

ASSEMBLY, No. 2390

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED FEBRUARY 7, 2022

Sponsored by:

Assemblyman BENJIE E. WIMBERLY

District 35 (Bergen and Passaic)

SYNOPSIS

Establishes Statewide limitation on rent increases.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT establishing limits on rent increases and supplementing
2 chapter 18 of Title 2A of the New Jersey Statutes.

3

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

6

7 1. The Legislature finds and declares that:

8 a. The cost of housing in New Jersey, including rental housing,
9 constitutes one of the most substantial financial challenges faced by
10 the residents of the State;

11 b. According to recent estimates, over 43 percent of all New
12 Jersey renters pay more than 35 percent of their household income
13 on rent, a percentage of income that is commonly viewed as the
14 limit of what constitutes an affordable rent;

15 c. The affordability of rental housing presents a challenge that
16 requires a substantial response so that renters can continue to afford
17 housing in this State; and

18 d. It is, therefore, appropriate for the Legislature to establish a
19 reasonable limitation on annual rent increases throughout the State.

20

21 2. a. Except as provided in subsections c. and d. of this
22 section, and section 3 of P.L. , c. (C.) (pending before the
23 Legislature as this bill), a residential landlord shall not, over the
24 course of a 12-month period, increase the rent on a dwelling unit by
25 more than 5 percent plus the percentage change in the cost of living,
26 or 10 percent, whichever is lower, of the lowest rental rate charged
27 for that dwelling unit at any time during the 12 months prior to the
28 date when the increase takes effect.

29 b. A tenant of residential real property subject to this section
30 shall not enter into a sublease that results in a rental rate for the
31 dwelling unit that exceeds the allowable rental rate authorized by
32 subsection a. of this section. Nothing in this subsection authorizes a
33 tenant to sublet or assign the tenant's interest where otherwise
34 prohibited.

35 c. Regarding a new tenancy in which no tenant from the prior
36 tenancy remains in lawful possession of the dwelling unit, the
37 landlord may establish the initial rental rate notwithstanding
38 subsection a. of this section. Subsection a. of this section shall only
39 apply to subsequent increases after that initial rental rate has been
40 established with respect to the new tenancy.

41 d. This section shall not apply to the following:

42 (1) non-residential real property;

43 (2) a dwelling unit restricted by deed, regulatory restriction
44 contained in an agreement with a government agency, or other
45 recorded document as affordable housing for persons and families
46 of very low, low, or moderate income;

- 1 (3) a dormitory constructed and maintained in connection with
2 an institution of higher education for the use and occupancy of
3 students in attendance at the institution;
- 4 (4) a dwelling unit subject to a “Notice of Rent Protection
5 Emergency,” established pursuant to P.L.2002, c.133 (C.2A:18-
6 61.62 et seq.), the application of which results in a lower permitted
7 rent increase for the specified year than that permitted pursuant to
8 subsection a. of this section;
- 9 (5) a dwelling unit that has been newly constructed, and issued a
10 certificate of occupancy as a result of its completion, within the
11 previous 15 years;
- 12 (6) a single family dwelling unit, provided that both of the
13 following apply:
- 14 (a) the landlord is not any of the following:
- 15 (i) a real estate investment trust, as defined in 26 U.S.C. s.856;
- 16 (ii) a corporation; or
- 17 (iii) a limited liability company in which at least one member is
18 a corporation; and
- 19 (b) (i) the tenant has been provided written notice that the
20 dwelling unit is exempt from this section using the following
21 statement: “This property is not subject to the rent limits imposed
22 by P.L. , c. (C.) (pending before the Legislature as this
23 bill). The landlord is not any of the following: (1) a real estate
24 investment trust; (2) a corporation; or (3) a limited liability
25 company in which at least one member is a corporation.”;
- 26 (ii) regarding a tenancy for a single family dwelling unit in
27 existence prior to the first day of the third month next following the
28 enactment of P.L. , c. (C.) (pending before the Legislature
29 as this bill), the notice required pursuant to sub-subparagraph (i) of
30 this subparagraph is not required to be provided in the rental
31 agreement;
- 32 (iii) regarding a tenancy for a single-family dwelling unit
33 commenced or renewed on or after the first day of the third month
34 next following the enactment of P.L. , c. (C.) (pending
35 before the Legislature as this bill), the notice required pursuant to
36 sub-subparagraph (i) of this subparagraph shall be provided in the
37 rental agreement; and
- 38 (7) a duplex in which the landlord occupies one of the units as
39 the landlord’s principal place of residence at the beginning of the
40 tenancy.
- 41 e. In the event that a landlord increases the rent by more than the
42 amount permitted pursuant to subsection a. of this section between
43 February 1, 2022 and the first day of the third month following the
44 date of enactment of P.L. , c. (C.) (pending before the
45 Legislature as this bill), the applicable rent on the first day of the
46 third month following the date of enactment of P.L. , c. (C.)
47 (pending before the Legislature as this bill) shall be the rent as of
48 February 1, 2022, plus the maximum permitted increase pursuant to

