

**Effective: [See Text Amendments]**

New Jersey Statutes Annotated Currentness

Title 2A. Administration of Civil and Criminal Justice ([Refs & Annos](#))

Subtitle 6. Specific Civil Actions

▣ [Chapter 42. Landlord and Tenant; Rights and Remedies \(Refs & Annos\)](#)

→ [Article 6. Actions, Etc., for Maintenance of Safe and Sanitary Housing \(Refs & Annos\)](#)

**2A:42-85. Legislative findings**

The Legislature finds:

- a. Many citizens of the State of New Jersey are required to reside in dwelling units which fail to meet minimum standards of safety and sanitation;
- b. It is essential to the health, safety and general welfare of the people of the State that owners of substandard dwelling units be encouraged to provide safe and sanitary housing accommodations for the public to whom such accommodations are offered;
- c. It is necessary, in order to insure the improvement of substandard dwelling units, to authorize the tenants dwelling therein to deposit their rents with a court appointed administrator until such dwelling units satisfy minimum standards of safety and sanitation;
- d. It is necessary to establish an efficient procedure whereby public officers, tenants and utility companies may act to stop and prevent wrongful diversion of utility services and thereby protect both the utility companies and their customers from fraud.

**Effective: [See Text Amendments]****2A:42-86. Definitions**

The following terms whenever used or referred to in this act shall have the following respective meanings, unless a different meaning clearly appears from the context.

- a. "Public officer" shall mean the officer, officers, board or body who is or are authorized by the governing body of a municipality to supervise the physical condition of dwellings within such municipality pursuant to this act.
- b. "Owner" shall mean the holder or holders of the title in fee simple.
- c. "Parties in interest" shall mean all individuals, associations and corporations who have interests of record in a dwelling, and who are in actual possession thereof and any person authorized to receive rents payable for housing space in a dwelling.
- d. "Dwelling" means and includes all rental premises or units used for dwelling purposes except owner-occupied premises with not more than two rental units.

e. "Housing space" means that portion of a dwelling rented or offered for rent for living or dwelling purposes in which cooking equipment is supplied, and includes all privileges, services, furnishings, furniture, equipment, facilities, and improvements connected with the use or occupancy of such portion of the property. The term shall not mean or include public housing or dwelling space in any hotel, motel or established guest house, commonly regarded as a hotel, motel or established guest house, as the case may be, in the community in which it is located.

f. (Deleted by amendment, P.L.1985, c. 411.)

g. (Deleted by amendment, P.L.1985, c. 411.)

h. "Substandard dwelling" means any dwelling determined to be substandard by the public officer.

i. "State Housing Code" means the code adopted by the Department of Community Affairs pursuant to P.L.1966, c. 168 ([C. 2A:42-74 et seq.](#)).

j. "Utility company" means a public utility, as defined in [R.S. 48:2-13](#), or a municipality, county, water district, authority or other public agency, which provides electric, gas or water utility service.

**Effective: [See Text Amendments]**

#### **2A:42-87. Jurisdiction; venue**

A proceeding by a public officer, tenant, or tenants of a dwelling for a judgment directing the deposit of rents into court and their use for the purpose of remedying conditions in substantial violation of the standards of fitness for human habitation established under the State or local housing codes or regulations or a proceeding by a public officer, a tenant whose utility service has been diverted or a utility company for a judgment directing the deposit of rents into court and their use for correcting any wrongful diversion of utility service in a dwelling may be maintained in a court of competent jurisdiction. The place of trial of the proceeding shall be within the county in which the real property or a portion thereof from which the rents issue is situated. In cases involving real property located in municipalities in counties of the first class that have established full-time municipal housing courts, the proceedings may be brought in the municipal housing court of the municipality in which the property is located.

**Effective: [See Text Amendments]**

#### **2A:42-88. Grounds for actions**

a. The public officer or any tenant occupying a dwelling may maintain a proceeding as provided in this act, upon the grounds that there exists in such dwellings or in housing space thereof a lack of heat or of running water or of light or of electricity or of adequate sewage disposal facilities, or any other condition or conditions in substantial violation of the standards of fitness for human habitation established under the State or local housing or health codes or regulations or any other condition dangerous to life, health or safety.

b. A public officer, a tenant whose utility service has been diverted or a utility company providing electric, gas or water utility service to a dwelling may maintain a proceeding as provided in this act upon the grounds (1) that

there exists in these dwellings or in housing space thereof a wrongful diversion of electric, gas or water utility service by the owner or owners or other party from a tenant of the dwelling without the consent of the tenant, or the use by the owner or other party in the dwelling without the tenant's consent of electric, gas or water utility service that is being charged to the tenant, and (2) that the owner has been notified by either a public officer, a tenant whose utility service has been diverted or a utility company of the wrongful diversion or unconsented use by certified mail and has failed to take necessary action to correct or eliminate the wrongful diversion or unconsented use within 30 days of receipt of such notice. If an owner fails or refuses to accept a notice sent by certified mail, the date of receipt shall be deemed to be the third day after mailing, provided the notice was sent to the owner at an address to which the owner's utility bills or municipal tax bills are sent.

