



New Jersey Department of Community Affairs Division of Codes and Standards Landlord-Tenant Information Service



CONDOMINIUM AND COOPERATIVE CONVERSION

N.J.S.A. 2A:18-61.7 through 61.21

Printed February 2008

2A:18-61.7 Definitions

As used in this act:

a. "Comparable housing or park site" means housing that is (1) decent, safe, sanitary, and in compliance with all local and State housing codes; (2) open to all persons regardless of race, creed, national origin, ancestry, marital status or sex; and (3) provided with facilities equivalent to that provided by the landlord in the dwelling unit or park site in which the tenant then resides in regard to each of the following: (a) apartment size including number of rooms or park site size, (b) rent range, (c) apartment's major kitchen and bathroom facilities, and (d) special facilities necessary for the handicapped or infirmed; (4) located in an area not less desirable than the area in which the tenant then resides in regard to each of the following: (a) accessibility to the tenant's place of employment, (b) accessibility of community and commercial facilities, and (c) environmental quality and conditions; and (5) in accordance with additional reasonable criteria which the tenant has requested in writing at the time of making any request under this act.

b. "Condominium" means a condominium as defined in the "Condominium Act," P.L.1969, c. 257 (C. 46:8B-1 et seq.).

c. "Cooperative" means a housing corporation or association which entitles the holder of a share or membership interest thereof to possess and occupy for dwelling purposes a house, apartment or other structure owned or leased by said corporation or association, or to lease or purchase a dwelling constructed or to be constructed by said corporation or association.

d. "Mobile home park" means any park, including a trailer park or camp, equipped to handle mobile homes sited on a year-round basis.

2A:18-61.8. Conversion of multiple dwelling into condominium, cooperative or fee simple ownership; notice to and rights to tenants

Any owner who intends to convert a multiple dwelling as defined in P.L.1967, c. 76 (C. 55:13A-1 et seq.), other than a hotel or motel, or a mobile home park into a condominium or cooperative, or to fee simple ownership of the several dwelling units or park sites shall give the tenants 60 days' notice of his intention to convert and the full plan of the conversion prior to serving notice, provided for in section 3 of P.L.1974, c. 49 (C. 2A:18-61.2). A duplicate of the first such 60-day notice and full plan shall be transmitted to the clerk of the municipality at the same time. In the notice of intention to convert tenants shall be notified of their right to purchase ownership in the premises at a specified price in accordance with this section, and their other rights as tenants under this act in relation to the conversion of a building or park to a condominium, cooperative or fee simple ownership. A tenant in occupancy at the time of the notice of intention to convert shall have the exclusive right to purchase his unit, the shares of stock allocated thereto or the park site, as the case may be, for the first 90 days after such notice that such purchase could be made during which time the unit or site shall not be shown to a third party unless the tenant has in writing waived the right to purchase.

L.1975, c. 311, s. 5, eff. Feb. 19, 1976. Amended by L.1981, c. 8, s. 4, eff. Jan. 26, 1981.

2A:18-61.9. Notice to tenant after master deed or agreement to establish cooperative

Any owner who establishes with a person an initial tenancy after the master deed or agreement establishing the cooperative was recorded shall provide to such person at the time of applying for tenancy and at the time of establishing any rental agreement a separate written statement as follows:

"STATEMENT

THIS BUILDING (PARK) IS BEING CONVERTED TO OR IS A CONDOMINIUM OR COOPERATIVE (OR FEE SIMPLE OWNERSHIP OF THE SEVERAL DWELLING UNITS OR PARK SITES). YOUR TENANCY CAN BE TERMINATED UPON 60 DAYS' NOTICE IF YOUR APARTMENT (PARK SITE) IS SOLD TO A BUYER WHO SEEKS TO PERSONALLY OCCUPY IT. IF YOU MOVE OUT AS A RESULT OF RECEIVING SUCH A NOTICE, AND THE LANDLORD ARBITRARILY FAILS TO COMPLETE THE SALE, THE LANDLORD SHALL BE LIABLE FOR TREBLE DAMAGES AND COURT COSTS."

The parenthesized words shall be omitted or substituted for preceding words where appropriate. Such statement shall also be reproduced as the first clause in any written lease provided to such person.

L.1975, c. 311, s. 6, eff. Feb. 19, 1976. Amended by L.1981, c. 8, s. 5, eff. Jan. 26, 1981.

2A:18-61.10. Removal of tenant to allow conversion to cooperative or condominium; moving expense compensation

Any tenant receiving notice under section 3 g. of P.L.1974, c. 49 who is not evicted for any cause under this act other than under section 3 g. shall receive from the owner moving expense compensation or waiver of payment of 1 month's rent.

L.1975, c. 311, s. 7, eff. Feb. 19, 1976.

2A:18-61.11. Comparable housing; offer of rental; stay of eviction; alternative compensation; senior citizens and disabled protected tenancy period

a. Tenants receiving notice under section 3 g. of P.L.1974, c. 49 may request of the landlord within 18 full months after receipt of such notice, and the landlord shall offer to the tenant, personally or through an agent, the rental of comparable housing or park site and a reasonable opportunity to examine and rent such comparable housing or park site. In any proceeding under subsection 2 k. of P.L.1974, c. 49 instituted following the expiration of notice required under section 3 g. of P.L.1974, c. 49, the owner shall prove that a tenant was offered such comparable housing or park site and provided such reasonable opportunity to examine and rent such housing or park site as requested pursuant to this section. The court shall authorize 1-year stays of eviction with reasonable rent increases until such time as the court is satisfied that the tenant has been offered comparable housing or park site and provided a reasonable opportunity to examine and rent such housing or park site as requested pursuant to this section. However, in no case shall more than five such stays be granted.

b. The court shall automatically renew any 1-year stay of eviction in any case where the landlord failed to allege to the court within 1 year of a prior stay that the tenant was offered a reasonable opportunity to examine and rent comparable housing or park site within such prior year.

c. However the court shall not authorize any further stays at any time after one such stay has been authorized when the owner has also provided a tenant with hardship relocation compensation or waiver of payment of 5 months' rent.

d. On or after the effective date of the "Senior Citizens and Disabled Protected Tenancy Act," P.L. [1981], c. [226] (C. [2A:18-61.22 et seq.]), notwithstanding the provisions of subsection a. of this section, where the court has jurisdiction pursuant to that subsection, whether by virtue of the authorization by the court of a stay of eviction or by virtue of any other proceedings required or instituted pursuant to P.L.1974, c. 49 (C. 2A:18-61.1 et seq.) or P.L.1975, c. 311 (C. 2A:18-61.6 et seq.), or in any action for declaratory judgment, the court may invoke some or all of the provisions of the "Senior Citizens and Disabled Protected Tenancy Act" and grant to a tenant, pursuant to that amendatory and supplementary act, a protected tenancy period upon the court's determination that:

(1) The tenant would otherwise qualify as a senior citizen tenant or disabled tenant pursuant to that amendatory and supplementary act, except that the building or structure in which the dwelling unit is located was converted prior to the effective date of that amendatory and supplementary act; and

(2) The granting of the protected tenancy period as applied to the tenant, giving particular consideration to whether a unit was sold on or before the date that the amendatory and supplementary act takes effect to a bona fide individual purchaser who intended personally to occupy the unit, would not be violative of concepts of fundamental fairness or due process. Where a court declines to grant a protected tenancy status, it shall nevertheless order such hardship stays as authorized by subsections a. and b. of this section until comparable relocation housing is provided. The hardship relocation compensation alternative of subsection c. of this section shall not be applicable in this situation.

