

ASSEMBLY, No. 1349

STATE OF NEW JERSEY 217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

Sponsored by:

Assemblywoman L. GRACE SPENCER

District 29 (Essex)

Assemblywoman CLEOPATRA G. TUCKER

District 28 (Essex)

Assemblywoman SHAVONDA E. SUMTER

District 35 (Bergen and Passaic)

Assemblywoman NANCY J. PINKIN

District 18 (Middlesex)

Co-Sponsored by:

Assemblyman Caputo

SYNOPSIS

Establishes procedures to prevent and eradicate bedbug infestations in certain residential property.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning bedbug infestations in residential dwellings and
2 supplementing and amending Title 26 of the Revised Statutes.

3

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

6

7 1. (New section) The Legislature finds and declares that:

8 a. Populations of the common bedbug, *Cimex lectularius*, have
9 increased by 500 percent in the past few years.

10 b. A bedbug infestation is a uniquely hard to exterminate threat
11 to the health and habitability of a dwelling because tiny adult
12 bedbugs are able to hide deep in mattresses and walls, and their
13 food source is the occupants of a dwelling.

14 c. Bedbugs leave signs of their presence in bedding and in a
15 dwelling that are visible to the naked eye, making education of a
16 dwelling occupant a critical aspect of prevention.

17 d. Bedbugs feed on the blood of humans and domestic animals,
18 and present a public welfare risk.

19 e. Bedbugs travel through the ventilation systems in multi-unit
20 establishments, causing the presence of bedbugs in exponential
21 numbers.

22 f. The owner of a multiple dwelling , with the cooperation of
23 tenants, is in the best position to coordinate the extermination of
24 bedbug populations in that multiple dwelling.

25 g. The common bedbug is a public nuisance and it is a matter
26 of public welfare to protect New Jersey citizens' health from this
27 pest.

28 h. Tenants of multiple dwellings should be educated and
29 vigilant about preventing the presence of bedbugs in their homes.

30

31 2. (New section) For purposes of this act:

32 "Bedbug" means an insect of the species "*Cimex lectularius*,"
33 commonly referred to as a bedbug.

34 "Commissioner" means the Commissioner of Health and Senior
35 Services.

36 "Common interest community" means a horizontal property
37 regime, condominium, cooperative, or mutual housing corporation
38 in which some of the property, known as common elements or
39 common areas, is owned as tenants-in-common or otherwise owned
40 by all of the property owners.

41 "Department" means the Department of Health and Senior
42 Services.

43 "Dwelling" or "multiple dwelling" means a multiple dwelling as
44 defined in section 3 of the "Hotel and Multiple Dwelling Law,"

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.

A1349 SPENCER, TUCKER

1 P.L.1967, c.76 (C.55:13A-3), except that this definition shall not
2 include any common interest community.

3 "Eradicate" means the process that shall be undertaken by a
4 commercial pesticide applicator, licensed pursuant to the "Pesticide
5 Control Act of 1971," P.L.1971, c.176 (C.13:1F-1 et seq.) and the
6 rules and regulations promulgated by the New Jersey Department of
7 Environmental Protection to effectuate that act, to eliminate the
8 presence of bedbugs by poisoning, spraying, fumigating, trapping,
9 or by any other recognized and lawful pest-elimination methods,
10 including repeated applications of any treatment, particularly to
11 areas where bedbugs are likely to congregate. An eradication shall
12 be deemed completed if there has been no evidence of bedbug
13 activity for 50 days after the last application of any treatment.

14 "Local board" or "local board of health" means the board of
15 health of any municipality or the boards, bodies or officers in such
16 municipality lawfully exercising any of the powers of a local board
17 of health under the laws governing such municipality.

18 "Local health officer" means any duly appointed health officer
19 employed by the local board of health as described in R.S.26:3-19.

20 "Owner" means the owner as defined in section 3 of the "Hotel
21 and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-3), except
22 that this definition shall not include any ownership interest in any
23 common interest community.

