

# SENATE, No. 1665

## STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED FEBRUARY 14, 2022

**Sponsored by:**

**Senator RICHARD J. CODEY**

**District 27 (Essex and Morris)**

**Senator BRIAN P. STACK**

**District 33 (Hudson)**

**SYNOPSIS**

Establishes confidentiality of landlord-tenant court records; addresses adverse actions on rental applications.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 3/10/2022)

1 AN ACT concerning the confidentiality of court records of landlord-  
2 tenant actions, adverse actions on rental applications,  
3 supplementing chapter 42 of Title 2A of the New Jersey Statutes,  
4 and P.L.1945, c.169 (C.10:5-1 et seq.).  
5

6 **BE IT ENACTED** by the Senate and General Assembly of the State  
7 of New Jersey:  
8

9 1. The Legislature finds and declares that:

10 a. New Jersey remains in the grip of a critical shortage of  
11 decent, affordable rental housing, a situation first formally  
12 acknowledged more than 40 years ago and which prevails today.  
13 The New Jersey Legislature and the courts have on many occasions  
14 recognized the severity of this crisis, especially for households of  
15 lower-income, and have taken action to protect tenants from  
16 unnecessary, unjust, and debilitating treatment or hardship.

17 b. New Jersey's rental housing shortage makes it difficult for  
18 people to find and retain decent, safe, and affordable rental units.  
19 Landlords and private tenant rating agencies, have developed a  
20 system for disseminating tenant screening reports which exhibit  
21 screening criteria, such as credit history and criminal history, to  
22 assist landlords in evaluating prospective tenants. Unfortunately,  
23 such screening tools are often used pretextually, or are arbitrarily  
24 formulated and applied without reference to common, agreed upon  
25 sets of standards.

26 c. One such screening mechanism involves the collection of  
27 court filing data. Landlord-tenant court actions are among the most  
28 commonly filed civil cases in the State of New Jersey, and often  
29 involve situations in which the tenants in question have valid legal  
30 or equitable defenses. Additionally, a large number of such cases  
31 are dismissed or settled on terms favorable to the tenants involved.

32 d. At present, all landlord-tenant court filing records are  
33 available to the public. These court records are routinely mined by  
34 tenant rating agencies, which then sell tenant-specific reports  
35 incorporating them to interested landlords. In most instances the  
36 data provided is limited to the single fact that a filing occurred,  
37 without reference to, or investigation of, the facts and  
38 circumstances surrounding the inception and resolution of the  
39 litigation.

40 e. The mere filing of a court proceeding by or against a tenant,  
41 without regard to, or interest in, the ultimate results of the  
42 proceeding, has in many cases been used by prospective landlords  
43 and tenant screening agencies as the sole or primary reason for  
44 denying an application for a residential tenancy, or the preparation  
45 of a report which views the tenant unfavorably. The result is that  
46 otherwise worthy applicants are being denied access to critically-  
47 needed housing, often severely limiting their housing options and  
48 subjecting them to possible homelessness. This can occur even if

1 the actions which triggered the case filing were based upon long-  
2 recognized common law or statutory remedies, such as rent  
3 withholding in the case of serious, even life-threatening deficiencies  
4 in the living conditions of the rented dwelling.

5 f. As a result, tenants who assert and rely upon valid legal  
6 defenses or established legal rights, or who otherwise prevail  
7 through litigation, settlement, or dismissal, can nevertheless find  
8 their ability to move to and obtain another rental unit seriously  
9 compromised. This “blacklisting” of prospective tenants based  
10 solely upon bare-bones court filing data can cause serious difficulty  
11 for individuals and families applying for rental housing, and in  
12 some circumstances can result in homelessness. The use of court-  
13 filing screening also has a serious “chilling effect” on tenants’  
14 assertion and exercise of their statutory and common law rights.  
15 This result is contrary to public policy the intent of the courts, the  
16 Legislature, and the administrative bodies which established these  
17 rights.