2A:18-61.12. Rules and regulations

In accordance with the "Administrative Procedure Act" (P.L.1968, c. 410, C. 52:14B-1 et seq.), the Department of Community Affairs shall adopt rules and regulations setting forth procedures required to be followed by landlords in providing tenants a reasonable opportunity to examine and rent comparable housing and setting forth procedures and content for information required to be disclosed to tenants regarding such procedures, the rights and responsibilities of tenants under this act, and the plans and proposals of landlords which may affect any tenant in order to maximize tenants' ability to exercise rights provided under this act. Any rules and regulations adopted under this section shall only be applicable to tenants and owners of a building or mobile home park which is being, or is about to be converted from the rental market to a condominium, cooperative or to fee simple ownership of the several dwelling units or park sites, or to any mobile home park being permanently retired from the rental market.

L.1975, c. 311, s. 9, eff. Feb. 19, 1976. Amended by L.1981, c. 8, s. 7, eff. Jan. 26, 1981.

2A:18-61.13. Legislative findings

The Legislature finds, as a result of the "Casino Control Act" (P.L.1977, c. 110, C. 5:12-1 et seq.) and the introduction of legalized casino gaming in Atlantic City, that:

- a. Additional investment capital has been attracted to Atlantic City and hotels, tourist and entertainment facilities and other properties are being refurbished and expanded;
- b. There has been a substantial increase in the value of land and buildings in Atlantic City;
- c. Many landlords in Atlantic City are converting or demolishing residential apartments so that they can make more profitable use of their property as a hotel, motel, vacation licensing facility, guest house or other use directly or indirectly related to casino gaming and tourism;
- d. Such conversion is forcing the displacement of a large number of residential tenants, many of whom are either senior citizens or persons of low and moderate income;
- e. There is an acute housing shortage in Atlantic City and in nearby municipalities, and the massive displacement of tenants through conversions or demolitions will make it impossible for displaced tenants to find decent housing at a price they can afford;
- f. Although new housing in Atlantic City is being planned to relieve the housing crisis, it will be at least several years before this housing can be produced;
- g. The displacement of such tenants without any relocation assistance will force many of them into substandard housing, which does not meet the minimum standards of safety and sanitation, will encourage overcrowding and the blighting of residential neighborhoods in Atlantic City and constitutes a serious threat to the public health, welfare and safety;
- h. Landlords seeking to take advantage of the windfall increase in the value of their property caused by the enactment of the "Casino Control Act," and to convert their property to a more profitable use than rental housing have a duty to provide relocation assistance or compensation to the tenants they are displacing;

i. In order to protect the public health, safety and welfare, no such tenant after the date this act takes effect shall be evicted unless he has been provided adequate relocation assistance and compensation or either thereof.

L.1978, c. 139, s. 1.

2A:18-61.14. Atlantic City; removal of residential tenants; time of required notice; second notice for relocation alternatives

Notwithstanding the provisions of section 3 of P.L.1974, c. 49 (C. 2A:18-61.2) to the contrary, in any municipality in which casino gaming is authorized, 1 year's notice shall be required prior to the institution of an action alleging permanent retirement under subsection h. of section 2 of P.L.1974, c. 49 (C. 2A:18-61.1) with respect to a tenant who is a permanent domiciliary in such municipality; provided, that where there is a written lease in effect no action shall be instituted until the lease expires. The notice shall provide the tenant with the information required by section 6 of this act. In the event that a landlord chooses one of the relocation alternatives authorized by section 4 of this act, he shall send a second notice in accordance with the requirements of section 4 of this act at least 6 months prior to the institution of an action for possession.

L.1978, c. 139, s. 2.

2A:18-61.15. Offer to tenant of rental of comparable housing

A landlord seeking to remove a tenant who is a permanent domiciliary under subsection h. of section 2 of P.L.1974, c. 49 (C. 2A:18-61.1) in such municipality shall offer to the tenant, personally or through an agent, the rental of comparable housing as defined in section 4 of P.L.1975, c. 311 (C. 2A:18-61.7) in such municipality or within 10 miles thereof and a reasonable opportunity to examine and rent such comparable housing.

In order to satisfy his obligation under this section, the landlord shall document at least two separate comparable housing units which the tenant was offered a reasonable opportunity to examine and rent, and shall include in any complaint filed for possession of the demised premises the details of each such offer or a description of any attempt to secure comparable housing units to offer to the tenant.

L.1978, c. 139, s. 3. Amended by L.1981, c. 495, s. 1.

2A:18-61.16. Inability to provide tenant relocation; alternatives

If the landlord is unable to provide the tenant relocation into comparable rental housing because of the housing shortage, he may as an alternative to relocation:

a. Pay the tenant an amount equal to 5 months' rent; or

b. Allow the tenant to remain in the unit for an additional 5 months beyond the notice period during which time the payment of rent shall be waived. The landlord may utilize this alternative only if he maintains the premises in substantially the same condition as they were prior to the sending of the notice to deliver possession.

If the landlord chooses to exercise either of these alternatives to relocation, he shall notify the tenant in writing of the alternative that has been chosen at least 6 months prior to the institution of an action for possession. In the event that the landlord chooses the alternative pursuant to subsection a. of this section, payment to the tenant of the specified amount shall accompany the notice.

L.1978, c. 139, s. 4. Amended by L.1981, c. 495, s. 2.

2A:18-61.16a. Rent defined

"Rent" means the amount currently payable by the tenant to the landlord pursuant to lease or other agreement, without regard to any modification thereof by any authorized board or agency, or any court.

L.1981, c. 495, s. 4.

2A:18-61.17. Action for possession; conditions precedent to entry of judgment

In an action brought under subsection h. of section 2 of P.L.1974, c. 49 (C. 2A:18-61.1) with respect to any premises located in a municipality in which casino gaming is authorized, no judgment for possession shall be entered unless the owner proves that the tenant was given such notice as is required by section 2 hereof and that:

a. The tenant was given such second notice as is provided by section 4 hereof and was offered the opportunity to rent comparable housing;

b. The tenant was paid an amount equal to 5 months' rent in accordance with the provisions of subsection a. of section 4 of this act;

c. The tenant was allowed to remain an additional 5 months beyond the notice period during which the rent was waived in accordance with the provisions of subsection b. of section 4 of this act; or

d. Thirty-six months have elapsed since the notice for delivery of possession of the premises was served and the landlord has been unable to offer the tenant the opportunity to rent comparable housing.

L.1978, c. 139, s. 5.

