

**[CORRECTED COPY]**  
**CHAPTER 55**

**AN ACT** concerning child-protection window guards and amending and supplementing P.L.1995, c.120.

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

1. Section 1 of P.L.1995, c.120 (C.55:13A-7.12) is amended to read as follows:

C.55:13A-7.12 Definitions relative to child-protection window guards.

1. As used in this act:

"child-protection window guard" or "window guard" means a bar, screen or grille assembly designed to be installed in a window for the purpose of preventing accidental fall or ejection of a child through the window. It shall be so designed, constructed and installed that no person of the age of 10 years or younger may through accident, ignorance or inadvertence, remove, open or dislodge it so as to permit such fall or ejection. Such window guards shall conform to specifications developed by the commissioner regarding design, construction and installation so as to accomplish the purpose of this act. A municipality may adopt standards that afford tenants greater protections than are provided pursuant to the commissioner's specifications.

The commissioner's specifications for double hung windows shall ensure that window guards protect the full openable area of each lower window. The specifications shall provide that all window guards shall be designed and installed as to ensure that any space between the lowest section of the top horizontal bar of the window guard and the bottom of the upper sash is less than four inches. Installation of rigid metal stops in the upper tracks of a bottom window or other attempts to limit the ability to raise the bottom window shall not be an acceptable method of satisfying the specifications provided for in this section. Window stops may be utilized as a safety enhancement when used in addition to installed window guards.

"common interest community" means a horizontal property regime, condominium, cooperative, or mutual housing corporation in which some of the property, known as common elements, is owned as tenants-in-common by all of the property owners.

"unit owners' association" means the association organized for the purpose of management of the common elements and facilities of a common interest community.

2. Section 2 of P.L.1995, c.120 (C.55:13A-7.13) is amended to read as follows:

C.55:13A-7.13 Installation of window guards, maintenance, violations, penalties.

2. a. (1) Except as provided in subsection b. of this section, the owner, lessor, agent or other person who manages or controls a multiple dwelling, other than a multiple dwelling which is part of a common interest community, shall, upon the written request of a tenant of a unit in which a child or children 10 years of age or under reside or will reside or are regularly present for a substantial period of time, provide, install and maintain approved child-protection window guards on the windows of the dwelling unit and on any windows in the public halls of a multiple dwelling in which any child or children of such age reside or are regularly present for a substantial period of time.

(2) (a) Except as provided in subsection b. of this section, the owner, lessor, agent or other person who controls a unit of dwelling space in a multiple dwelling within a common interest community, upon the written request of a tenant of a unit in which a child or children 10

years of age or under reside or will reside or are regularly present for a substantial period of time, shall provide, install and maintain child-protection window guards on the windows of the unit.

(b) The owner, lessor, agent or other person who controls a unit of dwelling space in a multiple dwelling within a common interest community shall provide written notice to the unit owners' association whenever a tenant of a unit, in which a child or children 10 years of age or under reside or will reside or are regularly present for a substantial period of time, has requested that child-protection window guards be installed on the windows in the common areas of the common interest community.

(3) (a) Except as provided in subsection b. of this section, upon the written request of an owner or an occupant of a dwelling unit of a multiple dwelling within a common interest community, in which dwelling unit a child or children 10 years of age or under reside or will reside or are regularly present for a substantial period of time, the unit owners' association shall install and maintain child-protection window guards on the windows which are determined to be in common areas of the community property and maintained by the association.

(b) A unit owners' association shall not adopt or seek to enforce any restrictions or architectural controls which would prohibit or impede the installation of a window guard in compliance with P.L.1995, c.120 (C.55:13A-7.12 et seq.).

b. (1) The requirements of subsection a. of this section shall apply to all windows, except those windows which give access to a fire escape, which are not designed to open, or which are on the first floor; provided, however, that the requirements of subsection a. of this section shall apply to first floor windows in such circumstances as the commissioner may provide by rule.