18 g. It is, therefore, in the public interest of the State of New  
19 Jersey to protect tenants from unjust, unfair, or discriminatory  
20 screening practices by limiting access to filing information in court  
21 actions involving landlord-tenant matters for a reasonable period of  
22 time, and permanently denying access to such information with  
23 regard to matters in which the tenants prevailed or achieved a  
24 favorable settlement, or which have been affected by the passage of  
25 time.

26

27 2. a. The court record of a landlord-tenant action, including  
28 information that the action has been filed, shall remain confidential  
29 and unavailable to the public for the first 60 days after and  
30 including the date the action was filed.

31 b. The court record of a landlord-tenant action shall remain  
32 confidential and unavailable to the public indefinitely unless the  
33 action results in a judgment for possession.

34 c. The court record of a landlord-tenant action that results in an  
35 unconditional judgment for possession shall become public the later  
36 of the 61st day after the date the action was filed or within 45 days  
37 after the date the matter is completely resolved, however, if the  
38 matter is appealed by either party, the court record shall remain  
39 confidential and unavailable to the public until the conclusion of the  
40 appeal, and only be made available to the public if the landlord  
41 prevails.

42 d. The court record of a landlord-tenant action shall remain  
43 confidential and unavailable to the public, although a judgment for  
44 possession has been entered, if the judgment is subject to conditions  
45 that, if met by the tenant, may result in the judgment being vacated  
46 and the matter dismissed. However, if the court finds, after notice  
47 to the tenant and an opportunity to be heard, that the conditions  
48 have not been met, the court record shall be made available to the

1 public at the conclusion of an appeal or an opportunity to appeal the  
2 judgment.

3 e. The court record of a landlord-tenant action shall remain  
4 confidential and unavailable to the public, although a judgment for  
5 possession has been entered, if the tenant files a timely order to  
6 show cause seeking to vacate the judgment prior to being physically  
7 locked out of the housing unit. The court record shall remain  
8 confidential and unavailable to the public until the order to show  
9 cause is resolved, and shall remain confidential and unavailable to  
10 the public if the tenant prevails.

11 f. The court records of any cause of action brought by a tenant  
12 asserting a legal right against a landlord shall remain confidential  
13 and unavailable to the public indefinitely, regardless of whether the  
14 tenant prevails, unless the tenant voluntarily consents to making the  
15 court record available to the public.

16 g. Prior to issuing a written opinion or decision related to a  
17 landlord-tenant action, the court shall redact the names and  
18 addresses of the parties, and any information that may facilitate  
19 discovery of the parties' identities.

20

21 3. As used in P.L. , c. (C. ) (pending before the  
22 Legislature as this bill):

23 "Court record" means any record containing information  
24 regarding a past or current landlord-tenant action, and any record of  
25 the filing of a landlord-tenant action, including but not limited to:

26 a. any information maintained by a court in any form in  
27 connection with a case or judicial proceeding, including but not  
28 limited to pleadings, motions, briefs and their respective  
29 attachments, evidentiary exhibits, indices, calendars, and dockets;

30 b. any order, judgment, opinion, or decree related to a judicial  
31 proceeding;

32 c. any official transcript or recording of a public judicial  
33 proceeding, in any form;

34 d. any information in a computerized case management system  
35 created or prepared by the court in connection with a case or  
36 judicial proceeding; and

37 e. any record made or maintained by a judicial officer.

38 "Landlord" means the business entity, person, or persons which  
39 own, purport to own, or exercise control of a residential dwelling,  
40 building, project, or mobile home park in which there is rented or  
41 offered for rent housing or mobile home pad space for living or  
42 dwelling purposes under either a written or oral lease.

43 "Landlord-tenant action" means any action brought by or against  
44 a landlord or tenant, including an ejectment action in which the  
45 possessor establishes tenancy, in the Superior Court of New Jersey,  
46 including the Special Civil part of the Superior Court.