2A:18-61.18. Notice for delivery of possession; contents

Any notice for delivery of possession under subsection h. of section 2 of P.L.1974, c. 49 (C. 2A:18-61.1) issued in accordance with section 2 of this act shall inform the tenant of the following:

a. That the landlord has a duty to offer to the tenant the rental of comparable housing;

b. That if the landlord is unable to provide relocation housing, he may as an alternative to relocation: (1) pay the tenant an amount equal to 5 months' rent; or (2) allow the tenant to remain in the unit for an additional 5 months beyond the notice period during which time the

payment of rent shall be waived. If the landlord chooses either alternative, he shall additionally notify the tenant of such choice at least 6 months prior to the institution of an action for possession. In the event the landlord chooses the alternative pursuant to (1) of this subsection, payment to the tenant of the specified amount shall accompany the notice.

c. No tenant shall be evicted unless: (1) the tenant was offered the opportunity to rent comparable housing; (2) the tenant was paid an amount equal to 5 months' rent; (3) the tenant was allowed to remain in the unit for an additional 5 months beyond the notice period during which time the payment of rental shall be waived; or (4) 36 months have elapsed and the landlord is unable to offer the tenant the opportunity to rent comparable housing.

L.1978, c. 139, s. 6. Amended by L.1981, c. 495, s. 3.

2A:18-61.19. Liberal construction

This act shall be liberally construed to effectuate the legislative purpose of the act.

L.1978, c. 139, s. 7.

2A:18-61.20. Application of L.1974, c. 49, and L.1975, c. 311, to this act

Except as otherwise provided herein, the provisions of P.L.1974, c. 49 (C. 2A:18-61.1 et seq.) and P.L.1975, c. 311 (C. 2A:18-61.6 et seq.) shall be applicable to this act.

L.1978, c. 139, s. 8.

2A:18-61.21. Severability

If any provision of this act or the application thereof to any person or circumstances shall be held to be invalid, such holding shall not affect, impair or invalidate the remainder of this act or the application of such portion held invalid to any other person or circumstances, but shall be confined in its operation to the provision directly involved in such holding or to the person or circumstance therein involved.

L.1978, c. 139, s. 9.



**New Jersey Department of Community Affairs
Division of Codes and Standards
Landlord-Tenant Information Service**



SENIOR CITIZEN AND DISABLED PROTECTED TENANCY
ACT

N.J.S.A. 2A:18-61.22 through 2A:18-61.39

Printed February 2008

2A:18-61.22. Short title

This amendatory and supplementary act shall be known and may be cited as the "Senior Citizens and Disabled Protected Tenancy Act."

L.1981, c. 226, s. 1, eff. July 27, 1981.

2A:18-61.23. Legislative findings and declarations

The Legislature finds that research studies have demonstrated that the forced eviction and relocation of elderly persons from their established homes and communities harm the mental and physical health of these senior citizens, and that these disruptions in the lives of older persons affect adversely the social, economic and cultural characteristics of communities of the State, and increase the costs borne by all State citizens in providing for their public health, safety and welfare. These conditions are particularly serious in light of the rising costs of home ownership, and are of increasing concern where rental housing is converted into condominiums or cooperatives which senior citizens on fixed limited incomes cannot afford, an occurrence which is becoming more and more frequent in this State under prevailing economic circumstances. The Legislature, therefore, declares that it is in the public interest of the State to avoid the forced eviction and relocation of senior citizen tenants wherever possible, specifically in those instances where rental housing market conditions and particular financial circumstances combine to diminish the ability of senior citizens to obtain satisfactory comparable housing within their established communities, and where the eviction action is the result not of any failure of the senior citizen tenant to abide by the terms of a lease or rental agreement, but of the owner's decision advantageously to dispose of residential property through the device of conversion to a condominium or cooperative.

The Legislature further finds that it is in the public interest of the State to avoid the forced eviction and the displacement of the handicapped wherever possible because of their limited mobility and the limited number of housing units which are suitable for their needs.

The Legislature further declares that in the service of this public interest it is appropriate that qualified senior citizen tenants and disabled tenants be accorded a period of protected tenancy, during which they shall be entitled to the fair enjoyment of the dwelling unit within the converted residential structure, to continue for such time, up to 40 years, as the conditions and circumstances which make necessary such protected tenancy shall continue.

The Legislature further finds that the promotion of this public interest is possible only if senior citizen tenants and disabled tenants are protected during this period from alterations in the terms of the tenancy or rent increases which are the result solely of an owner's decision to convert.

L.1981, c. 226, s. 2, eff. July 27, 1981.

2A:18-61.24. Definitions

As used in this amendatory and supplementary act:

a. "Senior citizen tenant" means a person who is at least 62 years of age on the date of the conversion recording for the building or structure in which is located the dwelling unit of which he is a tenant, or the surviving spouse of such a person if the person should die after the owner files the conversion recording and the surviving spouse is at least 50 years of age at the time of the filing; provided that the building or structure has been the principal residence of the senior citizen tenant or the spouse for at least one year immediately preceding the conversion recording or the death or that the building or structure is the principal residence of the senior citizen tenant or the spouse under the terms of a lease for a period of more than one year, as the case may be;

b. "Disabled tenant" means a person who is, on the date of the conversion recording for the building or structure in which is located the dwelling unit of which he is a tenant, totally and permanently unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment, including blindness, or a person who has been honorably discharged or released under honorable circumstances from active service in any branch of the United States Armed Forces and who is rated as having a 60% disability or higher as a result of that service pursuant to any federal law administered by the United States Veterans' Act; provided that the building or structure has been the principal residence of the disabled tenant for at least one year immediately preceding the conversion recording or that the building or structure is the principal residence of the disabled tenant under the terms of a lease for a period of more than one year. For the purposes of this subsection, "blindness" means central visual acuity of 20/200 or less in the better eye with the use of correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered as having a central visual acuity of 20/200 or less;

c. "Tenant's annual household income" means the total income from all sources during the last full calendar year for all members of the household who reside in the dwelling unit at the time the tenant applies for protected tenant status, whether or not such income is subject to taxation by any taxing authority;

d. "Application for registration of conversion" means an application for registration filed with the Department of Community Affairs in accordance with "The Planned Real Estate Development Full Disclosure Act," P.L.1977, c.419 (C.45:22A-21 et seq.);

e. "Registration of conversion" means an approval of an application for registration by the Department of Community Affairs in accordance with "The Planned Real Estate Development Full Disclosure Act," P.L.1977, c.419 (C.45:22A-21 et seq.);

f. "Convert" means to convert one or more buildings or structures or a mobile home park containing in the aggregate not less than five dwelling units or mobile home sites or pads from residential rental use to condominium, cooperative, planned residential development or separable fee simple ownership of the dwelling units or of the mobile home sites or pads;

g. "Conversion recording" means the recording with the appropriate county officer of a master deed for condominium or a deed to a cooperative corporation for a cooperative or the first deed of sale to a purchaser of an individual unit for a planned residential development or separable fee simple ownership of the dwelling units;

h. "Protected tenancy period" means, except as otherwise provided in section 11 of this amendatory and supplementary act, the 40 years following the conversion recording for the building or structure in which is located the dwelling unit of the senior citizen tenant or disabled tenant.

L.1981,c.226,s.3; amended 1981, c.445, s.1; 1983,c.389,s.1; 1990,c.110,s.1; 1990,c.111,s.1.