(2) The requirements of subsection a. of this section shall not apply to seasonal rental units. "Seasonal rental unit" means a dwelling unit rented for a term of not more than 125 consecutive days for residential purposes by a person having a permanent residence elsewhere, but shall not include use or rental of living quarters by migrant, temporary or seasonal workers in connection with any work or place where work is being performed. The owner, lessor, agent or other person who controls a dwelling unit shall have the burden of proving that the rental is seasonal.

c. Any child-protection window guard installed pursuant to P.L.1995, c.120 (C.55:13A-7.12 et seq.) shall conform to the requirements of the State Uniform Construction Code with respect to means of emergency egress, and a window guard installed on an emergency egress window shall be releasable or removable from the inside without use of a key, tool or excessive force. Window guards installed on all other windows shall be designed, constructed, and installed so that they may not deliberately or through accident, ignorance or inadvertence, be removed, opened, or dislodged without the use of a key or tool.

d. (1) Upon installation of a child-protection window guard in a dwelling unit, and annually thereafter, the owner, lessor, agent or other person who manages and controls that dwelling unit shall provide the tenant with an orientation concerning the safe use and manipulation of window guards in accordance with guidelines established by the Commissioner of Community Affairs pursuant to section 5 of P.L.1995, c.120 (C.55:13A-7.16).

(2) Upon installation of a child-protection window guard in the common areas of a multiple dwelling, and annually thereafter, the owner, lessor, unit owners' association, agent or other person who manages and controls the common areas of the multiple dwelling shall provide the occupants of the multiple dwelling with an orientation concerning the safe use

and manipulation of window guards in accordance with guidelines established by the Commissioner of Community Affairs pursuant to section 5 of P.L.1995, c.120 (C.55:13A-7.16).

e. At least twice annually, the owner, lessor, unit owners' association, agent or other person who manages and controls a unit of dwelling space in a multiple dwelling, the common areas of the multiple dwelling, or both, in which child protection window guards have been installed, shall inspect each such window guard under their control to ensure that it remains sound and in conformance with the provisions of P.L.1995, c.120 (C.55:13A-7.12 et seq.), and shall enter a record of such inspection in a log, which shall be maintained as a permanent record so long as the window guard remains installed, and for five years thereafter, and which shall be available upon request to the department or its duly authorized representative.

f. A tenant or unit owner may file a complaint with the commissioner for the failure to comply with the provisions of P.L.1995, c.120 (C.55:13A-7.12 et seq.). The commissioner shall investigate complaints within a reasonable time period. The commissioner may impose penalties authorized under the "Hotel and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.) for violations concerning the installation of child-protection window guards and may institute a criminal complaint for a repeat conviction after the imposition of a \$5,000 civil penalty for a continuing violation pursuant to section 19 of P.L.1967, c.76 (C.55:13A-19).

g. To the extent that a violation of P.L.1995, c.120 (C.55:13A-7.12 et seq.) has occurred within a rental unit in a common interest community, such violation shall be noticed to, and resultant penalties imposed upon, the unit owner of such rental unit and not the unit owners' association.

h. To the extent that a violation of P.L.1995, c.120 (C.55:13A-7.12 et seq.) has occurred within the common areas of a common interest community, such violation shall be noticed to, and resultant penalties imposed upon, the unit owners' association.

3. Section 3 of P.L.1995, c.120 (C.55:13A-7.14) is amended to read as follows:

C.55:13A-7.14 Leases, required notices advising of availability; delivery, posting.

3. a. All leases offered to tenants in multiple dwellings shall contain a notice, conspicuously set forth therein in prominent boldface type, advising tenants and prospective tenants of the availability of window guards under P.L.1995, c.120 (C.55:13A-7.12 et seq.) and the need for a tenant to request in writing the installation of window guards. In the case of a cooperative, as defined in P.L.1987, c.381 (C.46:8D-1 et seq.), formed prior to the effective date of P.L.2006, c.55 (C.55:13A-7.12a et al.), the notice required by this subsection shall not be required in proprietary leases.

b. (1) At the time of lease signing, the owner, lessor, agent or other person who manages or controls a unit of dwelling space in a multiple dwelling shall verbally inform the tenant of the tenant's right to request the installation of window guards under P.L.1995, c.120 (C.55:13A-7.12 et seq.). Verification that this verbal notice was provided and understood shall be set forth in a written document, aside from the lease document itself, which written document shall acknowledge that the tenant was made aware of the right to request the installation of window guards and which shall be signed by both the tenant and the owner, lessor, agent or other person who manages or controls the unit of dwelling space.

