

SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE, No. 570**

**STATE OF NEW JERSEY**  
**211th LEGISLATURE**

ADOPTED DECEMBER 15, 2005

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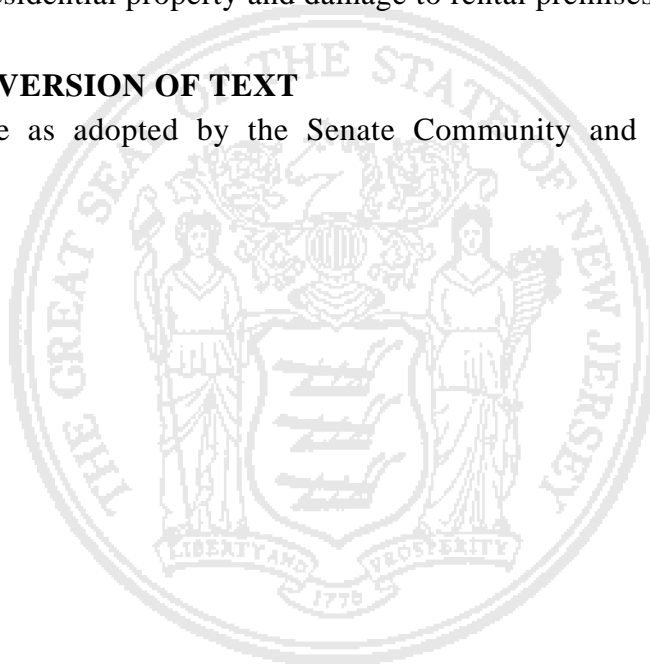
**Senator Allen, Assemblymen Gordon, Vas and Hackett**

**SYNOPSIS**

Concerns eviction proceedings; establishes penalties for forcible entry or detainer of residential property and damage to rental premises.

**CURRENT VERSION OF TEXT**

Substitute as adopted by the Senate Community and Urban Affairs Committee.



**(Sponsorship Updated As Of: 1/10/2006)**

1 AN ACT concerning eviction, amending N.J.S.2A:39-1, P.L.1974, c.47  
2 and N.J.S.2C:17-3, and supplementing chapter 33 of Title 2C of  
3 the New Jersey Statutes.

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

7  
8 1. N.J.S.2A:39-1 is amended to read as follows:

9 2A:39-1. No person shall enter upon or into any real property or  
10 estate therein and detain and hold the same, except where entry is  
11 given by law, and then only in a peaceable manner. With regard to any  
12 real property occupied solely as a residence by the party in possession,  
13 such entry shall not be made in any manner without the consent of the  
14 party in possession unless the entry and detention is made pursuant to  
15 legal process as set out in N.J.S.2A:18-53 et seq., as amended and  
16 supplemented; P.L.1974, c.49 (C.2A:18-61.1 et al.), as amended and  
17 supplemented; P.L.1975, c.311 (C.2A:18-61.6 et al.), as amended and  
18 supplemented; P.L.1978, c.139, (C.2A:18-61.6 et al.), as amended and  
19 supplemented; the "Tenant Protection Act of 1992," P.L.1991, c.509  
20 (C.2A:18-61.40 et al.); or 2A:35-1 et seq. and "The Fair Eviction  
21 Notice Act," P.L.1974, c.47 (C.2A:42-10.15 et al.). A person  
22 violating this section regarding entry of rental property occupied solely  
23 as a residence by a party in possession shall be a disorderly person.  
24 (cf: P.L.1971, c.227, s.1)

25  
26 2. Section 2 of P.L.1974, c.47 (C.2A:42-10.16) is amended to  
27 read as follows:

28 2. In any proceeding for the summary dispossession of a tenant,  
29 warrant for possession issued by a court of appropriate jurisdiction:

30 a. Shall include a notice to the tenant of any right to apply to the  
31 court for a stay of execution of the warrant, together with a notice  
32 advising that the tenant may be eligible for temporary housing  
33 assistance or other social services and that the tenant should contact  
34 the appropriate county welfare agency, at the address and telephone  
35 number given in the notice, to determine eligibility; **[and]**

36 b. Shall be executed not earlier than the third day following the  
37 day of personal service upon the tenant by the appropriate court  
38 officer. In calculating the number of days hereby required, Saturday,  
39 Sunday and court holidays shall be excluded; **[and]**

40 c. Shall be executed during the hours of 8 a.m. to 6 p.m., unless  
41 the court, for good cause shown, otherwise provides in its judgment  
42 for possession ;