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1 subsection a. of this section. The enforcement provision established
2 pursuant to subsection g. of this section shall not apply to an
3 overpayment of rent in response to an unauthorized rent increase
4 within the timeframe established by this subsection.

5 f. This section shall function in addition to, and not in place of,
6 the existing prohibition on unconscionable rent increases, pursuant
7 to subsection f. of section 2 of the Anti-Eviction Act, P.L.1974,
8 c.49 (C.2A:18-61.1).

9 g. (1) A violation of P.L. , c. (C.) (pending before the
10 Legislature as this bill) shall constitute an unlawful practice
11 pursuant to P.L.1960, c.39 (C.56:8-1 et seq.) and shall be subject to
12 all remedies and penalties available pursuant to P.L.1960, c 39
13 (C.56:8-1 et seq.).

14 (2) Notwithstanding the provisions of paragraph (1) of this
15 subsection, a tenant shall have the right to petition a court of
16 competent jurisdiction to terminate a lease containing a provision in
17 violation of this section.

18 h. Pursuant to subsection f. of section 2 of the Anti-Eviction
19 Act, P.L.1974, c.49 (C.2A:18-61.1), a tenant may assert a violation
20 of this section as a defense to an eviction action.

21 i. As used in this section:

22 “Duplex” means a building or structure of one or more stories
23 and any land appurtenant thereto, and any portion thereof, in which
24 exactly two units of residential dwelling space are occupied, or are
25 intended to be occupied by two or more persons who live
26 independently of each other.

27 “Dwelling unit” means a structure, or a room or group of rooms
28 within a structure, used or intended for use, in whole or in part, for
29 residential purposes.

30 “Percentage change in the cost of living” includes: (1) the
31 percentage change from February 1 of the prior year to February 1
32 of the current year in the regional Consumer Price Index for the
33 region where the dwelling unit is located, as published by the
34 United States Bureau of Labor Statistics; or (2) any alternative
35 source for determining the percentage change in the cost of living
36 that the Commissioner of Community Affairs deems necessary to
37 effectuate the provisions of P.L. , c. (C.) (pending before
38 the Legislature as this bill).

39 “Single family dwelling unit” means a building or structure of
40 one or more stories and any land appurtenant thereto, and any
41 portion thereof, in which exactly one unit of residential dwelling
42 space is occupied, or intended to be occupied by one or more
43 persons.

44 “Tenancy” means the lawful occupation of a dwelling unit and
45 includes a lease or sublease.

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47 3. The provisions of P.L. , c. (C.) (pending before the
48 Legislature as this bill) shall not preempt an ordinance, rule, or

1 regulation, or other law regarding rent control, rent leveling, or rent
2 stabilization adopted by the governing body of a municipality that
3 would result in a lower permitted rent increase on a dwelling unit
4 over the course of a 12-month period. The provisions of
5 P.L. , c. (C.) (pending before the Legislature as this bill)
6 shall preempt an ordinance, rule, regulation, or other law regarding
7 rent control, rent leveling, or rent stabilization adopted by the
8 governing body of a municipality that would result in a higher
9 permitted rent increase on a dwelling unit over the course of a 12-
10 month period.