24 "Risk factors" means tenant behaviors that increase the
25 possibility of the presence of bedbugs in a unit and include, but are
26 not limited to, living with a domestic pet, furnishing with older
27 furniture that has not been properly sanitized, and travel to tropical
28 climates without proper precautions.

29 "Seasonal use" means use or rental of a unit for a term of not
30 more than 125 consecutive days for residential purposes by a person
31 having a permanent place of residence elsewhere. "Seasonal use"
32 does not mean use or rental of living quarters for seasonal,
33 temporary or migrant farm workers in connection with any work or
34 place where work is being performed. The owner shall have the
35 burden of proving that the use or rental of the residential property is
36 seasonal.

37

38 3. (New section) a. The department, in consultation with the
39 Department of Community Affairs, shall, as soon as practicable and
40 annually thereafter, prepare a pamphlet that describes bedbugs and
41 explains how the presence of bedbugs spreads. This pamphlet may
42 contain any information that the commissioner deems necessary and
43 may be revised by the department whenever new information
44 concerning bedbugs becomes available. The pamphlet shall be
45 included as an integral part of the Truth in Renting booklet
46 published by the Department of Community Affairs, shall be
47 provided by a landlord to a tenant, and posted on the rental

1 property, in accordance with section 4 of P.L.1975, c. 310 (C.46:8-
2 46), and shall contain the following information:

3 (1) Measures that may be taken to prevent and control the
4 presence of bedbugs in a residential setting, including professional
5 extermination, cleaning the dwelling space and mattresses, and
6 laundering bedclothes, and clothing;

7 (2) Specific facts about the bedbug, including its appearance and
8 breeding habits;

9 (3) The State's guidelines and regulations for disinfecting,
10 labeling, and reselling mattresses;

11 (4) Tenant behaviors that are risk factors for attracting and
12 supporting the presence of bedbugs; and

13 (5) A statement describing the legal rights and responsibilities
14 imposed on tenants and owners of multiple dwellings by this act,
15 including, but not limited to the owner's duty to keep the premises
16 free of the presence of bedbugs, a tenant's duty to notify the owner
17 of the presence of bedbugs, and the potential financial liability of a
18 tenant for repeated eradications caused by either a failure to
19 properly maintain the unit or for interfering with the owner's access
20 to the unit for inspection or eradication purposes.

21 b. The pamphlet shall not be deemed to be medical advice.

22 c. The pamphlet shall contain, in a conspicuous form, the
23 following statement:

24 "If you notice or suspect the presence of bedbugs in your unit,
25 you are required by law to promptly notify the owner or manager of
26 your unit. You may be responsible for the costs of exterminating
27 bedbugs if you do not notify your owner or manager."

28 d. The pamphlet shall contain a separate written statement as
29 follows:

30 "Upon reasonable notice, you must grant the owner of your
31 apartment access to the apartment for purposes of an inspection for
32 or the eradication of the presence of bedbugs. This inspection may
33 include a visual inspection and manual inspection of your personal
34 belongings, limited to bedding or furniture. If bedbugs are found in
35 the unit, additional access and measures may be required. If you do
36 not grant your landlord access for purposes of an inspection for or
37 the eradication of the presence of bedbugs or if you obstruct access
38 for purposes of visual inspection, your landlord may not be
39 responsible for any costs and damages relating to and arising from
40 bedbugs in your unit. You may also be responsible for the costs of
41 repeated eradication of bedbugs if you fail to properly maintain
42 your dwelling."

43 e. The pamphlet shall contain a separate written statement
44 notifying the tenant that,

45 (1) upon termination of the lease and move out, the owner may
46 inspect the unit for the presence of bedbugs, and

47 (2) The presence of bedbugs in the unit may constitute damages
48 to the unit beyond normal wear and tear and actual eradication costs

1 may be itemized and deducted from the tenant's security deposit
2 pursuant to section 3 of P.L.1971, c.223 (C.46:8-21.1).

