

CHAPTER 206

AN ACT concerning attorney's fees and expenses in landlord-tenant disputes and supplementing Title 2A of the New Jersey Statutes.

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

C.2A:18-61.66 Payment of certain fees, expenses incurred in landlord-tenant disputes.

1. If a residential lease agreement provides that the landlord is or may be entitled to recover either attorney's fees or expenses, or both, incurred as a result of the failure of the tenant to perform any covenant or agreement in the lease, or if the lease provides that such costs may be recovered as additional rent, the court shall read an additional parallel implied covenant into the lease. This implied covenant shall require the landlord to pay the tenant either the reasonable attorney's fees or the reasonable expenses, or both, incurred by that tenant as the result of the tenant's successful defense of any action or summary proceeding commenced by the landlord against the tenant, arising out of an alleged failure of the tenant to perform any covenant or agreement in the lease, or as the result of any successful action or summary proceeding commenced by the tenant against the landlord, arising out of the failure of the landlord to perform any covenant or agreement in the lease.

The court shall order the landlord to pay such attorney's fees or expenses, or both, that are actually and reasonably incurred by a tenant who is the successful party in such actions or proceedings to the same extent the landlord is entitled to recover attorney's fees and expenses, or both, as provided in the lease. The court shall have discretion with respect to awards of attorney's fees or expenses, or both, for tenants to the same degree as it has with respect to awards of attorney's fees or expenses, or both, for landlords as provided under the lease either explicitly or implicitly. An order based on this implied covenant shall require the landlord to pay the tenant such costs either as money damages or a credit against future rent, as determined by the tenant. Any waiver of this section shall be void as against public policy.

Notwithstanding the foregoing, in an action or summary proceeding for non-payment of rent a tenant who pays all rent currently due and owing on or after the filing of the complaint but prior to entry of a final judgment, and whom the court finds presented no meritorious defense to the complaint other than said payment, shall not be deemed to have successfully defended against the action or summary proceeding for the purposes of the award of attorney's fees or expenses, or both.

As used in this act "expenses" shall include expenses directly related to the litigation including, but not limited to, court costs and expenses for witnesses. "Expenses" shall not include personal expenses for travel, reimbursement for missed work time, or child care.

C.2A:18-61.67 Notice provided in lease.

2. If a residential lease agreement provides that the landlord is or may be entitled to recover attorney's fees or expenses, or both from the tenant for any action or summary proceeding arising out of the lease, as described in section 1 of P.L.2013, c.206 (C.2A:18-61.66), the lease clause shall also contain the following provision in a bold typeface in a font size no less than one point larger than the point size of the rest of the lease clause or 11 points, whichever is larger:

IF THE TENANT IS SUCCESSFUL IN ANY ACTION OR SUMMARY PROCEEDING ARISING OUT OF THIS LEASE, THE TENANT SHALL RECOVER ATTORNEY'S FEES OR EXPENSES, OR BOTH FROM THE LANDLORD TO THE SAME EXTENT

THE LANDLORD IS ENTITLED TO RECOVER ATTORNEY'S FEES OR EXPENSES, OR BOTH AS PROVIDED IN THIS LEASE.

3. This act shall take effect immediately, and shall apply to all new lease agreements for real property executed on and after the first day of the month following enactment.

Approved January 17, 2014.