2A:18-61.25. Protected tenancy status; conversion of dwelling unit of eligible senior citizen or disabled tenant

Each eligible senior citizen tenant or disabled tenant shall be granted a protected tenancy status with respect to his dwelling unit whenever the building or structure in which that unit is located shall be converted. The protected tenancy status shall be granted upon proper application and qualification pursuant to the provisions of this amendatory and supplementary act.

L.1981, c. 226, s. 4, eff. July 27, 1981.

2A:18-61.26. Administrative agency

The governing body of the municipality may authorize a municipal board, agency or officer to act as its administrative agency for the purposes of this amendatory and supplementary act or may enter into a contractual agreement with a county office on aging or a similar agency to act as its administrative agency for purposes of this amendatory and supplementary act. In the absence of such authorization or contractual agreement, this amendatory and supplementary act shall be administered by a municipal board whose principal responsibility concerns the regulation of residential rents or, if no such board exists, by the municipal clerk.

L.1981, c. 226, s. 5, eff. July 27, 1981.

2A:18-61.27. Notice to tenants

The owner of any building or structure who, after the effective date of this amendatory and supplementary act, seeks to convert any premises, shall, prior to his filing of the application for registration of conversion with the Department of Community Affairs, notify the administrative agency or officer responsible for administering this amendatory and supplementary act of his intention to so file. The owner shall supply the agency or officer with a list of every tenant residing in the premises, with stamped envelopes addressed to each tenant and with sufficient copies of the notice to tenants and application form for protected tenancy status. Within 10 days thereafter, the administrative agency or officer shall notify each residential tenant in writing of the owner's intention and of the applicability of the provisions of this amendatory and supplementary act and shall provide him with a written application form. The agency's or officer's notice shall be substantially in the following form:

“NOTICE”

THE OWNER OF YOUR APARTMENT HAS NOTIFIED (insert name of municipality) OF HIS INTENTION TO CONVERT TO A CONDOMINIUM OR COOPERATIVE. THE LEGISLATURE HAS PROVIDED THAT, IF YOU ARE A SENIOR CITIZEN, 62 YEARS OF AGE OR OLDER, OR DISABLED, YOU MAY BE ENTITLED TO A PROTECTED TENANCY PERIOD. PROTECTED TENANCY MEANS THAT YOU CANNOT BE EVICTED BECAUSE OF THE CONVERSION. YOU MAY BE ELIGIBLE:

- (1) IF YOU ARE 62, OR WILL SOON BE 62, OR IF YOU ARE DISABLED; AND
- (2) IF YOU HAVE LIVED IN YOUR APARTMENT FOR AT LEAST ONE YEAR OR IF THE LEASE ON YOUR APARTMENT IS FOR A PERIOD OF MORE THAN ONE YEAR; AND
- (3) IF YOUR HOUSEHOLD INCOME IS LESS THAN (insert current income figure for county as established by Section 7c. of this amendatory and supplementary act).

IF YOU WISH THIS PROTECTION, SEND IN THE APPLICATION FORM BY (insert date 60 days after municipality's mailing) TO THE (insert name and address of administrative agency). FOR FURTHER INFORMATION CALL (insert phone number of administrative agency) OR (insert phone number of Department of Community Affairs).

IF YOU DO NOT APPLY YOU CAN BE EVICTED BY YOUR LANDLORD UPON PROPER NOTICE."

The Department of Community Affairs shall not accept any application for registration of conversion for any building or structure unless included in the application is proof that the agency or officer notified the tenants prior to the application for registration. The proof shall be by affidavit or in such other form as the department shall require.

2A:18-61.28. Eligibility for protected tenancy status

Within 30 days after receipt of an application for protected tenancy status by a tenant, the administrative agency or officer shall make a determination of eligibility. It shall send written notice of eligibility to each senior citizen tenant or disabled tenant who:

- a. Applied therefor on or before the date of registration of conversion by the Department of Community Affairs; and
- b. Qualifies as an eligible senior citizen tenant or disabled tenant pursuant to this amendatory and supplementary act; and
- c. Has an annual household income that does not exceed an amount equal to three times the county per capita personal income, as last reported by the Department of Labor and Industry on the basis of the U.S. Department of Commerce's Bureau of Economic Analysis data, or \$50,000.00, whichever is greater; and
- d. Has occupied the premises as his principal residence for at least one year or has a lease on the premises for a period longer than one year.

The department shall adjust the county per capita personal income to be used in subsection c. of this section if there is a difference of one or more years between (1) the year in which the last reported county per capita personal income was based and (2) the last year in which the tenant's annual household income is based. The county per capita personal income shall be adjusted by the department by an amount equal to the number of years of the difference above times the average increase or decrease in the county per capita personal income for three years, including in the calculation the current year reported and the three immediately preceding years.

The administrative agency or officer shall likewise send a notice of denial with reasons to any tenant whom it determines to be ineligible. The owner shall be notified of those tenants who are determined to be eligible and ineligible.

The administrative agency or officer may require that the application include such documents and information as may be necessary to establish that the tenant is eligible for a protected tenancy status under the provisions of this amendatory and supplementary act and shall require such application to be submitted under oath. The Department of Community Affairs may by regulation adopt forms for application for protected tenancy status and notification of eligibility or ineligibility or adopt such other regulations for the procedure of determining eligibility as it determines are necessary.

L.1981,c.226,s.7; amended 1987,c.287,s.2; 1990,c.110,s.3.

2A:18-61.29. Registration of conversion; approval after proof of notice of eligibility to tenants

No registration of conversion shall be approved until the Department of Community Affairs receives proof that the administrative agency or officer has made determinations and notified all tenants who applied for protected tenancy status within the initial 60-day period of their eligibility or lack of eligibility. The proof shall be by affidavit or in such other form as the department may require.

The department may grant registrations of conversion for applications pending on the effective date of this amendatory and supplementary act upon the implementation of a procedure whereby any eligible tenant may make application for protected tenancy status in a manner comparable to that specified in sections 6 and 7 of this amendatory and supplementary act.

L.1981, c. 226, s. 8, eff. July 27, 1981.

2A:18-61.30. Protected tenancy status; applicability after notice of eligibility and filing of conversion recording

Protected tenancy status shall not be applicable to any eligible tenant until such time as the owner has filed his conversion recording. The protected tenancy status shall automatically apply as soon as a tenant receives notice of eligibility and the landlord files his conversion recording. The conversion recording shall not be filed until after the registration of conversion.

L.1981, c. 226, s. 9, eff. July 27, 1981.

2A:18-61.31. Rent increase restrictions

In a municipality which does not have a rent control ordinance in effect, no evidence of increased costs which are solely the result of the conversion, including but not limited to any increase in financing or carrying costs, and which do not add services or amenities not previously provided shall be used as a basis to establish the reasonableness of a rent increase under section 2f. of P.L. 1974, c. 49 (C. 2A:18-61.1).