3

4 4. (New section) a. Every owner of a multiple dwelling shall
5 be responsible, at his own expense, for maintaining the multiple
6 dwelling free of the presence of bedbugs except pursuant to section
7 7 of P.L. , c. (C.) (pending before the Legislature as this
8 bill).

9 b. Any tenant who has knowledge of the presence of bedbugs,
10 or who suspects the presence of bedbugs based on the presence of
11 characteristic bite marks, shall notify the owner in writing of the
12 presence of bedbugs in the dwelling unit.

13 c. Upon written notice from a tenant, or from the local board
14 pursuant to R.S.26:3-49, of the presence of bedbugs in any dwelling
15 unit, an owner shall, within 10 days following that written notice, at
16 his own expense,

17 (1) begin the process of eradicating bedbugs in the dwelling
18 unit;

19 (2) ascertain the presence of bedbugs in other dwelling units or
20 common areas; and

21 (3) following written notice to the tenants of those units where
22 bedbugs are present, eradicate any remaining presence of bedbugs
23 in other dwelling units or common areas

24 The provisions of this subsection to the contrary
25 notwithstanding, an owner shall, within seven days following
26 written notice to all affected tenants, at his own expense, eradicate
27 the presence of bedbugs in a dwelling unit leased, occupied, or
28 rented for seasonal use.

29 d. (1) When the owner of a multiple dwelling requires access to
30 a unit for purposes of ascertaining the presence of bedbugs or
31 eradicating the presence of bedbugs, the owner shall provide at least
32 48 hours' notice to the tenants, in writing, that the owner requires
33 access for purposes of ascertaining or eradicating the presence of
34 bedbugs.

35 (2) Upon reasonable notice pursuant to paragraph (1) of this
36 subsection, a tenant shall grant an owner access to the affected unit
37 for purposes of inspection or eradication. If the tenant, after
38 receiving reasonable notice of an inspection or eradication pursuant
39 to this subsection, interferes with, obstructs, or actively inhibits
40 access to the unit for purposes of a visual inspection for, or
41 eradication of, the presence of bedbugs, the owner shall not be
42 liable to the tenant of the unit for any damages relating to and
43 arising from the presence of bedbugs.

44

45 5. (New section) a. If the owner does not act, within 10 days,
46 pursuant to section 4 of P.L. , c. (C.) (pending before the
47 Legislature as this bill), the tenant may notify, in writing, the local

1 board or local health officer of any failure of the multiple dwelling
2 to be kept in a condition free of bedbugs.

3 b. If, following written notice from a tenant, or from the local
4 board pursuant to R.S.26:3-49, or from the Department of
5 Community Affairs, pursuant to an inspection conducted pursuant
6 to section 7 of P.L.1967, c.76 (C.55:13A-7) the owner of a multiple
7 dwelling does not eradicate the bedbugs pursuant to section 4 of
8 P.L. , c. (C.) (pending before the Legislature as this bill),
9 the local health officer shall act as an agent for the owner of a
10 multiple dwelling to inspect for the presence of bedbugs and, if
11 required, to engage a commercial pesticide applicator at a usual and
12 customary price in the area to eradicate the bedbugs, within 10 days
13 following written notice to all affected tenants, as described in
14 subsection c. of section 4 of P.L. , c. (C.) (pending before the
15 Legislature as this bill).

16 c. Any commercial pesticide applicator who provides services
17 to eradicate the presence of bedbugs in accordance with subsection
18 a. of this section may bill the owner of a multiple dwelling directly.
19 The municipality or a local board may adopt an ordinance, similar
20 to an ordinance adopted pursuant to section 6 of P.L.1962, c.66
21 (C.40:48-2.12f), providing that the municipality shall pay the costs
22 of eradication of the presence of bedbugs, and that the costs shall be
23 charged against the multiple dwelling premises, and may be a lien
24 against the premises. In the event that a landlord fails to pay the
25 costs pursuant to this section, the municipality or local board may
26 serve written notice of the failure to pay, and shall demand that the
27 deficiency be cured within 10 days. Judicial notice or hearing shall
28 be required to enforce the lien. The owner of the multiple dwelling
29 shall reimburse the local health officer or local board for the actual
30 costs incurred for any eradication of the presence of bedbugs.

