urban Affairs

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:** **ASSEMBLY:** May 16, 2005

**SENATE:** May 12, 2005

**DATE OF APPROVAL:** June 29, 2005

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

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

**S2112**

[SPONSOR'S STATEMENT:](#) (Begins on page 3 of original bill) [Yes](#)

**COMMITTEE STATEMENT:** **ASSEMBLY:** No

[SENATE:](#) [Yes](#)

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

**A3796**

[SPONSOR'S STATEMENT:](#) (Begins on page 3 of original bill) [Yes](#)

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

**SENATE:** No

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**

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No

IS 6/20/07

P.L. 2005, CHAPTER 112, *approved June 29, 2005*  
Senate, No. 2112 (*First Reprint*)

1 AN ACT authorizing the early termination of residential leases by  
2 certain senior citizen tenants and amending P.L.1985, c.317.

3

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

6

7 1. Section 5 of P.L.1985, c.317 (C.46:8-9.2) is amended to read as  
8 follows:

9 5. A lease for a term of one or more years of a property that has  
10 been leased and used by the lessee solely for the purpose of providing  
11 a dwelling place for <sup>1</sup>[himself, or himself and his] the lessee, or the  
12 lessee and the lessee's<sup>1</sup> family, may be terminated prior to the  
13 expiration date thereof if:

14 a. the lessee or <sup>1</sup>[his] the lessee's<sup>1</sup> spouse, or both, suffer a  
15 disabling illness or accident <sup>1</sup>[, upon notice duly given by] provided  
16 that<sup>1</sup> the lessee <sup>1</sup>[or his], the lessee's<sup>1</sup> spouse, <sup>1</sup>[on a form to be  
17 provided by the Director of the Division of Housing and Development  
18 in the Department of Community Affairs, which form shall include:]  
19 or other legal representative provides written notice of termination of  
20 the lease to the lessor and appends thereto <sup>1</sup>[a.] (1) certification of a  
21 treating physician that the lessee or <sup>1</sup>the lessee's<sup>1</sup> spouse is unable to  
22 continue to engage in gainful employment; [b.] (2) proof of loss of  
23 income; and [c.] (3) proof that any pension, insurance or other  
24 subsidy to which the lessee or <sup>1</sup>[his] the lessee's<sup>1</sup> spouse is entitled is  
25 insufficient to supplement the income of the lessee or <sup>1</sup>[his] the  
26 lessee's<sup>1</sup> spouse so that the rent on the property in question can be  
27 paid and that the income is necessary for payment of the rent; or

28 b. the lessee or the lessee's spouse, or both, one of whom shall be  
29 age 62 years or older, is accepted into an assisted living facility, <sup>1</sup>a  
30 nursing home, or a <sup>1</sup>continuing care retirement community <sup>1</sup>provided  
31 that the lessee, the lessee's spouse, or other legal representative  
32 provides written notice of termination of the lease to the lessor and  
33 appends thereto (1) a certification of a treating physician that the  
34 lessee or spouse is in need of services provided by the assisted living  
35 facility, nursing home, or continuing care retirement community and  
36 (2) documentation that the lessee and spouse have been accepted into  
37 an assisted living facility, a nursing home, or a continuing care  
38 retirement community<sup>1</sup>, or

39 <sup>1</sup>c. the lessee or the lessee's spouse, or both, one of whom shall be  
40 age 62 years or older, is accepted into<sup>1</sup> housing reserved for  
41 occupancy by low or moderate income households, as that term is

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:

<sup>1</sup> Senate SCU committee amendments adopted February 3, 2005.

1 defined pursuant to section 4 of P.L.1985, c.222 (C.52:27D-304),  
 2 <sup>1</sup>[and upon] provided that the lessee is not currently residing in low  
 3 or moderate income housing and that the lessee, the lessee's spouse,  
 4 or other legal representative provides written notice of termination of  
 5 the lease to the lessor and appends thereto<sup>1</sup> documentation of a lease  
 6 or intent to lease from the facility or housing sponsor<sup>1</sup> [.