(2) (a) The owner, lessor, agent or other person who manages or controls a multiple dwelling unit or a rental unit within a common interest community shall cause to be

delivered to each dwelling unit so managed or controlled, twice annually, a notice, in form and manner prescribed by the commissioner, advising occupants of the obligation of the said owner, lessor, agent or other person to install child-protection window guards pursuant to section 2 of P.L.1995, c.120 (C.55:13A-7.13). For the purposes of this section, an owner of a rental unit located within a common interest community, and not the unit owners' association, shall be deemed to be the managing agent of that rental unit. A lease provision notifying a tenant of the availability of window guards may satisfy one of the notice requirements of this subparagraph.

(b) The owner, lessor, unit owners' association, agent or other person who manages or controls the common areas of a multiple dwelling shall cause to be delivered to each dwelling unit, twice annually, a notice, in form and manner prescribed by the commissioner, advising occupants of the obligation of the said owner, lessor, unit owners' association, agent or other person to install child-protection window guards pursuant to section 2 of P.L.1995, c.120 (C.55:13A-7.13). A lease provision notifying a tenant of the availability of window guards may satisfy one of the notice requirements of this subparagraph.

(3) The owner, lessor, unit owners' association, agent or other person who manages or controls the common areas of a multiple dwelling shall cause to be conspicuously posted and prominently displayed in the common areas of that dwelling a notice advising the occupants of the obligation of the owner, lessor, unit owners' association, agent or other person to install child-protection window guards pursuant to section 2 of P.L.1995, c.120 (C.55:13A-7.13) and advising tenants to check their window guards on a regular basis and to report any problems or concerns to the owner, lessor, unit owners' association, agent or other person who manages or controls the multiple dwelling.

c. Notwithstanding any municipal ordinance to the contrary, expenditures not exceeding \$20 per window guard installed in a dwelling unit that are made pursuant to P.L.1995, c.120 (C.55:13A-7.12 et seq.) may be passed on to the tenant who requested installation of the window guard.

4. Section 4 of P.L.1995, c.120 (C.55:13A-7.15) is amended to read as follows:

C.55:13A-7.15 Noninterference with window guards; removal, certain.

4. No tenant or occupant of a multiple dwelling unit, or any other person, shall obstruct or interfere with the installation of child-protection window guards required under section 2 of P.L.1995, c.120 (C.55:13A-7.13), nor shall any person remove or otherwise render ineffective such window guards; provided, however, that the owner or the representative of the owner may remove window guards from an unoccupied unit or, with the consent of the tenant, from a unit in which no child 10 years of age or under resides or is regularly present for a substantial period of time; and provided, further, that the owner or the representative of the owner shall remove window guards when requested to do so by the tenant in writing.

5. Section 5 of P.L.1995, c.120 (C.55:13A-7.16) is amended to read as follows:

C.55:13A-7.16 Rules, regulations; guidelines for use, orientation programs.

5. a. The commissioner is hereby authorized to make and promulgate, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), all regulations necessary to carry out P.L.1995, c.120 (C.55:13A-7.12 et seq.), including, but not limited to, regulations regarding the design, construction, and installation of window guards. The commissioner shall promulgate model forms and lease provisions for the notices required to

be provided pursuant to P.L.1995, c.120 (C.55:13A-7.12 et seq.) and specifications for inspections and log-keeping requirements.

b. The commissioner shall establish guidelines for orientation programs designed to educate tenants about the safe use and manipulation of window guards and their rights concerning child-protection window guards pursuant to P.L.1995, c.120 (C.55:13A-7.12 et seq.) and ensure that an orientation program is offered annually prior to March 1 of each year in the following:

(1) every multiple dwelling of at least four stories in height which was built with public funds or public assistance, or financed, in whole or in part, by a loan guaranteed or insured by the federal government or any agency thereof, including the allocation of low-income tax credits; and

(2) every multiple dwelling of at least four stories in height in which a recipient of State or federal rental assistance resides.