43 d. Shall state the earliest date and time that the warrant may be

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 executed, and also shall state that the warrant shall only be executed  
2 by an officer of the court; and  
3 e. Shall include a notice that it is illegal as a disorderly person's  
4 offense for a landlord to padlock or otherwise block entry to a rental  
5 premises while a tenant is still in possession of the premises unless  
6 such action is done in accordance with a distraint action involving a  
7 non-residential premises as permitted by law; shall state that removal  
8 of a tenant's belongings from a premises by a landlord after the  
9 eviction of a tenant may be done only in accordance with the  
10 provisions of P.L.1999, c.340 (C.2A:18-72 et al.); shall contain a  
11 concise summary of the provisions of this section and section 3 of  
12 P.L. , c. (C. ) (pending before the Legislature as section 3 of  
13 this bill) with special emphasis placed on the duties and obligations of  
14 law enforcement officers under those sections of law; and shall advise  
15 the occupant of the right to file a court proceeding pursuant to  
16 N.J.S.2A:39-1 et seq.

17 Whenever a written notice, in accordance with the provisions of  
18 subsection [2a.] a. of this section, is given to the tenant by the court,  
19 this shall constitute personal service in accordance with the provisions  
20 of subsection [2b] b. of this section.

21 At the time a warrant for possession is lawfully executed, the court  
22 officer involved shall prepare a statement of "Execution of Warrant for  
23 Possession" and shall immediately deliver the statement to the landlord  
24 or the landlord's representative by personal service. The court officer  
25 shall deliver a copy of the statement to the tenant by personal service,  
26 however, if it cannot be personally served, it may be delivered in the  
27 manner provided under N.J.S.2A:18-54. The statement shall also be  
28 affixed to the door to the unit to which the warrant applies. The  
29 statement shall identify the warrant, the date of issuance of the  
30 warrant, the court and judge who issued the warrant, the date and time  
31 of execution of the warrant, and the name, signature and position of  
32 the person executing the warrant.

33 The Superior Court, Law Division, Special Civil Part shall retain  
34 jurisdiction for a period of 10 days subsequent to the actual execution  
35 of the warrant for possession for the purpose of hearing applications  
36 by the tenant for lawful relief.  
37 (cf: P.L.1991, c.91, s.87)

38  
39 3. (New section) a. A person commits a disorderly persons  
40 offense if, after being warned by a law enforcement or other public  
41 official of the illegality of that action, the person (1) takes possession  
42 of residential real property or effectuates a forcible entry or detainer  
43 of residential real property without lawful execution of a warrant for  
44 possession in accordance with the provisions of section 2 of P.L.1974,  
45 c.47 (C.2A:42-10.16) or without the consent of the occupant solely in  
46 possession of the residential real property; or (2) refuses to restore

1 immediately to exclusive possession and occupancy any such occupant  
2 so displaced. Legal occupants unlawfully displaced shall be entitled  
3 without delay to reenter and reoccupy the premises, and shall not be  
4 considered trespassers or chargeable with any offense, provided that  
5 a law enforcement officer is present at the time of reentry. It shall be  
6 the duty of such officer to prevent the landlord or any other persons  
7 from obstructing or hindering the reentry and reoccupancy of the  
8 dwelling by the displaced occupant.

9 As used in this section, "forcible entry and detainer" means to enter  
10 upon or into any real property and detain and hold that property by:

11 (1) any kind of violence including threatening to kill or injure the  
12 party in possession;

13 (2) words, circumstances or actions which have a clear intention  
14 to incite fear or apprehension or danger in the party in possession;

15 (3) putting outside of the residential premises the personal effects  
16 or furniture of the party in possession;

17 (4) entering peaceably and then, by force or threats, turning the  
18 party out of possession;

19 (5) padlocking or otherwise changing locks to the property;

20 (6) shutting off, or causing to be shut off, vital services such as,  
21 but not limited to, heat, electricity or water, in an effort to regain  
22 possession; or by

23 (7) any means other than compliance with lawful eviction  
24 procedures pursuant to section 2 of P.L.1974, c.47 (C.2A:42-10.16),  
25 as established through possession of a lawfully prepared and valid  
26 "Execution of Warrant."

27 b. A person who is convicted of an offense under this section more  
28 than once within a five-year period is guilty of a crime of the fourth  
29 degree.