7 c. A lease may be terminated at a], or

8 d. the<sup>1</sup> dwelling place<sup>1</sup> [that]<sup>1</sup> is not handicapped accessible by a  
 9 lessee or a member of<sup>1</sup> [his] the lessee's<sup>1</sup> household who suffers a  
 10 disabling illness or accident, provided that<sup>1</sup> written<sup>1</sup> notice<sup>1</sup> of  
 11 termination of the lease<sup>1</sup> is given to the lessor by the lessee<sup>1</sup> [or his],  
 12 the lessee's<sup>1</sup> spouse<sup>1</sup> or other legal representative<sup>1</sup> or other adult  
 13 family member,<sup>1</sup> [on a form to be provided by the director]<sup>1</sup> which  
 14 shall include: [(a)] (1) certification from a licensed physician that the  
 15 lessee or a member of his household is handicapped and that the  
 16 handicap is likely not to be of a temporary nature, and [(b)] (2) a  
 17 statement that the lessor has been asked to make the dwelling unit  
 18 accessible to the lessee or to a member of<sup>1</sup> [his] the lessee's<sup>1</sup>  
 19 household at the lessor's expense and was unable or unwilling to do so.  
 20 For purposes of this section, "handicapped" shall mean any person  
 21 who would be considered a handicapped person pursuant to the  
 22 definition in section 1 of P.L.1949, c.280 (C.39:4-204).

23 <sup>1</sup>[d. The termination] Terminations pursuant to this section<sup>1</sup> shall  
 24 take effect on the fortieth day following the receipt by the lessor of the  
 25 written notice, and the rent shall be paid up to the time of termination,  
 26 at which time the lease shall cease and come to an end. The property  
 27 shall be vacated and possession shall be turned over to the lessor at  
 28 least five working days prior to the fortieth day following receipt by  
 29 the lessor of written notice.

30 (cf: P.L.1993, c.208, s.1)

31

32 2. This act shall take effect immediately and shall be applicable to  
 33 leases entered into or renewed on or after the effective date.

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38 \_\_\_\_\_  
 38 Authorizes early termination of residential lease by senior citizen  
 39 tenant accepted into assisted living facility, nursing home, continuing  
 40 care retirement community, or low or moderate income housing.

# SENATE, No. 2112

## STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED DECEMBER 13, 2004

**Sponsored by:**

**Senator NIA H. GILL**

**District 34 (Essex and Passaic)**

**Senator RONALD L. RICE**

**District 28 (Essex)**

**Co-Sponsored by:**

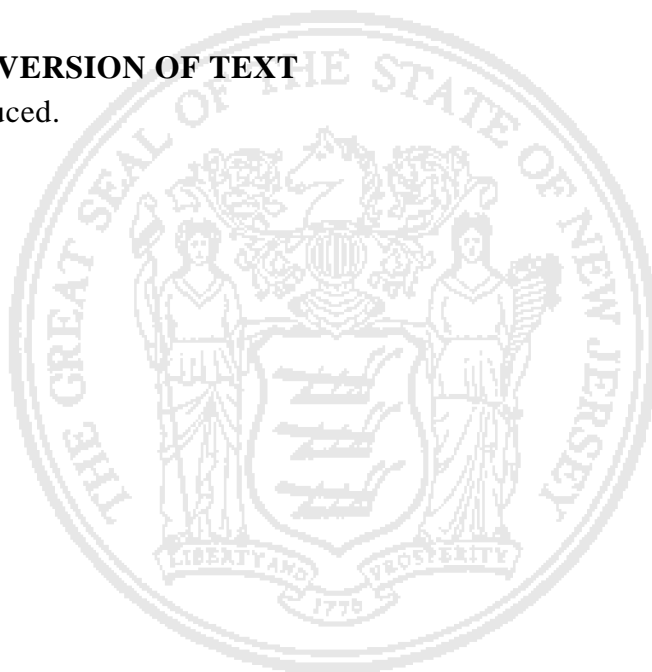
**Senators Asselta, Connors, James and Madden**

**SYNOPSIS**

Authorizes early termination of residential lease by senior citizen tenant accepted into assisted living facility, continuing care retirement community, or low or moderate income housing.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 2/4/2005)**

S2112 GILL, RICE

2

1 AN ACT authorizing the early termination of residential leases by  
2 certain senior citizen tenants and amending P.L.1985, c.317.