47 "Screening criteria document" means a written statement  
48 detailing the criteria to be used by a landlord to evaluate a rental

1 application and determine whether to accept the applicant as a  
2 tenant.

3

4 4. a. Any New Jersey public entity that maintains a written or  
5 automated record or file of court records of landlord-tenant actions  
6 shall take appropriate actions to ensure that court records of all  
7 landlord-tenant actions that did not result in an unconditional  
8 judgment for possession are kept confidential and unavailable to the  
9 public.

10 b. The Administrative Office of the Courts shall expunge the  
11 court records of any eviction or ejection action, including any  
12 such action resulting in a judgment of possession, after the  
13 expiration of three years from the date of the judgment.

14 c. The Supreme Court of New Jersey may adopt rules, and the  
15 Administrative Director of the Courts may issue directives and  
16 guidelines, to implement the purposes of P.L. , c. (C. )  
17 (pending before the Legislature as this bill).

18

19 5. When evaluating a prospective tenant, a landlord shall not  
20 consider:

21 a. a landlord-tenant action brought by or against a tenant which  
22 did not result in a judgment for possession and actual displacement,  
23 or which did result in a judgment for possession but was then  
24 withdrawn, dismissed, or reversed; or

25 b. a judgment for possession that was entered and executed  
26 against the prospective or existing tenant three or more years prior  
27 to the tenant's application for tenancy.

28

29 6. At the time a prospective tenant of a residential dwelling  
30 unit submits a rental application to a landlord, the landlord shall  
31 deliver to the prospective tenant the landlord's screening criteria  
32 document.

33

34 7. If a landlord rejects an application from a prospective tenant,  
35 approves an application with conditions that exceed reasonable  
36 conditions routinely imposed upon a prospective tenant, or takes  
37 any other adverse action on a rental application, the landlord shall  
38 provide a written notice of the adverse action to the prospective  
39 tenant that states the reasons for the adverse action. The adverse  
40 action notice shall disclose any screening information about the  
41 prospective tenant accessed by the landlord, and shall append any  
42 screening report about the prospective tenant that was accessed by  
43 the landlord. The adverse action notice shall be provided in a  
44 substantially similar format as set forth in this section.

1 ADVERSE ACTION NOTICE

2

3 Name

4 Address

5 City/State/Zip Code

6

7 This notice is to inform you that your application has been:

8

9 ..... Rejected

10 ..... Approved, subject to the following conditions:

11

12

13 Adverse action on your application was based, in part, on the  
14 following:

15

16 ..... Information contained in a consumer report (The prospective  
17 landlord must include the name, address, and phone number of the  
18 consumer reporting agency that furnished the consumer report that  
19 contributed to the adverse action, and attach a copy of the report.)

20 ..... Information received from previous rental history or reference

21 ..... Information received in a criminal record

22 ..... Information received in a court filing or other court record

23 ..... Information received from an employment verification

24 ..... Other

25

26 The following is (are) the name(s), address(es), and phone  
27 number(s) of each of the consumer reporting agencies, or other  
28 agencies or entities, that furnished the reports or information  
29 referred to above:

30

31

32 Your application was not accepted, or was approved with the  
33 additional conditions described above, for the following reasons  
34 (Specify why the application was denied or approved with  
35 conditions and refer to the relevant provisions of the screening  
36 criteria document.):

37

38

39 Dated this ..... day of ....., ....(year)

40 Agent/Owner Signature"

41

42 8. Any person who violates section 5, 6, or 7 of P.L. , c.  
43 (C. ) (pending before the Legislature as this bill) shall, in  
44 addition to any other penalty provided by law, be liable for a  
45 penalty of not less than \$1,000 for the first offense, and not less  
46 than \$5,000 for the second and each subsequent offense, plus  
47 reasonable attorney fees. This penalty shall be exclusive of, and in  
48 addition to, any moneys or property ordered to be paid or restored

1 to any person in interest, and shall be paid to the aggrieved  
2 applicant or tenant.