11

12 4. In accordance with the "Administrative Procedure Act,"
13 P.L.1968, c.410 (C.52:14B-1 et seq.), the Commissioner of
14 Community Affairs may adopt the rules and regulations necessary
15 to effectuate the purposes of P.L. , c. (C.) (pending before
16 the Legislature as this bill).

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18 5. This act shall take effect immediately and shall be
19 retroactive to February 1, 2022.

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STATEMENT

23

24 This bill would establish a Statewide limitation on rent increases.
25 Specifically, the bill would prohibit a residential landlord from
26 increasing rent a dwelling unit by more than 5 percent plus
27 inflation, or 10 percent, whichever is lower, of the lowest rental rate
28 charged for that dwelling unit at any time during the 12 months
29 prior to the date when the increase takes effect.

30 The rent increase limitation established by this bill would not
31 apply to the following:

32

(1) Non-residential real property.

33

(2) A dwelling unit restricted by deed, regulatory restriction
34 contained in an agreement with a government agency, or
35 other recorded document as affordable housing for persons
36 and families of very low, low, or moderate income.

37

(3) A dormitory constructed and maintained in connection with
38 an institution of higher education for the use and occupancy
39 of students in attendance at the institution.

40

(4) A dwelling unit subject to a "Notice of Rent Protection
41 Emergency," established pursuant to P.L.2002, c.133
42 (C.2A:18-61.62 et seq.), the application of which results in a
43 lower permitted rent increase for the specified year than that
44 permitted by this bill.

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(5) A dwelling unit that has been newly constructed, and issued
46 a certificate of occupancy as a result of its completion,
47 within the previous 15 years.

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1 (6) A single family dwelling unit, provided that (a) the landlord
2 is not a real estate investment trust, as defined in the federal
3 Internal Revenue Code, a corporation, or a limited liability
4 company in which at least one member is a corporation; and
5 (b) the tenant has been provided written notice that the
6 residential real property is exempt from the requirements of
7 this bill, if the tenancy has been established on or after the
8 first day of the third month next following enactment.

9 (7) A duplex in which the landlord occupies one of the units as
10 the landlord's principal place of residence at the beginning
11 of the tenancy.

12 Additionally, the rent increase limitation established by this bill
13 would not apply to a dwelling located in a municipality that
14 enforces a local rent control, rent leveling, or rent stabilization
15 ordinance, the application of which results in a lower permitted rent
16 increase for a 12-month period than this bill would.

17 Furthermore, the rent increase limitation established by this bill
18 would not apply to a new tenancy in which no tenant from the prior
19 tenancy remains in lawful possession of the dwelling unit. This bill
20 would function in addition to, and not in place of, the existing
21 statutory prohibition on unconscionable rent increases.

22 A violation of this bill would constitute an unlawful practice
23 pursuant to the New Jersey consumer fraud act, P.L.1960, c.39
24 (C.56:8-1 et seq.) and would subject the offending landlord to all
25 remedies and penalties available to an aggrieved consumer, in this
26 case the tenant, under that statute. Additionally, the bill permits a
27 tenant to petition a court of competent jurisdiction to terminate a
28 lease containing a provision in violation of this bill. Finally, in
29 accordance with the Anti-Eviction Act, P.L.1974, c.49 (C.2A:18-
30 61.1), a tenant would be authorized to assert a violation of this bill
31 as a defense to an eviction action.

32 The bill authorizes the Commissioner of Community Affairs to
33 adopt the rules and regulations necessary to effectuate its purposes.

34 In order to avoid the creation of an incentive for landlords to
35 increase rents substantially prior to this bill's enactment, the bill
36 would apply retroactively to rent increases established on or after
37 February 1, 2022.