3

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

6

7 1. Section 5 of P.L.1985, c.317 (C.46:8-9.2) is amended to read as  
8 follows:

9 5. A lease for a term of one or more years of a property that has  
10 been leased and used by the lessee solely for the purpose of providing  
11 a dwelling place for himself, or himself and his family, may be  
12 terminated prior to the expiration date thereof if:

13 a. the lessee or his spouse, or both, suffer a disabling illness or  
14 accident, upon notice duly given by the lessee or his spouse, on a form  
15 to be provided by the Director of the Division of Housing and  
16 Development in the Department of Community Affairs, which form  
17 shall include: [a.] (1) certification of a treating physician that the  
18 lessee or spouse is unable to continue to engage in gainful  
19 employment; [b.] (2) proof of loss of income; and [c.] (3) proof that  
20 any pension, insurance or other subsidy to which the lessee or his  
21 spouse is entitled is insufficient to supplement the income of the lessee  
22 or his spouse so that the rent on the property in question can be paid  
23 and that the income is necessary for payment of the rent; or

24 b. the lessee or the lessee's spouse, or both, one of whom shall be  
25 age 62 years or older, is accepted into an assisted living facility,  
26 continuing care retirement community, or housing reserved for  
27 occupancy by low or moderate income households, as that term is  
28 defined pursuant to section 4 of P.L.1985, c.222 (C.52:27D-304), and  
29 upon documentation of a lease or intent to lease from the facility or  
30 housing sponsor.

31 c. A lease may be terminated at a dwelling place that is not  
32 handicapped accessible by a lessee or a member of his household who  
33 suffers a disabling illness or accident, provided that notice is given to  
34 the lessor by the lessee or his spouse or other adult family member, on  
35 a form to be provided by the director which shall include: [(a)] (1)  
36 certification from a licensed physician that the lessee or a member of  
37 his household is handicapped and that the handicap is likely not to be  
38 of a temporary nature, and [(b)] (2) a statement that the lessor has  
39 been asked to make the dwelling unit accessible to the lessee or to a  
40 member of his household at the lessor's expense and was unable or  
41 unwilling to do so. For purposes of this section, "handicapped" shall  
42 mean any person who would be considered a handicapped person  
43 pursuant to the definition in section 1 of P.L.1949, c.280  
44 (C.39:4-204).

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.



# SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

## STATEMENT TO

### **SENATE, No. 2112**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: FEBRUARY 3, 2005

The Senate Community and Urban Affairs Committee reports favorably and with committee amendments Senate Bill No. 2112.

As amended by the committee, this bill would authorize a lessee to terminate a residential lease if the lessee or the lessee's spouse, or both, one of whom is age 62 years or older, is accepted into an assisted living facility, a nursing home, a continuing care retirement community, or housing reserved for occupancy by low or moderate income households.

Current law permits a lessee to terminate a lease only upon the loss of income from a disabling disease or accident, or whenever a landlord is unwilling to make a dwelling unit handicapped-accessible to a person who is considered handicapped under the definition in the statutes governing motor vehicles. This definition requires the loss of limbs or permanent physical disability in order for a person to be considered disabled.

Many elderly people who have not suffered the loss of limbs become unable to reside in independent apartment facilities, and seek placement in assisted living facilities, nursing homes or continuing care retirement communities in order to receive special medical and social services. Other elderly people on fixed or low incomes seek placement in housing reserved for occupancy by low or moderate income households and have no control over when that housing becomes available to them. This bill represents a public policy of allowing the elderly poor and infirm to relocate to suitable housing with as little economic penalty as possible.

The committee amended the bill to delete provisions of existing law that require lessees to provide notice of termination of a lease to their landlords by use of a form provided by the Department of Community Affairs. The committee amendments would allow notices under existing law to be provided by a lessee's legal representative, recognizing that certain lessees may become unable to provide notice on their own behalf.

The committee also amended the bill to add acceptance into a nursing home as a basis for terminating a lease. The amendments



would require that written notice of termination be provided to a landlord whenever a lessee seeks to relocate to an assisted living facility, a nursing home or a continuing care retirement community which notice would have to include a doctor's certificate that the lessee or spouse needs the services to be provided by such a facility and that the lessee or spouse has been accepted into a facility.

The amendments would also limit the ability to terminate a lease in order to relocate into low or moderate income to lessees who are not already residing in low or moderate income housing.

The amendments also makes technical corrections to references in the bill pertaining spouse of a lessee.