31
32 6. (New section) a. An owner shall visually inspect the unit no
33 more than 30 days prior to the date a new lease term commences or
34 a new tenant commences occupancy of a dwelling unit, except for a
35 dwelling unit rented, occupied, or leased for seasonal use. The
36 owner shall visually inspect any dwelling unit rented, occupied, or
37 leased for seasonal use that has been unoccupied for 30 days or
38 more prior to the date a new lease term commences or a new tenant
39 commences occupancy of a dwelling unit. The owner shall include
40 a provision in the lease certifying that the owner has visually
41 inspected the dwelling unit for the presence of bedbugs.

42 b. An owner may visually inspect a dwelling unit for evidence
43 of the presence of bedbugs when a tenant terminates occupancy of
44 the unit. If the owner ascertains the presence of bedbugs, of which
45 the owner has not received notice pursuant to section 4 of
46 P.L. , c. (C.) (pending before the Legislature as this bill), the
47 presence of bedbugs may constitute damages to the unit beyond
48 normal wear and tear, and the owner may itemize and deduct from

1 the tenant's security deposit pursuant to section of 3 of
2 P.L.1971, c.223 (C.46:8-21.1), provided that the landlord has
3 complied with the procedures set forth in section 4 of
4 P.L.1975, c.310 (C.46:8-46).

5 c. The owner may also deduct from the security deposit any
6 costs for eradication services for which the tenant is responsible
7 pursuant to section 7 of P.L. , c. (C.) (pending before the
8 Legislature as this bill) and that are due and owing to the landlord,
9 provided that the landlord has complied with the procedures set
10 forth in section 4 of P.L.1975, c.310 (C.46:8-46).

11

12 7. (New section) If repeated eradications are necessary due to
13 the tenant's failure to properly maintain the dwelling, the costs of
14 eradication may be charged to the tenant, provided that the landlord
15 has complied with the procedures set forth in subsection c. of
16 section 3 of P.L. , c. (C.) (pending before the Legislature as
17 this bill).

18

19 8. (New section) a. Any owner of a multiple dwelling whose
20 negligence or failure to act results in action by the local health
21 officer pursuant to section 5 of P.L. , c. (C.) (pending
22 before the Legislature as this bill) shall be liable for a civil penalty
23 of not more than \$300 for each affected dwelling unit and not more
24 than \$1000 for each affected common area in the multiple dwelling.
25 Such penalty shall be recovered by and in the name of the local
26 board of health, if one exists. If no local board exists, the penalty
27 shall be paid into the treasury of the municipality in which the
28 violation occurred for the general uses of the municipality.

29 b. The local board or local health officer may bring an action in
30 a summary manner pursuant to the "Penalty Enforcement Law of
31 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), and the Rules
32 Governing the Courts of the State of New Jersey governing actions
33 for the collection of civil penalties, in the municipal court or the
34 Superior Court to recover a penalty imposed pursuant to subsection
35 a. of this section. The court is empowered to issue any appropriate
36 injunctive orders, and to authorize immediate collection of
37 reimbursable costs due the local board.

38

39 9. (New section) The commissioner, in consultation with the
40 Department of Community Affairs, pursuant to the "Administrative
41 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt
42 rules and regulations to effectuate the purposes of this act.

43

44 10. R.S.26:3-46 is amended to read as follows:

45 26:3-46. The local board, within its jurisdiction, shall examine
46 into and prohibit any nuisance, offensive matter, foul or noxious
47 odors, gases or vapors, water in which mosquito larvae breed, and
48 all causes of ill health or disease, including bedbugs, which may be

1 known to the board or brought to its attention, which, in its
2 opinion, are injurious to the health of the inhabitants therein, and
3 shall cause the same to be removed and abated at the expense of
4 the owner.