Notice of the orientation program shall be posted in appropriate common areas of the building at least two weeks prior to the date of the program.

6. Section 19 of P.L.1967, c.76 (C.55:13A-19) is amended to read as follows:

C.55:13A-19 Violations, penalties.

19. (a) No person shall

(1) Obstruct, hinder, delay or interfere with, by force or otherwise, the commissioner in the exercise of any power or the discharge of any function or duty under the provisions of P.L.1967, c.76 (C.55:13A-1 et seq.); or

(2) Prepare, utter or render any false statement, report, document, plans or specifications permitted or required to be prepared, uttered or rendered under the provisions of P.L.1967, c.76 (C.55:13A-1 et seq.); or

(3) Render ineffective or inoperative any protective equipment installed, or intended to be installed, in any hotel or multiple dwelling; or

(4) Refuse or fail to comply with any lawful ruling, action, order or notice of the commissioner; or

(5) Violate, or cause to be violated, any of the provisions of P.L.1967, c.76 (C.55:13A-1 et seq.).

(b) Any person who violates, or causes to be violated, any provision of subsection (a) of this section shall be liable to a penalty of not less than \$50.00 nor more than \$500.00 for each violation, and a penalty of not less than \$500.00 nor more than \$5,000.00 for each continuing violation. Penalties imposed for violations relating to child-protection window guards pursuant to the provisions of P.L.1995, c.120 (C.55:13A-7.12 et seq.) shall be no less than \$100 for each window or incident. Whenever a violator is convicted of knowingly continuing to violate a provision of P.L.1995, c.120 (C.55:13A-7.12 et seq.) relating to child-protection window guards after the imposition of a penalty of \$5,000 pursuant to this section, the violator shall be guilty of a crime of the fourth degree. Where any violation of subsection (a) of this section is of a continuing nature, each day during which such continuing violation remains unabated after the date fixed by the commissioner in any order or notice for the correction or termination of such continuing violation, shall constitute an additional, separate and distinct violation, except during the time an appeal from said order may be taken or is pending. The commissioner, in the exercise of his administrative authority pursuant to this act, may levy and collect penalties in the amounts set forth in this section. Where the administrative penalty order has not been satisfied within 30 days of its

issuance the penalty may be sued for, and recovered by and in the name of the commissioner in a civil action by a summary proceeding under "The Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.) in the Superior Court.

(c) Any person shall be deemed to have violated, or to have caused to be violated, any provision of subsection (a) of this section whenever any officer, agent or employee thereof, under the control of and with the knowledge of said person shall have violated or caused to be violated any of the provisions of subsection (a) of this section.

(d) The commissioner may cancel and revoke any permit, approval or certificate required or permitted to be granted or issued to any person pursuant to the provisions of this act if the commissioner shall find that any such person has violated, or caused to be violated, any of the provisions of subsection (a) of this section.

(e) Any penalties collected pursuant to this section levied as the result of a violation of subsection (w) of section 7 of P.L.1967, c.76 (C.55:13A-7) and which occurred pursuant to inspection for lead-based paint hazards shall be deposited in the Lead Hazard Control Assistance fund established pursuant to section 4 of P.L.2003, c.311 (C.52:27D-437.4). Penalties levied as the result of multiple violations shall be allocated to the Lead Hazard Control Assistance fund in such proportion as the commissioner shall prescribe.

C.55:13A-7.12a Short title.

7. P.L.1995, c.120 (C.55:13A-7.12 et seq.) shall be known and may be cited as the "Robert E. Dwight, Jr., Raquan Ellis and Zahir Atkins Memorial Child-Protection Window Guard Law."

8. This act shall take effect immediately.

Approved July 31, 2006.