In a municipality which has a rent control ordinance in effect, a rent increase for a tenant with a protected tenancy status, or for any tenant to whom notice of termination pursuant to section 3g. of P.L. 1974, c. 49 (C. 2A:18-61.2) has been given, shall not exceed the increase authorized by the ordinance for rent controlled units. Increased costs which are solely the result of a conversion, including but not limited to any increase in financing or carrying costs, and which do not add services or amenities not previously provided shall not be passed directly through to these tenants as surcharges or pass-throughs on the rent, shall not be used as the basis for a rent increase, and shall not be used as a basis for an increase in a fair return or hardship hearing before a municipal rent board or on any appeal from such determination.

L. 1981, c. 226, s. 10; amended by L. 1987, c. 287, s. 3.

2A:18-61.32. Termination of protected tenancy

The administrative agency or officer shall terminate the protected tenancy status immediately upon finding that:

a. The dwelling unit is no longer the principal residence of the senior citizen tenant or disabled tenant; or

b. The tenant's annual household income, or the average of the tenant's annual household income for the current year, computed on an annual basis, and the tenant's annual household income for the two preceding years, whichever is less, exceeds an amount equal to three times the county per capita personal income, as last reported by the Department of Labor and Industry

on the basis of the U.S. Department of Commerce's Bureau of Economic Analysis data, or \$50,000.00, whichever is greater.

The department shall adjust the county per capita personal income to be used in subsection b. of this section if there is a difference of one or more years between (1) the year in which the last reported county per capita personal income was based and (2) the last year in which the tenant's annual household income is based. The county per capita personal income shall be adjusted by the department by an amount equal to the number of years of the difference above times the average increase or decrease in the county per capita personal income for three years, including in the calculation the current year reported and the three immediately preceding years.

Upon the termination of the protected tenancy status by the administrative agency or officer, the senior citizen tenant or disabled tenant may be removed from the dwelling unit pursuant to P.L.1974, c.49 (C.2A:18-61.1 et al.), except that all notice and other times set forth therein shall be calculated and extend from the date of the expiration or termination of the protected tenancy period, or the date of the expiration of the last lease entered into with the senior citizen tenant or disabled tenant during the protected tenancy period, whichever shall be later.

If the administrative agency determines pursuant to this section that a tenant is no longer qualified for protected tenancy under this act, the administrative agency shall proceed to determine the eligibility of that tenant under the "Tenant Protection Act of 1992," P.L.1991, c.509 (C.2A:18-61.40 et al.), or, in any case in which the administrative agency is not the same as the agency administering that other act in the municipality, refer the case to the appropriate administrative agency for such determination. If the tenant is found to be eligible under the "Tenant Protection Act of 1992," P.L.1991, c.509 (C.2A:18-61.40 et al.), his protected tenancy status shall be continued. The protected tenancy status of the tenant shall remain in full force pending such determination.

L.1981,c.226,s.11; amended 1987,c.287,s.4; 1991,c.509,s.23.

2A:18-61.33. Termination upon purchase of unit by senior citizen or disabled tenant

In the event that a senior citizen tenant or disabled tenant purchases the dwelling unit he occupies, the protected tenancy status shall terminate immediately upon purchase.

L.1981, c. 226, s. 12, eff. July 27, 1981.

2A:18-61.34. Informing prospective purchaser of act; contract or agreement for sale; clause informing of application of act and acknowledgment by purchaser

Any public offering statement for a conversion as required by "The Planned Real Estate Development Full Disclosure Act," P.L.1977, c. 419 (C. 45:22A-21 et seq.), shall clearly inform the prospective purchaser of the provisions of this amendatory and supplementary act, including, but not limited to, the provisions concerning eviction, rent increases and leases. Any contract or agreement for sale of a converted unit shall contain a clause in 10-point bold type or larger that the contract is subject to the terms of this amendatory and supplementary act concerning eviction and rent increases and an acknowledgement that the purchaser has been informed of these terms.

L.1981, c. 226, s. 15, eff. July 27, 1981.

2A:18-61.35. Fee

A municipality is authorized to charge an owner a fee which may vary according to the size of the building to cover the cost of providing the services required by this amendatory and supplementary act.

L.1981, c. 226, s. 16, eff. July 27, 1981.

2A:18-61.36. Agreement by tenant to waive rights; deemed against public policy and unenforceable

Any agreement whereby the tenant waives any rights under P.L.1981, c. 226 (C. 2A:18-61.22 et seq.) on or after the effective date of this 1983 amendatory act shall be deemed to be against public policy and unenforceable.

L.1981, c. 226, s. 17, eff. July 27, 1981. Amended by L.1983, c. 389, s. 2, eff. Dec. 2, 1983.

2A:18-61.37. Severability

If any section, subsection, paragraph, sentence or other part of this amendatory and supplementary act is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this act, but shall be confined in its effect to the section, subsection, paragraph, sentence or other part of this act directly involved in the controversy in which said judgment shall have been rendered.

L.1981, c. 226, s. 18, eff. July 27, 1981.

2A:18-61.38. Rules and regulations

The Department of Community Affairs is authorized to adopt such rules and regulations as may be necessary to implement the provisions of this amendatory and supplementary act.

L.1981, c. 226, s. 19, eff. July 27, 1981.

2A:18-61.39. Liberal construction of act

This amendatory and supplementary act shall be liberally construed to effectuate the purposes thereof.

L.1981, c. 226, s. 20, eff. July 27, 1981.



**New Jersey Department of Community Affairs
Division of Codes and Standards
Landlord-Tenant Information Service**



TENANT PROTECTION ACT

N.J.S.A. 2A:18-61.40 through 2A:18-61.65

Printed February 2008

2A:18-61.40. Short title

1. This act shall be known and may be cited as the "Tenant Protection Act of 1992."

L.1991,c.509,s.1.

2A:18-61.41. Findings, declarations

2. The Legislature finds that the provision and maintenance of an adequate supply of housing affordable to persons of low and moderate income in this State has been and is becoming increasingly difficult as a result of economic and market forces which require special public actions or subsidies to counteract. One particularly acute result of this has been the continual increase in the number of displaced or homeless persons who, lacking permanent shelter, require special assistance from public services in this State and in surrounding states in order to remain alive. The Legislature has in the past taken various actions, and is currently considering several measures, to increase the supply of affordable housing in the State. At the same time, it is necessary to protect residential tenants, particularly those of advanced age or disability, or lower economic status, from the effects of eviction from affordable housing in recognition of the high costs, both financial and social, to the public of displacement from affordable housing and of homelessness. The Legislature has in the past through various enactments recognized that the eviction of residential tenants pursuant to the process of conversion of residential premises to condominiums or cooperatives exacerbates homelessness and makes more difficult the maintenance of an adequate supply of low and moderate income housing. The Legislature, therefore, declares that it is in the public interest to establish a tenant protection program specifically designed to provide protection to residential tenants, particularly the aged and disabled and those of low and moderate income, from eviction resulting from condominium or cooperative conversion.

L.1991,c.509,s.2.

2A:18-61.42. Definitions

3. As used in this act:

"Administrative agency" means the municipal board, officer or agency designated, or the county agency contracted with, pursuant to section 6 of this act.

"Annual household income" means the total income from all sources during the last full calendar year, or the annual average of that total income during the last two calendar years, whichever is less, of a tenant and all members of the household who are residing in the tenant's dwelling unit when the tenant applies for protected tenancy, whether or not such income is subject to taxation by any taxing authority.