5 (cf: R.S.26:3-46)

6

7 11. R.S.26:3-49 is amended to read as follows:

8 26:3-49. Whenever any nuisance, noxious gases or vapors,
9 water in which mosquito larvae breed, or cause of ill health or
10 disease is found on private property, the local board shall notify the
11 owner to remove and abate the same, at his own expense, within
12 such time as the board may specify. A duplicate of the notice shall
13 be left with one or more of the tenants or occupants. Whenever any
14 infestation of bedbugs is found in a multiple dwelling, the local
15 board shall notify the owner to eradicate the infestation, at his own
16 expense, immediately.

17 If the owner resides out of the state or cannot be so notified
18 speedily, a notice left at the house or premises with the tenant or
19 occupant, or posted on the premises, shall suffice.

20 In the event that an owner does not eradicate an infestation of
21 bedbugs immediately following notice pursuant to this section, the
22 local board of health is authorized to act as an agent for the
23 landlord, pursuant to section 5 of P.L. , c. (C.), for purposes
24 of eradicating the infestation.

25 (cf: R.S.26:3-49)

26

27 12. R.S.26:3-54 is amended to read as follows:

28 26:3-54. The local board may recover, by a civil action, the
29 expenses incurred in such removal and abatement from any person
30 who shall have caused or allowed such nuisance, source of foulness,
31 water in which mosquito larvae breed, or cause of sickness,
32 hazardous to the public health to exist, or from any owner, tenant,
33 or occupant of premises who, after notice as herein provided, shall
34 fail to remove and abate the same within the time specified in the
35 notice. The local board may recover, by a civil action, the
36 expenses incurred in eradication of an infestation of bedbugs,
37 pursuant to section 5 of P.L. , c. (C.), from the owner of a
38 multiple dwelling who, after notice, failed to eradicate the
39 infestation of bedbugs.

40 (cf: P.L.1953, c.26, s.14)

41

42 13. Section 7 of P.L.1967, c.76 (C.55:13A-7) is amended to read
43 as follows:

44 7. The commissioner shall issue and promulgate, in the manner
45 specified in section 8 of P.L.1967, c.76 (C.55:13A-8), such
46 regulations as the commissioner may deem necessary to assure that
47 any hotel or multiple dwelling will be maintained in such manner as
48 is consistent with, and will protect, the health, safety and welfare of

1 the occupants or intended occupants thereof, or of the public
2 generally.

3 Any such regulations issued and promulgated by the
4 commissioner pursuant to this section shall provide standards and
5 specifications for such maintenance materials, methods and
6 techniques, fire warning and extinguisher systems, elevator
7 systems, emergency egresses, and such other protective equipment
8 as the commissioner shall deem reasonably necessary to the health,
9 safety and welfare of the occupants or intended occupants of any
10 units of dwelling space in any hotel or multiple dwelling, including
11 but not limited to:

- 12 (a) Structural adequacy ratings;
- 13 (b) Methods of egress, including fire escapes, outside fireproof
14 stairways, independent stairways, and handrails, railings, brackets,
15 braces and landing platforms thereon, additional stairways, and
16 treads, winders, and risers thereof, entrances and ramps;
- 17 (c) Bulkheads and scuttles, partitions, walls, ceilings and floors;
- 18 (d) Garbage and refuse collection and disposal, cleaning and
19 janitorial services, repairs, and extermination services;
- 20 (e) Electrical wiring and outlets, and paints and the composition
21 thereof;
- 22 (f) Doors, and the manner of opening thereof;
- 23 (g) Transoms, windows, shafts and beams;
- 24 (h) Chimneys, flues and central heating units;
- 25 (i) Roofing and siding materials;
- 26 (j) Lots, yards, courts and garages, including the size and
27 location thereof;
- 28 (k) Intakes, open ducts, offsets and recesses;
- 29 (l) Windows, including the size and height thereof;
- 30 (m) Rooms, including the area and height thereof, and the
31 permissible number of occupants thereof;
- 32 (n) Stairwells, skylights and alcoves;
- 33 (o) Public halls, including the lighting and ventilation thereof;
- 34 (p) Accessory passages to rooms;
- 35 (q) Cellars, drainage and air space;
- 36 (r) Water-closets, bathrooms and sinks;
- 37 (s) Water connections, including the provision of drinking and
38 hot and cold running water;
- 39 (t) Sewer connections, privies, cesspools, and private sewers;
- 40 (u) Rain water and drainage conductors;
- 41 (v) Entrances and ramps; **[and]**
- 42 (w) Presence of lead-based paint hazards in multiple dwellings
43 and in single-family and two-family dwellings, exclusive of owner-
44 occupied dwelling units, subject to P.L.2003, c.311 (C.52:27D-
45 437.1 et al.). In a common interest community, any inspection fee
46 for and violation found within a unit which is solely related to this
47 subsection shall be the responsibility of the unit owner and not the

1 homeowners' association, unless the association is the owner of the
2 unit; and

3 (x) Presence of bedbugs, as defined in section 2 of
4 P.L. , c. (C.) (pending before the Legislature as this bill), or
5 the presence of other vermin and pests in multiple dwellings.
6 (cf: P.L.2007, c.251, s.5)

7

8 14. This act shall take effect immediately.

9

10

11

STATEMENT

12

13 This bill would require owners of multiple dwellings to maintain
14 a safe and clean living environment free of the presence of bedbugs.
15 This legislation provides that property owners are responsible for
16 maintaining multiple dwellings free of bedbug infestations, and
17 must remove bedbugs at their own expense when they become
18 aware of an infestation in a multiple dwelling. This bill provides
19 that a landlord who does not take prompt action upon written notice
20 that bedbugs have infested a property is financially liable for the
21 consequences.

22 The Department of Health and Senior Services is charged with
23 preparing and publishing a bedbug education document in pamphlet
24 form. The legislation would require multiple dwelling owners to
25 provide tenants with this pamphlet within 90 days after the
26 department makes it available to the public. Owners of multiple
27 dwellings would be required to deliver this pamphlet to tenants,
28 who would be required to sign an acknowledgment that they
29 received this document. If an owner is unable to obtain a signature,
30 the owner shall be deemed in compliance with the delivery
31 requirement if two attempts are made to deliver the pamphlet, one
32 of which shall be by certified or registered mail.

33 This publication would set forth the legal rights and
34 responsibilities of both owners and tenants imposed by this
35 legislation. The pamphlet would advise tenants that their units may
36 be subject to inspection for bedbugs and that the tenants may be
37 responsible for certain costs related to bedbug eradication. If
38 enacted, this legislation would require the owner to deliver the
39 pamphlet before charging certain expenses to tenants or deducting
40 certain expenses from tenants' security deposits.

41 This bill requires owners to act to eradicate bedbugs within 10
42 days of receiving written notice of the presence of bedbugs in a
43 unit. When a unit is rented for seasonal use, the owner would have
44 only seven days to act. This bill also requires the owner of a
45 multiple dwelling to provide the tenant with 48 hours' notice that
46 access is required to a unit for purposes of eradicating the presence
47 of bedbugs prior to entering the unit for purposes of inspecting for
48 or eradicating bedbugs.

A1349 SPENCER, TUCKER

11

1 This legislation imposes a duty on tenants to notify the owner of
2 the presence of bedbugs in the unit. This legislation also would
3 require a local board of health to act on the owner's behalf to
4 eradicate the presence bedbugs when an owner does not do so. This
5 bill has no financial impact on taxpayers because the property
6 owner is required to reimburse the board when it acts on the owner's
7 behalf.