# ASSEMBLY, No. 3796

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## STATE OF NEW JERSEY

### 211th LEGISLATURE

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INTRODUCED FEBRUARY 14, 2005

**Sponsored by:**

**Assemblyman PATRICK DIEGNAN, JR.**

**District 18 (Middlesex)**

**Assemblyman JON M. BRAMNICK**

**District 21 (Essex, Morris, Somerset and Union)**

**Co-Sponsored by:**

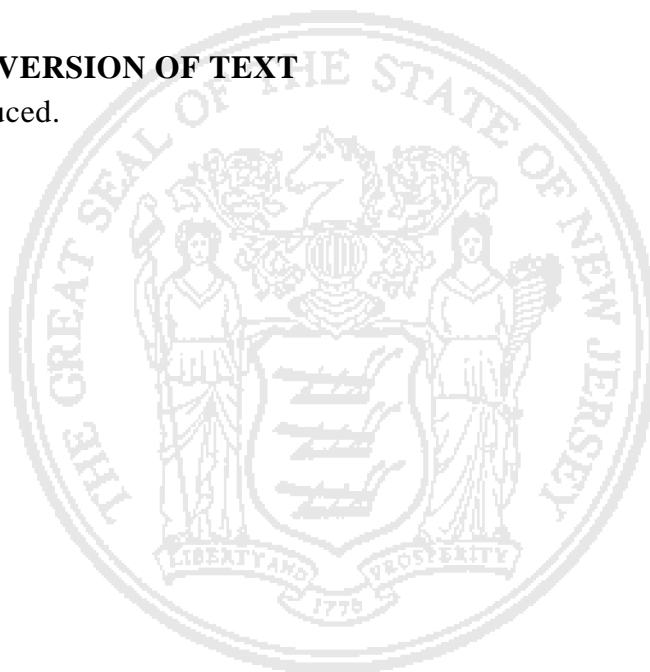
**Assemblyman Fisher**

**SYNOPSIS**

Authorizes early termination of residential lease by senior citizen tenant accepted into assisted living facility, continuing care retirement community, or low or moderate income housing.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 3/8/2005)**

A3796 DIEGNAN, BRAMNICK

2

1 AN ACT authorizing the early termination of residential leases by  
2 certain senior citizen tenants and amending P.L.1985, c.317.

3

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

6

7 1. Section 5 of P.L.1985, c.317 (C.46:8-9.2) is amended to read as  
8 follows:

9 5. A lease for a term of one or more years of a property that has  
10 been leased and used by the lessee solely for the purpose of providing  
11 a dwelling place for himself, or himself and his family, may be  
12 terminated prior to the expiration date thereof if:

13 a. the lessee or his spouse, or both, suffer a disabling illness or  
14 accident, upon notice duly given by the lessee or his spouse, on a form  
15 to be provided by the Director of the Division of Housing and  
16 Development in the Department of Community Affairs, which form  
17 shall include: [a.] (1) certification of a treating physician that the  
18 lessee or spouse is unable to continue to engage in gainful  
19 employment; [b.] (2) proof of loss of income; and [c.] (3) proof that  
20 any pension, insurance or other subsidy to which the lessee or his  
21 spouse is entitled is insufficient to supplement the income of the lessee  
22 or his spouse so that the rent on the property in question can be paid  
23 and that the income is necessary for payment of the rent; or

24 b. the lessee or the lessee's spouse, or both, one of whom shall be  
25 age 62 years or older, is accepted into an assisted living facility,  
26 continuing care retirement community, or housing reserved for  
27 occupancy by low or moderate income households, as that term is  
28 defined pursuant to section 4 of P.L.1985, c.222 (C.52:27D-304), and  
29 upon documentation of a lease or intent to lease from the facility or  
30 housing sponsor.

31 c. A lease may be terminated at a dwelling place that is not  
32 handicapped accessible by a lessee or a member of his household who  
33 suffers a disabling illness or accident, provided that notice is given to  
34 the lessor by the lessee or his spouse or other adult family member, on  
35 a form to be provided by the director which shall include: [(a)] (1)  
36 certification from a licensed physician that the lessee or a member of  
37 his household is handicapped and that the handicap is likely not to be  
38 of a temporary nature, and [(b)] (2) a statement that the lessor has  
39 been asked to make the dwelling unit accessible to the lessee or to a  
40 member of his household at the lessor's expense and was unable or  
41 unwilling to do so. For purposes of this section, "handicapped" shall  
42 mean any person who would be considered a handicapped person  
43 pursuant to the definition in section 1 of P.L.1949, c.280  
44 (C.39:4-204).

