

[Third Reprint]

SENATE, No. 2018

STATE OF NEW JERSEY
215th LEGISLATURE

INTRODUCED MAY 31, 2012

Sponsored by:

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**Senators Cunningham, Gordon, Assemblymen Schaer, Johnson,
Assemblywomen Wagner, Sumter and Assemblyman Wisniewski**

SYNOPSIS

Authorizes award of attorney's fees and expenses in landlord-tenant actions under certain circumstances.

CURRENT VERSION OF TEXT

As amended by the Senate on June 27, 2013.

(Sponsorship Updated As Of: 6/25/2013)

1 AN ACT ²**[**requiring a residential landlord to pay attorney's fees for
2 a successful tenant where the landlord has reserved the same
3 right through the lease,**]** concerning attorney's fees and expenses
4 in landlord-tenant disputes² and supplementing ²**[**chapter 18 of**]**²
5 Title 2A of the New Jersey Statutes.
6

7 **BE IT ENACTED** by the Senate and General Assembly of the State
8 of New Jersey:
9

10 1. If a residential lease agreement provides that the landlord is
11 or may be entitled to recover either attorney's fees or expenses, or
12 both, incurred as a result of the failure of the tenant to perform any
13 covenant or agreement in the lease, or if the lease provides that such
14 costs may be recovered as additional rent, the court shall read an
15 additional ¹parallel¹ implied covenant into the lease. This implied
16 covenant shall require the landlord to pay the tenant either the
17 reasonable attorney's fees or the reasonable expenses, or both,
18 incurred by that tenant as the result of the ¹tenant's successful
19 defense of any action or summary proceeding commenced by the
20 landlord against the tenant, arising out of an alleged failure of the
21 tenant to perform any covenant or agreement in the lease, or as the
22 result of any successful action or summary proceeding commenced
23 by the tenant against the landlord, arising out of the¹ failure of the
24 landlord to perform any covenant or agreement in the lease. The
25 court shall ³**[** ², in its discretion,²**]**³ order the landlord to pay such
26 ¹**[**costs when**]** attorney's fees or expenses, or both, that are¹
27 actually and reasonably incurred ¹**[**in the tenant's successful
28 defense of any action or summary proceeding commenced by the
29 landlord against the tenant, or in any action or summary proceeding
30 commenced by the tenant against the landlord, arising out of the
31 lease**]** by a tenant who is the successful party in such actions or
32 proceedings¹ ²to the same extent the landlord is entitled to recover
33 attorney's fees and expenses, or both, as provided in the lease². An
34 order based on this implied covenant shall require the landlord to
35 pay the tenant such costs either as money damages or a credit
36 against future rent, as determined by the tenant. Any waiver of this
37 section shall be void as against public policy.

38 ²Notwithstanding the foregoing, in an action or summary
39 proceeding for non-payment of rent a tenant who pays all rent
40 currently due and owing on or after the filing of the complaint but
41 prior to entry of a final judgment, and whom the court finds
42 presented no meritorious defense to the complaint other than said

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SCU committee amendments adopted March 4, 2013.

²Assembly floor amendments adopted June 20, 2013.

³Senate floor amendments adopted June 27, 2013.

1 payment, shall not be deemed to have successfully defended against
2 the action or summary proceeding for the purposes of the award of
3 attorney's fees or expenses, or both.

4 As used in this act "expenses" shall include expenses directly
5 related to the litigation including, but not limited to, court costs and
6 expenses for witnesses. "Expenses" shall not include personal
7 expenses for travel, reimbursement for missed work time, or child
8 care.²

9
10 2. If a residential lease agreement provides that the landlord is
11 or may be entitled to recover attorney's fees or expenses ², or both²
12 from the tenant for any action ²or summary proceeding² arising out
13 of the lease, as described in section 1 of P.L. , c. (C.) (pending
14 before the Legislature as this bill), the lease clause shall also
15 contain the following provision in no less than 14 point bold point
16 type:

17
18 IF THE TENANT IS SUCCESSFUL IN ANY ACTION OR
19 SUMMARY PROCEEDING ARISING OUT OF THIS LEASE,
20 THE TENANT SHALL RECOVER ATTORNEY'S FEES ²**[AND]**
21 OR² EXPENSES ², OR BOTH² FROM THE LANDLORD ²**TO**
22 THE SAME EXTENT THE LANDLORD IS ENTITLED TO
23 RECOVER ATTORNEY'S FEES OR EXPENSES, OR BOTH AS
24 PROVIDED IN THIS LEASE².

25
26 3. ²**[Section 1]** This act² shall take effect immediately, and
27 shall apply to all ²**[residential leases currently in force. Section 2**
28 **shall apply to]**² new lease agreements ²for real property² executed
29 on and after the first day of the ²**[seventh]**² month ²**[next]**²
30 following enactment.