"Commissioner" means the Commissioner of Community Affairs.

"Conversion" means conversion as defined in section 3 of "The Planned Real Estate Development Full Disclosure Act," P.L.1977, c.419 (C.45:22A-23).

"Conversion recording" means the recording with the appropriate county officer of a master deed for a condominium or a deed to a cooperative corporation for a planned residential development or separable fee simple ownership of the dwelling units.

"County rental housing shortage" means a certification issued by the Commissioner of Community Affairs that there has occurred a significant decline in the availability of rental dwelling units in the county due to conversions; provided, however, that the commissioner shall not issue any such certification unless during the immediately preceding 10 year period:

- a. The aggregate number of rental units subject to registrations of conversion during any three consecutive years in the county exceeds 10,000; and
- b. The aggregate number of rental units subject to registrations of conversion in at least one of those three years exceeds 5,000.

"Department" means the Department of Community Affairs.

"Index" means the annual average over a 12-month period beginning September 1 and ending August 31 of the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W), All Items Series A, of the United States Department of Labor (1957-1959 = 100), for either the New York, NY-Northeastern New Jersey or the Philadelphia, PA-New Jersey region, according as either shall have been determined by the commissioner to be applicable in the locality of a property undergoing conversion.

"Protected tenancy period" means, except as otherwise provided in section 11 of this act, all that time following the conversion recording for a building or structure during which a qualified tenant in that building or structure continues to be a qualified tenant and continues to occupy a dwelling unit therein as his principal residence.

"Qualified county" means:

a. Any county with a population in excess of 500,000 and a population density in excess of 8,500 per square mile, according to the most recent federal decennial census; or

b. Any county wherein there exists a county rental housing shortage.

"Qualified tenant" means a tenant who is a resident in a qualified county and:

(1) Applied for protected tenancy status on or before the date of registration of conversion by the department, or within one year of the effective date of this act, whichever is later;

(2) Has occupied the premises as his principal residence for at least 12 consecutive months next preceding the date of application; and

(3) Has an annual household income that does not at the time of application exceed the maximum qualifying income as determined pursuant to section 4 of this act, except that this income limitation shall not apply to any tenant who is age 75 or more years or is disabled within the meaning of section 3 of P.L.1981, c.226 (C.2A:18-61.24).

"Registration of conversion" means an approval of an application for registration by the department in accordance with "The Planned Real Estate Development Full Disclosure Act," P.L.1977, c.419 (C.45:22A-21 et seq.).

"Tenant in need of comparable housing" means a tenant who is not a qualified tenant under this act and is not eligible for protected tenancy under the "Senior Citizens and Disabled Protected Tenancy Act," P.L.1981, c.226 (C.2A:18-61.22 et al.).

L.1991,c.509,s.3.

2A:18-61.43. Maximum qualifying income, adjustment

4. As of the effective date of this act, maximum qualifying income for the purpose of determining qualified tenant status as defined in section 3 of this act shall be in the case of a household comprising one person, \$31,400; two persons, \$38,500; three persons, \$44,800; four persons, \$50,300; five persons, \$55,000; six persons, \$58,900; seven persons, \$62,000; eight or more persons, \$64,300. In the case of any application for protected tenancy filed more than one year from the effective date of this act, and upon any occasion when termination of a previously granted protected tenancy is sought pursuant to section 11 of this act upon the grounds set forth in paragraph (2) of subsection a. of that section, these figures shall be adjusted by the percentage change, if any, in the applicable index that has occurred since the effective date of this act.

L.1991,c.509,s.4.

2A:18-61.44. Protected tenancy, qualification, duration

5. a. Each qualified tenant shall be granted a protected tenancy status with respect to his dwelling unit upon conversion of the building or structure in which the unit is located. The protected tenancy status shall be granted upon proper application and qualification pursuant to the provisions of this act.

b. Each qualified tenant in need of comparable housing shall be entitled to remain in his dwelling unit upon conversion of the building or structure in which the unit is located until the owner of the building or structure has complied with the provisions of P.L.1975, c.311 (C.2A:18-61.7 et al.).

L.1991,c.509,s.5.

2A:18-61.45. Designation of administrative agency

6. Each municipal governing body in a qualified county shall designate a municipal board, agency or officer to act as its administrative agency for the purposes of this act or may enter into a contractual agreement with an appropriate county to act as its administrative agency for purposes of this act. In the absence of such authorization or contractual agreement, this act shall be administered by the board, agency or officer administering the provisions of the "Senior Citizens and Disabled Protected Tenancy Act," P.L.1981, c.226 (C.2A:18-61.22 et al.) in the municipality.

L.1991,c.509,s.6.

2A:18-61.46. Notice, etc. required of owner seeking to convert, notice to tenants

7. The owner of any building or structure in a qualified county who seeks to convert any premises shall notify the administrative agency of that intention prior to filing the application for registration of conversion with the department. The owner shall supply the administrative agency with a list of every tenant residing in the premises, with stamped envelopes addressed to each tenant and with sufficient copies of the notice to tenants and application form for protected tenancy status. Within 10 days thereafter, the administrative agency shall notify each residential tenant in writing of the owner's intention and of the applicability of the provisions of this act and shall provide him with a written application form. The agency's notice shall be substantially in the following form:

"NOTICE"

THE OWNER OF YOUR APARTMENT HAS NOTIFIED (insert name of municipality) OF HIS INTENTION TO CONVERT TO A CONDOMINIUM OR COOPERATIVE.

UNDER STATE LAW YOU MAY BE ENTITLED TO A PROTECTED TENANCY.

PROTECTED TENANCY MEANS THAT YOU CANNOT BE EVICTED BECAUSE OF THE CONVERSION.

YOU MAY BE QUALIFIED:

(1) IF YOU HAVE LIVED IN YOUR APARTMENT FOR A YEAR AND

(2) IF YOUR HOUSEHOLD INCOME IS LESS THAN (insert current maximum qualifying income established under section 3 of this act), OR YOU ARE DISABLED OR ARE AT LEAST 75 YEARS OLD.

IF YOU THINK YOU MAY QUALIFY, SEND IN THE APPLICATION FORM BY
..... (insert date 60 days after municipality's mailing)

TO THE (insert name and address of administrative agency)

EVEN IF YOU DO NOT QUALIFY, YOU HAVE THE RIGHT TO REMAIN IN YOUR APARTMENT UNTIL YOUR LANDLORD HAS COMPLIED WITH LAWS REGARDING THE OFFER OF COMPARABLE HOUSING.

FOR FURTHER INFORMATION CALL..... (insert phone number of administrative agency)

OR " (insert phone number of Department of Community Affairs)

The department shall not accept any application for registration of conversion for any building or structure unless included in the application is proof that the administrative agency notified the tenants prior to the application for registration. The proof shall be by affidavit or in such other form as the department shall require.

In any municipality where the administrative agency is the same as the agency administering the "Senior Citizens and Disabled Protected Tenancy Act," P.L.1981, c.226 (C.2A:18-61.22 et al.), the notices required under that act and this act may be combined in a single mailing.