30

31 4. (New section) Within 30 days of the effective date of P.L. ,

32 c. (C. ) (pending before the Legislature as this bill), the Attorney  
33 General shall prepare a notice explaining the provisions of P.L. ,

34 c. (C. ) (pending before the Legislature as this bill), with  
35 particular emphasis on the responsibilities of law enforcement officers

36 and other public officials, and transmit the notice to the chief or  
37 director of every municipal police department, every municipal

38 prosecutor, every county prosecutor, and the Superintendent of the  
39 New Jersey State Police. The notice shall be disseminated to every

40 law enforcement officer and shall be reenforced at roll calls and  
41 academy service training and continuing education programs so to

42 ensure that all officers and prosecutors are educated of their  
43 responsibilities under P.L. , c. (C. ) (pending before the

44 Legislature as this bill).

45

46 5. N.J.S.2C:17-3 is amended to read as follows:

1 2C:17-3. a. Offense defined. A person is guilty of criminal  
2 mischief if he:

3 (1) Purposely or knowingly damages tangible property of another  
4 or damages tangible property of another recklessly or negligently in  
5 the employment of fire, explosives or other dangerous means listed in  
6 subsection a. of N.J.S.2C:17-2; or

7 (2) Purposely, knowingly or recklessly tampers with tangible  
8 property of another so as to endanger person or property, including  
9 the damaging or destroying of a rental premises by a tenant in  
10 retaliation for institution of eviction proceedings.

11 b. Grading. (1) Criminal mischief is a crime of the third degree  
12 if the actor purposely or knowingly causes pecuniary loss of \$2,000.00  
13 or more, or a substantial interruption or impairment of public  
14 communication, transportation, supply of water, gas or power, or  
15 other public service.

16 (2) Criminal mischief is a crime of the fourth degree if the actor  
17 causes pecuniary loss in excess of \$500.00. It is a disorderly persons  
18 offense if the actor causes pecuniary loss of \$500.00 or less.

19 (3) Criminal mischief is a crime of the third degree if the actor  
20 damages, defaces, eradicates, alters, receives, releases or causes the  
21 loss of any research property used by the research facility, or  
22 otherwise causes physical disruption to the functioning of the research  
23 facility. The term "physical disruption" does not include any lawful  
24 activity that results from public, governmental, or research facility  
25 employee reaction to the disclosure of information about the research  
26 facility.

27 (4) Criminal mischief is a crime of the fourth degree if the actor  
28 damages, removes or impairs the operation of any device, including,  
29 but not limited to, a sign, signal, light or other equipment, which  
30 serves to regulate or ensure the safety of air traffic at any airport,  
31 landing field, landing strip, heliport, helistop or any other aviation  
32 facility; however, if the damage, removal or impediment of the device  
33 recklessly causes bodily injury or damage to property, the actor is  
34 guilty of a crime of the third degree, or if it recklessly causes a death,  
35 the actor is guilty of a crime of the second degree.

36 (5) Criminal mischief is a crime of the fourth degree if the actor  
37 interferes or tampers with any airport, landing field, landing strip,  
38 heliport, helistop or any other aviation facility; however if the  
39 interference or tampering with the airport, landing field, landing strip,  
40 heliport, helistop or other aviation facility recklessly causes bodily  
41 injury or damage to property, the actor is guilty of a crime of the third  
42 degree, or if it recklessly causes a death, the actor is guilty of a crime  
43 of the second degree.

44 (6) Criminal mischief is a crime of the third degree if the actor  
45 tampers with a grave, crypt, mausoleum or other site where human  
46 remains are stored or interred, with the purpose to desecrate, destroy

1 or steal such human remains or any part thereof.

2 c. A person convicted of an offense of criminal mischief that  
3 involves an act of graffiti may, in addition to any other penalty  
4 imposed by the court, be required to pay to the owner of the damaged  
5 property monetary restitution in the amount of the pecuniary damage  
6 caused by the act of graffiti and to perform community service, which  
7 shall include removing the graffiti from the property, if appropriate.  
8 If community service is ordered, it shall be for either not less than 20  
9 days or not less than the number of days necessary to remove the  
10 graffiti from the property.

11 d. As used in this section:

12 (1) "Act of graffiti" means the drawing, painting or making of any  
13 mark or inscription on public or private real or personal property  
14 without the permission of the owner.

15 (2) "Spray paint" means any paint or pigmented substance that is  
16 in an aerosol or similar spray container.

17 e. A person convicted of an offense of criminal mischief that  
18 involves the damaging or destroying of a rental premises by a tenant  
19 in retaliation for institution of eviction proceedings, may, in addition  
20 to any other penalty imposed by the court, be required to pay to the  
21 owner of the property monetary restitution in the amount of the  
22 pecuniary damage caused by the damage or destruction.

23 (cf: P.L.1999, c.95, s.1)

24

25 6. This act shall take effect immediately.