

CHAPTER 170

AN ACT concerning the rental of residential property and amending P.L.1993, c.127.

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

1. Section 1 of P.L.1993, c.127 (C.40:48-2.12n) is amended to read as follows:

C.40:48-2.12n Findings, determinations, declarations.

1. The Legislature finds, determines and declares:
 - a. Many of the municipalities in this State, and the residents thereof, have experienced disturbances, damage and public expense resulting from carelessly granted and inadequately supervised rentals to irresponsible tenants by inept or indifferent landlords.
 - b. To preserve the peace and tranquility of those communities it is necessary and desirable that those communities have adequate means to curb and discourage those occasional excesses arising from irresponsible rentals.
 - c. Accordingly, it is the purpose of this legislation to enable municipal governing bodies to take effective action to assure that excesses, when they occur, shall not be repeated, and that landlords be held to sufficient standards of responsibility.

2. Section 2 of P.L.1993, c.127 (C.40:48-2.12o) is amended to read as follows:

C.40:48-2.12o Definitions.

2. As used in this act:

"Hearing officer" means a person designated pursuant to subsection b. of section 3 of P.L.1993, c.127 (C.40:48-2.12p) to hear and determine proceedings under P.L.1993, c.127 (C.40:48-2.12n et seq.).

"Landlord" means the person or persons who own or purport to own a building in which there is rented or offered for rent housing space for living or dwelling under either a written or oral lease which building contains no more than four dwelling units. In the case of a mobile home park, "landlord" shall mean the owner of an individual dwelling unit within the mobile home park.

"Substantiated complaint" means a complaint which may form the basis for proceedings in accordance with subsection a. of section 4 of P.L.1993, c.127 (C.40:48-2.12q).

3. Section 3 of P.L.1993, c.127 (C.40:48-2.12p) is amended to read as follows:

C.40:48-2.12p Ordinance holding landlords to standards of responsibility.

3. a. The governing body of any municipality may enact an ordinance holding landlords to standards of responsibility in the selection of tenants and supervision of the rental premises, requiring that under certain circumstances, as hereinafter in P.L.1993, c.127 (C.40:48-2.12n et seq.) described, such landlords may be required to post adequate bond against the consequences of disorderly behavior of their tenants, and in the case of subsequent violations forfeit such bond, in whole or part, in compensation for the consequences of such behavior.
 - b. To assure impartiality in the administration of such an ordinance, the municipal governing body shall make provision for the hearings and decisions held and made thereunder to be conducted and decided by a licensed attorney of this State who shall not be an owner or lessee of any real property within the municipality, nor hold any interest in the assets of or profits arising from the ownership or lease of such property.

4. Section 4 of P.L.1993, c.127 (C.40:48-2.12q) is amended to read as follows:

C.40:48-2.12q Provisions of ordinance on rentals.

4. An ordinance adopted under authority of this section shall provide:

a. If in any twelve-month period a specified number, which shall not be less than two, of complaints, on separate occasions, of disorderly, indecent, tumultuous or riotous conduct upon or in proximity to any rental premises, and attributable to the acts or incitements of any of the tenants of those premises, have been substantiated by prosecution and conviction in any court of competent jurisdiction, the municipal governing body or any officer or employee of the municipality designated by the governing body for the purpose, may institute proceedings to require the landlord of those premises to post a bond against the consequences of future incidents of the same character.

b. (1) In the event a tenant is convicted of any of the conduct described in subsection a. of this section, the governing body, or the officer or employee designated pursuant to subsection a. of this section, shall cause notice advising that the conduct specified has occurred to be served on the landlord, in person or by registered mail, at the address appearing on the tax records of the municipality.

(2) The governing body or person designated pursuant to subsection a. of this section shall cause to be served upon the landlord, in person or by registered mail to the address appearing on the tax records of the municipality, notice advising of the institution of such proceedings, together with particulars of the substantiated complaints upon which those proceedings are based, and of the time and place at which a hearing will be held in the matter, which shall be in the municipal building, municipal court or other public place within the municipality, and which shall be no sooner than 30 days from the date upon which the notice is served or mailed.

c. At the hearing convened pursuant to subsection b. of this section, the hearing officer shall give full hearing to both the complaint of the municipality and to any evidence in contradiction or mitigation that the landlord, if present or represented and offering such evidence, may present. At the conclusion of the hearing the hearing officer shall determine whether the landlord shall be required to post a bond in accordance with the terms of the ordinance.

d. Any bond required to be posted shall be in accordance with the judgment of the hearing officer, in light of the nature and extent of the offenses indicated in the substantiated complaints upon which the proceedings are based, to be adequate in the case of subsequent offenses to make reparation for (1) damages likely to be caused to public or private property and damages consequent upon disruption of affected residents' rights of fair use and quiet possession of their premises, (2) securing the payment of fines and penalties likely to be levied for such offenses, and (3) compensating the municipality for the costs of repressing and prosecuting such incidents of disorderly behavior; but no such bond shall be in an amount less than \$500 or more than \$5,000. The municipality may enforce the bond thus required by action in the Superior Court, and shall be entitled to an injunction prohibiting the landlord from making or renewing any lease of the affected premises for residential purposes until that bond or equivalent security, in satisfactory form and amount, has been deposited with the municipality.

e. A bond or other security deposited in compliance with subsection d. of this section shall remain in force for a period specified pursuant to the ordinance, which shall be not less than two or more than four years. Upon the lapse of the specified period the landlord shall be entitled to the discharge thereof, unless prior thereto further proceedings leading to a

forfeiture or partial forfeiture of the bond or other security shall have been had under section 5 of P.L.1993, c.127 (C.40:48-2.12r), in which case the security shall be renewed, in an amount and for a period that shall be specified by the hearing officer.

5. Section 5 of P.L.1993, c.127 (C.40:48-2.12r) is amended to read as follows:

C.40:48-2.12r Complaints, proceedings against landlord, recovery from tenant.

5. a. If during the period for which a landlord is required to give security pursuant to section 4 of P.L.1993, c.127 (C.40:48-2.12q) a substantiated complaint is recorded against the property in question, the governing body or its designee may institute proceedings against the landlord for the forfeiture or partial forfeiture of the security, for an extension as provided in subsection e. of section 4 of P.L.1993, c.127 (C.40:48-2.12q), of the period for which such security is required, or for an increase in the amount of security required, or for any or all of those purposes.

b. Any forfeiture or partial forfeiture of security shall be determined by the hearing officer solely in accordance with the amount deemed necessary to provide for the compensatory purposes set forth in subsection d. of section 4 of P.L.1993, c.127 (C.40:48-2.12q). Any decision by the hearing officer to increase the amount or extend the period of the required security shall be determined in light of the same factors set forth in subsection d. of section 4 of P.L.1993, c.127 (C.40:48-2.12q), and shall be taken only to the extent that the nature of the substantiated complaint or complaints out of which proceedings arise under this section indicates the appropriateness of such change in order to carry out the purposes of this act effectually. The decision of the hearing officer in such circumstances shall be enforceable in the same manner as provided in subsection d. of section 4 of P.L.1993, c.127 (C.40:48-2.12q).

c. A landlord may recover from a tenant any amounts of security actually forfeited as described in subsection b. of this section.

6. This act shall take effect immediately.

Approved January 11, 2010.