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       d. The termination pursuant to this section shall take effect on the  
2 fortieth day following the receipt by the lessor of the written notice,  
3 and the rent shall be paid up to the time of termination, at which time  
4 the lease shall cease and come to an end. The property shall be  
5 vacated and possession shall be turned over to the lessor at least five  
6 working days prior to the fortieth day following receipt by the lessor  
7 of written notice.

8 (cf: P.L.1993, c.208, s.1)

9

10       2. This act shall take effect immediately and shall be applicable to  
11 leases entered into or renewed on or after the effective date.

12

13

14

#### STATEMENT

15

16       This bill authorizes the termination of a residential lease when the  
17 lessee or the lessee's spouse, or both, one of whom is age 62 years or  
18 older, is accepted into an assisted living facility, continuing care  
19 retirement community, or housing reserved for occupancy by low or  
20 moderate income households, as that term is defined pursuant to  
21 section 4 of P.L.1985, c.222 (C.52:27D-304).

22       Current law permits the breaking of a lease only upon the loss of  
23 income from a disabling disease or accident, or whenever a landlord  
24 is unwilling to make a dwelling unit handicapped-accessible to a  
25 person who is considered handicapped under the definition in the  
26 statutes governing motor vehicles. This definition requires the loss of  
27 limbs or permanent physical disability in order for a person to be  
28 considered disabled.

29       Many elderly people who have not suffered the loss of limbs find  
30 themselves unable to reside in independent apartment facilities, and  
31 seek placement in assisted living facilities or continuing care retirement  
32 communities for the special medical and social services offered there.  
33 Assisted living facilities are required to be handicapped-accessible for  
34 frail, elderly people and are regulated by the Department of Health and  
35 Senior Services. In contrast to a nursing home placement, which may  
36 be temporary, assisted living facilities are used as permanent  
37 residences for those disabled and elderly persons who can no longer  
38 reside in apartments or other forms of independent housing. Other  
39 elderly people on fixed or low incomes seek placement in housing  
40 reserved for occupancy by low or moderate income households and  
41 have no control over when that housing becomes available to them.  
42 This bill represents a public policy of allowing the elderly poor and  
43 infirm to relocate to suitable housing with as little economic penalty  
44 as possible.

# ASSEMBLY SENIOR ISSUES COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 3796

with committee amendments

# STATE OF NEW JERSEY

DATED: MARCH 7, 2005

The Assembly Senior Issues Committee reports favorably and with committee amendments Assembly Bill No. 3796.

As amended by the committee, this bill would authorize a lessee to terminate a residential lease if the lessee or the lessee's spouse, or both, one of whom is 62 years of age or older, is accepted into an assisted living facility, nursing home, continuing care retirement community, or housing reserved for occupancy by low or moderate income households.

Current law permits a lessee to terminate a lease only upon the loss of income from a disabling disease or accident, or whenever a landlord is unwilling to make a dwelling unit handicapped-accessible to a person who is considered to be handicapped under the motor vehicle laws (which require the loss of one or more limbs or permanent physical disability in order for a person to be considered disabled).

Many elderly people, who have not suffered the loss of one or more limbs or are not permanently physically disabled, become unable to reside in independent apartment facilities and seek placement in assisted living facilities, nursing homes or continuing care retirement communities in order to receive special medical and social services. Other elderly people on fixed or low incomes seek placement in housing reserved for occupancy by low or moderate income households, and have no control over when that housing becomes available. This bill would allow relocation to such housing with as little economic penalty as possible.

#### COMMITTEE AMENDMENTS:

The committee amendments:

- C delete provisions of existing law that require lessees to provide notice of termination of a lease to their landlords by use of a form provided by the Department of Community Affairs;
- C would allow notices under existing law to be provided by a lessee's legal representative, recognizing that certain lessees may become unable to provide notice on their own behalf;
- C add acceptance into a nursing home as a basis for terminating a

lease;

- C require that written notice of termination be provided to a landlord whenever a lessee seeks to relocate to an assisted living facility, nursing home or continuing care retirement community; the notice would have to include a doctor's certificate that the lessee or spouse needs the services to be provided by such a facility and that the lessee or spouse has been accepted into a facility;
- C limit the ability to terminate a lease in order to relocate into low or moderate income housing to lessees who are not already residing in low or moderate income housing; and
- C make technical changes to references to the spouse of a lessee.

As amended by the committee, this bill is identical to S-2112 (1R)(Gill/Rice), which is pending before the Senate.