L.1991,c.509,s.7.

2A:18-61.47. Determining tenants' qualifications

8. Within 30 days after receipt of an application for the protected tenancy status authorized under the provisions of this act, the administrative agency shall make a determination of qualification. It shall send written notice of qualification to each tenant who is a resident of the qualified county and:

- a. applied on or before the date of registration of conversion by the department, or within one year from the effective date of this act, whichever is later; and,
- b. has an annual household income that does not exceed the maximum amount permitted for qualification, or is exempt from that income limitation by reason of age or disability; and,
- c. has occupied the premises as his principal residence for at least 12 consecutive months next preceding the date of application.

The administrative agency shall likewise send a notice of denial, with reasons therefor, to any tenant whom it determines not to be qualified. That notice shall inform the tenant of his right to remain in his dwelling unit until the owner shall have complied with the requirements of P.L.1975, c.311 (C.2A:18-61.7 et al.) and shall include an explanation of the meaning of "comparable housing" as used in that act. The owner shall be notified of those tenants who are determined to be qualified and unqualified.

The administrative agency may require that the application include such documents and information as may be necessary to establish that the tenant is qualified for a protected tenancy

status under the provisions of this act and shall require that such documentation and information be submitted under oath. The commissioner may by regulation adopt uniform forms to be used in applying for protected tenancy status, for notifying an applicant of qualification or denial thereof, and conveying to a denied applicant the information concerning his rights to continued tenancy and offer of comparable housing; he may also adopt such other regulations for the procedure of determining qualification as he deems necessary or expedient to the proper effectuation of the provisions and purposes of this act.

L.1991,c.509,s.8.

2A:18-61.48. Requisites for approval of registration of conversion

9. No registration of conversion for a building or structure located in a qualified county shall be approved until the department receives proof that the provisions of section 8 of this act have been complied with, and that notification as required in that section has been made to all tenants who filed application for protected tenancy status on or before the application deadline prescribed in the notice given pursuant to section 7 of this act. The proof shall be by affidavit or in such form as the department may require.

L.1991,c.509,s.9.

2A:18-61.49. Applicability of protected tenancy

10. The protected tenancy status authorized under the provisions of this act shall not be applicable to any qualified tenant until such time as the owner has filed his conversion recording. The protected tenancy status shall automatically apply as soon as a tenant receives notice of qualification and the landlord files his conversion recording. The conversion recording shall not be filed until after the registration of conversion.

L.1991,c.509,s.10.

2A:18-61.50. Termination of protected tenancy

11. a. The administrative agency shall terminate the protected tenancy status authorized under the provisions of this act immediately upon finding that:

- (1) the dwelling unit is no longer the principal residence of the tenant, or
- (2) the tenant's annual household income exceeds the maximum amount permitted for qualification.

b. Upon presentation to the administrative agency of credible evidence that a tenant is no longer qualified for protected tenancy status under this act, the administrative agency shall proceed, in accordance with such regulations and procedures as the department shall adopt and prescribe for use in such cases, to investigate and make a determination as to the continuance of that status.

c. Upon the termination of the protected tenancy status by the administrative agency, the tenant may be removed from the dwelling unit pursuant to P.L.1974, c.49 (C.2A:18-61.1 et al.), except that all notice and other times set forth therein shall be calculated and extend from the

date of the expiration or termination of the protected tenancy period, or the date of the expiration of the last lease entered into with the tenant during the protected tenancy period, whichever shall be later.

d. Any protection afforded to a person under the "Senior Citizens and Disabled Protected Tenancy Act," P.L.1981, c.226 (C.2A:18-61.22 et al.) shall remain in full force and effect. If the administrative agency determines that a tenant is no longer qualified for protected tenancy under that act, the administrative agency shall proceed to determine the eligibility of that tenant under the "Tenant Protection Act of 1992," P.L.1991, c.509 (C.2A:18-61.40 et al.), or, in any case in which the administrative agency is not the same as the agency administering the "Tenant Protection Act of 1992" in the municipality, shall refer the case to the appropriate administrative agency for such determination. If the tenant is found by such determination to be eligible, his protected tenancy status shall be continued. The protected tenancy status of the tenant shall remain in full force pending such determination.

L.1991,c.509,s.11.

2A:18-61.51. Tenancy protection terminated by tenant purchase

12. In the event that a qualified tenant purchases the dwelling unit he occupies, the protected tenancy status afforded under the provisions of this act shall terminate immediately upon purchase.

L.1991,c.509,s.12.

2A:18-61.52. Costs of conversion no basis for rent increases

13. a. In the case of a municipality subject to the provisions of this act that does not have a rent control ordinance in effect, no evidence of increased costs that are solely the result of the conversion, including but not limited to any increase in financing or carrying costs, and do not add services or amenities not previously provided shall be used as a basis to establish the reasonableness of a rent increase under subsection f. of section 2 of P.L.1974, c.49 (C.2A:18-61.1).

b. In the case of a municipality subject to the provisions of this act that has a rent control ordinance in effect, a rent increase for a qualified tenant with a protected tenancy status, or for any tenant to whom notice of termination pursuant to subsection g. of section 3 of P.L.1974, c.49 (C.2A:18-61.2) has been given, shall not exceed the increase authorized by the ordinance for rent-controlled units. Increased costs that are solely the result of a conversion, including but not limited to any increase in financing or carrying costs, and do not add services or amenities not previously provided shall not be used as a basis for an increase in a fair-return or hardship hearing before a municipal rent board or on any appeal from such determination.

L.1991,c.509,s.13.

2A:18-61.53. Public offering statements, requisites

14. In the case of a building or structure located in a qualified county, the public offering statement for a conversion as required by "The Planned Real Estate Development Full Disclosure Act," P.L.1977, c.419 (C.45:22A-21 et seq.), shall clearly inform the prospective purchaser of

the provisions of this act regarding the protection of qualified tenants and tenants in need of comparable housing. Any contract or agreement for sale of a converted unit shall contain a clause in 10-point bold type or larger that the contract is subject to the terms of this act concerning such tenant protection and an acknowledgement that the purchaser has been informed of these terms.

L.1991,c.509,s.14.

2A:18-61.54. Municipal fees

15. A municipality located in a qualified county is authorized to charge an owner a fee which may vary according to the size of the building to cover the cost of providing the services required by this act.

L.1991,c.509,s.15.

2A:18-61.55. Tenant waivers, unenforceable

16. Any agreement whereby the tenant waives any rights under this act shall be deemed to be against public policy and unenforceable.

L.1991,c.509,s.16.

2A:18-61.56. Actions against qualified tenants, limitations

17. For one year from the effective date of this act, no action for removal of a qualified tenant shall be instituted, no judgment shall be entered against a qualified tenant based upon a previously instituted action, and no qualified tenant shall be removed from his dwelling unit by a landlord, on the basis of the conversion of the premises. The owner of any residential premises located in a qualified county who, prior to that date, has registered those residential premises for conversion or applied for such registration shall comply with the provisions of this act, and the tenants residing in those premises shall be entitled to the protections extended under this act as if the registration or application for registration had not so occurred prior to that date. However, the provisions of this section shall not apply to any residential unit for which a conversion was registered prior to March 4, 1991 if the unit was sold to a bona fide individual purchaser prior to that date and that purchaser intends to personally occupy the unit as his principal residence.