3  
4 9. Except in accordance with the provisions of P.L. , c.  
5 (C. ) (pending before the Legislature as this bill), a person or  
6 entity which provides court filing information or information  
7 contained in the court records of a landlord-tenant action to a  
8 landlord or other entity involved in the rental of a dwelling unit  
9 commits a crime of the fourth degree. Each provision of  
10 information committed in violation of this section constitutes a  
11 separate offense.

12  
13 10. In addition to any other remedies provided by law, a  
14 residential tenant or applicant for rental housing may bring an  
15 action in Superior Court for any violation of P.L. , c. (C. )  
16 (pending before the Legislature as this bill) for treble actual  
17 damages or \$5,000, whichever is greater, attorney's fees, costs of  
18 suit, and appropriate equitable relief.

19  
20 11. In addition to the types of unlawful discrimination set forth  
21 in subsections g., h., i., j., l. and m. of section 11 of P.L.1945, c.169  
22 (C.10:5-12), it shall be an unlawful discrimination for a person to  
23 refuse to rent or lease real property to another person because that  
24 person, while a residential tenant or prospective residential tenant,  
25 had ever been a party in a summary dispossession proceeding or other  
26 civil action, or undertook any action to enforce or implement rights  
27 or remedies provided by statute, regulation, or the common law.

28  
29 12. This act shall take effect immediately and shall apply  
30 retroactively to court records of all landlord-tenant actions.

31  
32  
33 STATEMENT

34  
35 This bill would preserve the confidentiality of the court records  
36 of landlord-tenant actions under certain circumstances. The bill  
37 defines the term "court records" expansively to include any record  
38 containing information regarding a past or current landlord-tenant  
39 action, and any record of the filing of a landlord-tenant action. The  
40 bill defines the term "landlord-tenant action" as any action brought  
41 by or against a landlord or tenant, including an ejectment action in  
42 which the possessor establishes tenancy, in the Superior Court of  
43 New Jersey, including the Special Civil part of the Superior Court.

44 The bill specifically provides that the court record of a landlord-  
45 tenant action, including information that the action has been filed,  
46 will remain confidential and unavailable to the public for the first  
47 60 days after and including the date the action is filed. Under the  
48 bill, the court record of a landlord-tenant action will remain

1 confidential and unavailable to the public indefinitely unless the  
2 action results in a judgment for possession.

3 The bill provides that if a landlord-tenant action results in an  
4 unconditional judgment for possession, the court record of the  
5 action will become public on the later of the 61st day after the date  
6 the action was filed or within 45 days after the date the matter is  
7 completely resolved. However, if the matter is appealed by either  
8 party, the court record remains confidential and unavailable to the  
9 public until the conclusion of the appeal, and will only be made  
10 available to the public if the landlord prevails.

11 The bill also provides that the court record of a landlord-tenant  
12 action will remain confidential and unavailable to the public  
13 although a judgment for possession has been entered, if the  
14 judgment is subject to conditions that, if met by the tenant, may  
15 result in the judgment being vacated and the matter dismissed.  
16 However, if the court finds, after notice to the tenant and an  
17 opportunity to be heard, that the conditions have not been met, the  
18 court record shall be made available to the public at the conclusion  
19 of an appeal or an opportunity to appeal the judgment.

20 Under the bill, the court record of a landlord-tenant action will  
21 remain confidential and unavailable to the public after entry of a  
22 judgment for possession if the tenant files a timely order to show  
23 cause seeking to vacate the judgment prior to being physically  
24 locked out of the housing unit. In this circumstance, the court  
25 record will remain confidential and unavailable to the public until  
26 the order to show cause is resolved, and will remain confidential  
27 and unavailable to the public if the tenant prevails.