**Effective: [See Text Amendments]**

#### **2A:42-89. Institution of action; service and notice of petition**

- a. A proceeding prescribed by this act shall be commenced by the service of a petition and notice of a petition. A notice of petition may be issued only by a judge or a clerk of the court.
- b. Notice of the proceeding shall be given to the nonpetitioning tenant occupying the dwelling by affixing a copy of the petition upon a conspicuous part of the subject dwelling.

**Effective: [See Text Amendments]**

#### **2A:42-90. Contents of petition**

The petition shall:

- a. Set forth material facts showing that there exists in such dwelling or any housing space thereof one or more of the following: (1) a lack of heat or of running water or of light or electricity or of adequate sewage disposal facilities; (2) a wrongful diversion of electric, gas, or water utility service by the owner or other party from the tenant of the dwelling without the consent of the tenant; (3) the use by the owner or other party in the dwelling without the tenant's consent of electric, gas, or water utility service that is being charged to the tenant; (4) any other condition or conditions in substantial violation of the standards of fitness for human habitation established under the State or local housing or health codes or regulations; or (5) any other condition dangerous to life, health or safety.
- b. Set forth that the facts shown in subsection a. of this section have been brought to the attention of the owner or any individual designated by him as the manager of said dwelling and that he has failed to take any action thereon within a reasonable period.
- c. Set forth that the petitioner is a tenant of the subject dwelling or is the public officer of the municipality in which the subject dwelling is located, or, in a case involving wrongful diversion or unconsented use of utility services, that the petitioner is a public officer, a tenant whose utility service has been wrongfully diverted or a utility company providing utility services to the dwelling.
- d. Set forth a brief description of the nature of the work required to remove or remedy the condition and an estimate as to the cost thereof.

e. Set forth the amount of rent due from each petitioning tenant, if any, monthly.

f. State the relief sought.

**Effective: [See Text Amendments]**

#### **2A:42-91. Defenses to action**

It shall be a sufficient defense to the proceeding, if the owner or any mortgagee or lienor of record establishes that:

a. The condition or conditions alleged in the petition did not in fact exist or that such condition or conditions have been removed or remedied; or

b. Such condition or conditions have been caused maliciously or by abnormal or unusual use by a petitioning tenant or tenants or members of the family or families of such petitioner or petitioners.

c. Any tenant or resident of the dwelling has refused entry to the owner or his agent to a portion of the premises for the purpose of correcting such condition or conditions.

**Effective: [See Text Amendments]**

#### **2A:42-92. Judgment; service upon nonpetitioning tenants; deposit of rents with clerk of court**

The court shall proceed in a summary manner and shall render a judgment either:

a. Dismissing the petition for failure to affirmatively establish the allegations thereof or because of the affirmative establishment by the owner or a mortgagee or lienor of record of a defense or defenses specified in this act; or

b. Directing that (1) the rents due on the date of the entry of such judgment from the petitioning tenant, if any, and the rents due on the dates of service of the judgment on all other tenants occupying such dwelling, from such other tenants, shall be deposited with the clerk of the court; (2) any rents to become due in the future from such petitioner and from all other tenants occupying such dwelling shall be deposited with such clerk as they fall due; (3) such deposited rents shall be used, subject to the court's direction, to the extent necessary to remedy the condition or conditions alleged in the petition and (4) upon the completion of such work in accordance with such judgment, any remaining surplus shall be turned over to the owner, together with a complete accounting of the rents deposited and the costs incurred; and granting such other and further relief as to the court may seem just and proper. A certified copy of such judgment shall be served personally upon each nonpetitioning tenant occupying such dwelling. If personal service on any such nonpetitioning tenant cannot be made with due diligence, service on such tenant shall be made by affixing a certified copy of such judgment on the entrance door of such tenant's apartment and, in addition, within 1 day after such affixing, by sending a certified copy thereof by registered mail, return receipt requested, to such tenant. Any right of the owner or parties in interest of such dwelling to collect such rent moneys from any petitioning tenant of such dwelling on or after the date of entry of such judgment, and from any nonpetitioning tenant of such dwelling on or after the date of service of such judgment on such nonpetitioning tenant as herein provided, shall be void and unenforceable to the extent that such peti-

tioning or nonpetitioning tenant, as the case may be, has deposited such moneys with the clerk of the court in accordance with the terms of such judgment, regardless of whether such right of the owner arises from a lease, contract, agreement or understanding heretofore or hereafter made or entered into or arises as a matter of law from the relationship of the parties or otherwise. Any such rent moneys received by the owner or parties in interest shall be deposited immediately with the clerk of the court by such owner or parties in interest. It shall be a valid defense in any action or proceeding against any such tenant to recover possession of real property for the nonpayment of rent or for use or occupation to prove that the rent alleged to be unpaid was deposited with the clerk of the court in accordance with the terms of a judgment entered under this section.