L.1991,c.509,s.17.

2A:18-61.57. Removal for good cause

18. Nothing in this act shall be deemed to prevent a court from removing a tenant, qualified tenant or tenant in need of comparable housing from a dwelling unit located in a qualified county for good cause shown not to be related to conversion of the building or structure to a condominium or cooperative.

L.1991,c.509,s.18.

2A:18-61.58. Severability

24. If any section, subsection, paragraph, sentence or other part of this act is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this act, but shall be confined in its effect to the section, subsection, paragraph, sentence or other part of this act directly involved in the controversy in which the judgment shall have been rendered.

L.1991,c.509,s.24.

2A:18-61.59. Rules, regulations

25. The commissioner is authorized to adopt, in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as may be necessary to implement the provisions of this act, including but not limited to, the prescribing of administrative and notification procedures which integrate the procedural requirements of this act with those of P.L.1981, c.226 (C.2A:18-61.22 et al.) in order to facilitate the efficient administration of both acts.

L.1991,c.509,s.25.

2A:18-61.60. Tenants' organization permitted to accept billing for utility.

1. Whenever an electric, gas, water or sewer public utility has provided written notice to tenants residing in rental premises of a proposed discontinuance of service and the tenants so notified have indicated a desire to continue service, but the utility has determined that it would not be feasible to bill each tenant individually for the service, the utility shall permit a tenants' organization representing each tenant of the rental premises to accept billing for the utility including the periodic billing for current charges, and a statement of any arrearage which is unpaid by the landlord for service previously supplied by the utility, and shall continue providing the service to the premises provided that payment is received.

L.2000,c.113,s.1.

2A:18-61.61 Deduction of certain utility costs from rental payment.

2. Whenever a tenants' organization agrees to accept billing for a utility service, the tenants comprising the membership of the organization accepting and paying such billing shall be permitted to deduct from each of their respective rental payments to the landlord of the premises an amount corresponding to the tenant's contribution towards the currently due utility payment and the arrearage, if any, owed by the landlord, provided that any contribution by a tenant to the arrearage shall not exceed 15 percent of the tenant's rental payment which would have been payable to the landlord, but for the contribution.

L.2000,c.113,s.2.

2A:18-61.62 Issuance of "Notice of Rent Protection Emergency."

1. The Governor shall be empowered, whenever declaring a state of emergency, to determine whether the emergency will, or is likely to, significantly affect the availability and pricing of rental housing in the areas included in the declaration. If the Governor determines that

unconscionable rental practices are likely to occur unless the protections afforded under P.L.2002, c.133 (C.2A:18-61.62 et seq.) are invoked, the Governor may issue a "Notice of Rent Protection Emergency" at any time during the declared state of emergency.

L.2002,c.133,s.1.

2A:18-61.63 Effect of issuance of "Notice of Rent Protection Emergency."

2. Whenever the Governor declares a state of emergency within certain areas of the State, and issues a "Notice of Rent Protection Emergency," the following shall apply:

a. Within a zone which includes the area declared to be in a state of emergency and, if so indicated in the Notice of Rent Protection Emergency extending a distance not to exceed 10 miles in all directions from the outward boundaries thereof, there shall be a presumption of unreasonableness given to a notice of increase in rental charges provided subsequent to the date of the declaration by a landlord to a tenant occupying premises which are utilized as a residence, when the proposed percentage increase in rent is greater than twice the rate of inflation as indicated by increases in the CPI for the immediately preceding nine-month period. For the purposes of this section, "CPI" means the annual average over a 12-month period beginning September 1 and ending August 31 of the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W), All Items Series A, of the United States Department of Labor (1957-1959 = 100), for the New York, NY-Northeastern New Jersey region.

b. Within a zone which includes the area declared to be in a state of emergency and, if so indicated in the Notice of Rent Protection Emergency extending a distance not to exceed 10 miles in all directions from the outward boundaries thereof, there shall be a limitation on the amount of rent which may be charged a tenant undertaking a new lease for residential premises during the duration of the declaration of a "Notice of Rent Protection Emergency" made pursuant to section 1 of P.L.2002, c.133 (C.2A:18-61.62). The amount of rent which may be charged shall be limited to the product of the fair market rental value of the premises prior to the emergency conditions and two times the rate of inflation as determined by the increase in the CPI for the immediately preceding nine month period. For the purposes of this section, "CPI" means the annual average over a 12-month period beginning September 1 and ending August 31 of the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W), All Items Series A, of the United States Department of Labor (1957-1959 = 100), for the New York, NY-Northeastern New Jersey region.

c. In the event that a landlord believes that the limitations on increases in rental charges imposed by a "Notice of Rent Protection Emergency" prevent the landlord from realizing a just and reasonable rate of return on the landlord's investment, the landlord may file an application with the Director of the Division of Consumer Affairs in the Department of Law and Public Safety for the purpose of requesting permission to increase rental charges in excess of the increases otherwise authorized under the "Notice of Rent Protection Emergency". In evaluating such an application, the director shall take into consideration the purposes intended to be achieved by P.L.2002, c.133 (C.2A:18-61.62 et seq.), and the "Notice of Rent Protection Emergency" and the amount of rental charges required to provide the landlord with a just and reasonable return. The Director shall promulgate rules and regulations in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to effectuate the purposes of this act.

d. The provisions of subsections a. and b. of this section will serve to supplement, not replace, any existing local, State, or federal restrictions on rent increases for any dwelling units in residential buildings located within the zone described in subsections a. and b. of this section, and will only apply to those dwelling units where they cause a lowering of the maximum allowable rent increase or of the maximum reasonable rent increase.

e. The provisions of subsections a. and b. of this section shall cease to apply upon the expiration of the state of emergency, or upon the rescission of the either the declaration of the state of emergency or the "Notice of Rent Protection Emergency."

L.2002,c.133,s.2.

2A:18-61.64 Report of violation, investigation, penalties.

3. a. A tenant or prospective tenant may report a violation of the provisions of P.L.2002, c.133 (C.2A:18-61.62 et seq.) to the Director of the Division of Consumer Affairs in the Department of Law and Public Safety. The director shall investigate any complaint within 10 days of receipt of the complaint.

b. If the director determines that a violation of this act has occurred:

(1) a penalty may be assessed against the landlord in an amount equal to six times the monthly rental sought to be imposed upon a tenant in contravention of the "Notice of Rent Protection Emergency"; or

(2) any penalties for violations of the New Jersey consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.) may be sought by the director.

c. Notwithstanding the provisions of subsections a. and b. of this section, a tenant shall have the right to petition a court of competent jurisdiction to terminate a lease containing a provision in violation of the provisions of P.L.2002, c.133 (C.2A:18-61.62 et seq.).

L.2002,c.133,s.3.

2A:18-61.65 Violations considered as consumer fraud.

4. Any violation of P.L.2002, c.133 (C.2A:18-61.62 et seq.) shall be considered a violation of the New Jersey consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.).

L.2002,c.133,s.4.