28 The bill provides that the court record of any cause of action  
29 brought by a tenant asserting a legal right against a landlord will  
30 remain confidential and unavailable to the public indefinitely,  
31 regardless of whether the tenant prevails, unless the tenant  
32 voluntarily consents to making the court record available to the  
33 public. The bill directs a court, prior to issuing a written opinion or  
34 decision related to a landlord-tenant action, to redact the names and  
35 addresses of the parties and any information that may facilitate  
36 discovery of the parties' identities.

37 The bill also requires New Jersey public entities that maintain a  
38 written or automated record or file of court records of landlord-  
39 tenant actions to take appropriate actions to ensure that court  
40 records of all landlord-tenant actions that did not result in an  
41 unconditional judgment for possession are kept confidential and  
42 unavailable to the public. The bill directs the Administrative Office  
43 of the Courts to expunge the court records of any eviction or  
44 ejection action, including any such action resulting in a judgment  
45 of possession, after the expiration of three years from the date of the  
46 judgment.

47 The bill also addresses the use of court records by landlords  
48 when evaluating prospective tenants. The bill prohibits a landlord,



1 when evaluating a prospective tenant, from considering a landlord-  
2 tenant action brought by or against a tenant that did not result in a  
3 judgment for possession and actual displacement, or which did  
4 result in a judgment for possession but was then withdrawn,  
5 dismissed or reversed. The bill also prohibits landlords from  
6 considering a judgment for possession that was entered and  
7 executed against a prospective or existing tenant three or more  
8 years prior to the tenant's application for tenancy. The bill requires  
9 a landlord, at the time a prospective tenant of a residential dwelling  
10 unit submits a rental application to the landlord, to deliver to the  
11 prospective tenant the landlord's screening criteria document. The  
12 bill defines the term "screening criteria document" to mean a  
13 written statement detailing the criteria to be used by a landlord to  
14 evaluate a rental application and determine whether to accept the  
15 applicant as a tenant.

16 Additionally, the bill would require a landlord who takes an  
17 adverse action on a rental application to provide written notice of  
18 the adverse action to the prospective tenant, stating the reasons for  
19 the adverse action. The adverse action notice must disclose any  
20 screening information about the prospective tenant accessed by the  
21 landlord, and must append any screening report about the  
22 prospective tenant that was accessed by the landlord.

23 The bill would authorize imposition of a penalty on a landlord  
24 who violates the bill's provisions concerning the improper  
25 screening of tenants. Specifically, the bill provides that in addition  
26 to any other penalty provided by law, a landlord will be liable for a  
27 penalty of not less than \$1,000 for a first offense, and not less than  
28 \$5,000 for a second and each subsequent offense, plus reasonable  
29 attorney fees. This penalty would be exclusive of, and in addition  
30 to, any moneys or property ordered to be paid or restored to any  
31 person in interest, and are to be paid to the aggrieved applicant or  
32 tenant..

33 Under the bill, a person or entity which provides court filing  
34 information or information contained in the court records of a  
35 landlord-tenant action to a landlord or other entity involved in the  
36 rental of a dwelling unit, except in accordance with the provisions  
37 of this bill, commits a crime of the fourth degree. Each provision  
38 of information would constitute a separate offense. In addition to  
39 any other remedies provided by law, a residential tenant or  
40 applicant for rental housing may bring an action in Superior Court  
41 for any violation of this bill for treble actual damages or \$5,000,  
42 whichever is greater, attorney's fees, costs of suit, and appropriate  
43 equitable relief.

44 Finally, the bill provides that it is unlawful discrimination under  
45 the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et  
46 seq.), for a person to refuse to rent or lease real property to another  
47 person because that person, while a residential tenant or prospective  
48 residential tenant, had ever been a party in a summary dispossession

**S1665 CODEY, STACK**

10

- 1 proceeding or other civil action, or undertook any action to enforce
- 2 or implement rights or remedies provided by statute, regulation, or
- 3 the common law.