**Effective: [See Text Amendments]**

**2A:42-93. Order permitting performance of work in lieu of judgment; security; failure to exercise due diligence; hearing; judgment; appointment of administrator; powers**

a. If, after a trial, the court shall determine that the facts alleged in the petition have been affirmatively established by the petitioner, that no defense thereto specified in this act has been affirmatively established by the owner or a mortgagee or lienor of record, and that the facts alleged in the petition warrant the granting of the relief sought, and if the owner or any mortgagee or lienor of record or parties in interest in the property, shall apply to the court to be permitted to remove or remedy the conditions specified in such petition and shall (1) demonstrate the ability promptly to undertake the work required; and (2) post security for the performance thereof within the time, and in the amount and manner deemed necessary by the court, then the court, in lieu of rendering judgment as provided in this act, may issue an order permitting such person to perform the work within a time fixed by the court.

b. If, after the issuance of an order pursuant to subdivision a. of this section, but before the time fixed in such order for the completion of the work prescribed therein, it shall appear to the petitioner that the person permitted to do the same is not proceeding with due diligence, the petitioners may apply to the court on notice to those persons who have appeared in the proceeding for a hearing to determine whether judgment should be rendered immediately as provided in subdivision c. of this section.

c. If, upon a hearing authorized in subdivision b. hereof, the court shall determine that such owner, mortgagee, lienor or parties in interest is not proceeding with due diligence, or upon the failure of such owner, mortgagee, lienor or parties in interest to complete the work in accordance with the provisions of said order, the court shall render a final judgment appointing an administrator as authorized in this act. Such judgment shall direct the administrator to apply the security posted by such person to the removing or remedying of the condition or conditions specified in the petition. In the event that the amount of such security should be insufficient for such purpose, such judgment shall direct the deposit of rents with the clerk, as authorized by this act, to the extent of such deficiency. In the event that such security should exceed the amount required to remove or remedy such condition or conditions, such judgment shall direct the administrator to file with the court, upon completion of the work prescribed therein, a full accounting of the amount of such security and the expenditures made pursuant to such judgment, and to turn over such surplus to the person who posted such security, together with a copy of such accounting.

d. The court is authorized and empowered, in implementing a judgment rendered pursuant to this act, to appoint an administrator who may be a public officer of the municipality wherein the subject dwelling is situated, an in-

corporated or unincorporated association, or other responsible person or persons, except that no owner, mortgagee or lienor of the subject dwelling shall be appointed an administrator of said dwelling.

The administrator is authorized and empowered, subject to the court's direction, to receive from the clerk such amounts of rent moneys or security deposited with said clerk as may be necessary to remove or remedy the condition or conditions specified in the judgment.

**Effective: [See Text Amendments]**

**2A:42-94. Accounts of receipts and expenditures; presentation or settlement; notice**

The court shall require the keeping of written accounts itemizing the receipts and expenditures under an order issued pursuant to this act, which shall be open to inspection by the owner, any mortgagee or lienor or parties in interest in such receipts or expenditures. Upon motion of the court or the administrator or of the owner, any mortgagee or lienor of record or of parties in interest, the court may require a presentation or settlement of the accounts with respect thereto. Notice of a motion for presentation or settlement of such accounts shall be served on the owner, any mortgagee or other lienor of record who appeared in the proceeding and any parties in interest in such receipts or expenditures.

**Effective: [See Text Amendments]**

**2A:42-95. Compensation of administrator; bond**

The court may allow from the rent moneys or security on deposit a reasonable amount for the services of an administrator appointed under the provisions of this act. The administrator so appointed shall furnish a bond, the amount and form of which shall be approved by the court. The cost of such bond shall be paid from the moneys so deposited.

**Effective: [See Text Amendments]**

**2A:42-96. Waiver of provisions of act**

Any provision of a lease or other agreement whereby any provision of this act for the benefit of a tenant, resident or occupant of a dwelling is waived, shall be deemed against public policy and shall be void.

**Effective: [See Text Amendments]**

**2A:42-97. Repealed by L.1981, c. 442, § 7**

**Effective: [See Text Amendments]**

**2A:42-98, 2A:42-99. Blank**

**Effective: [See Text Amendments]**

**2A:42-98, 2A:42-99. Blank**

Current with laws effective through L.2009, c. 89 and J.R. No. 7.  
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