

SENATE, No. 1295

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED FEBRUARY 1, 2018

Sponsored by:

Senator ANTHONY R. BUCCO
District 25 (Morris and Somerset)

SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.



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:

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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.

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

40 "Department" means the Department of Health.

41 "Dwelling" or "multiple dwelling" means a multiple dwelling as
42 defined in section 3 of the "Hotel and Multiple Dwelling Law,"
43 P.L.1967, c.76 (C.55:13A-3), except that this definition shall not
44 include any common interest community.

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

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

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

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

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

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

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36 3. (New section) a. The department, in consultation with the
37 Department of Community Affairs, shall, as soon as practicable and
38 annually thereafter, prepare a pamphlet that describes bedbugs and
39 explains how the presence of bedbugs spreads. This pamphlet may
40 contain any information that the commissioner deems necessary and
41 may be revised by the department whenever new information
42 concerning bedbugs becomes available. The pamphlet shall be
43 included as an integral part of the Truth in Renting booklet
44 published by the Department of Community Affairs, shall be
45 provided by a landlord to a tenant, and posted on the rental
46 property, in accordance with section 4 of P.L.1975, c.310 (C.46:8-
47 46), and shall contain the following information:

48 (1) Measures that may be taken to prevent and control the
49 presence of bedbugs in a residential setting, including professional

- 1 extermination, cleaning the dwelling space and mattresses, and
2 laundering bedclothes, and clothing;
- 3 (2) Specific facts about the bedbug, including its appearance and
4 breeding habits;
- 5 (3) The State's guidelines and regulations for disinfecting,
6 labeling, and reselling mattresses;
- 7 (4) Tenant behaviors that are risk factors for attracting and
8 supporting the presence of bedbugs; and
- 9 (5) A statement describing the legal rights and responsibilities
10 imposed on tenants and owners of multiple dwellings by this act,
11 including, but not limited to the owner's duty to keep the premises
12 free of the presence of bedbugs, a tenant's duty to notify the owner
13 of the presence of bedbugs, and the potential financial liability of a
14 tenant for repeated eradications caused by either a failure to
15 properly maintain the unit or for interfering with the owner's access
16 to the unit for inspection or eradication purposes.
- 17 b. The pamphlet shall not be deemed to be medical advice.
- 18 c. The pamphlet shall contain, in a conspicuous form, the
19 following statement:
20 "If you notice or suspect the presence of bedbugs in your unit,
21 you are required by law to promptly notify the owner or manager of
22 your unit. You may be responsible for the costs of exterminating
23 bedbugs if you do not notify your owner or manager."
- 24 d. The pamphlet shall contain a separate written statement as
25 follows:
26 "Upon reasonable notice, you must grant the owner of your
27 apartment access to the apartment for purposes of an inspection for
28 or the eradication of the presence of bedbugs. This inspection may
29 include a visual inspection and manual inspection of your personal
30 belongings, limited to bedding or furniture. If bedbugs are found in
31 the unit, additional access and measures may be required. If you do
32 not grant your landlord access for purposes of an inspection for or
33 the eradication of the presence of bedbugs or if you obstruct access
34 for purposes of visual inspection, your landlord may not be
35 responsible for any costs and damages relating to and arising from
36 bedbugs in your unit. You may also be responsible for the costs of
37 repeated eradication of bedbugs if you fail to properly maintain
38 your dwelling."
- 39 e. The pamphlet shall contain a separate written statement
40 notifying the tenant that,
41 (1) upon termination of the lease and move out, the owner may
42 inspect the unit for the presence of bedbugs, and
43 (2) The presence of bedbugs in the unit may constitute damages
44 to the unit beyond normal wear and tear and actual eradication costs
45 may be itemized and deducted from the tenant's security deposit
46 pursuant to section of 3 of P.L.1971, c.223 (C.46:8-21.1).

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

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

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

14 (1) begin the process of eradicating bedbugs in the dwelling
15 unit;

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

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

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

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

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

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42 5. (New section) a. If the owner does not act, within 10 days,
43 pursuant to section 4 of P.L. , c. (C.) (pending before the
44 Legislature as this bill), the tenant may notify, in writing, the local
45 board or local health officer of any failure of the multiple dwelling
46 to be kept in a condition free of bedbugs.

47 b. If, following written notice from a tenant, or from the local
48 board pursuant to R.S.26:3-49, or from the Department of
49 Community Affairs, pursuant to an inspection conducted pursuant

1 to section 7 of P.L.1967, c.76 (C.55:13A-7) the owner of a multiple
2 dwelling does not eradicate the bedbugs pursuant to section 4 of
3 P.L. , c. (C.) (pending before the Legislature as this bill),
4 the local health officer shall act as an agent for the owner of a
5 multiple dwelling to inspect for the presence of bedbugs and, if
6 required, to engage a commercial pesticide applicator at a usual and
7 customary price in the area to eradicate the bedbugs, within 10 days
8 following written notice to all affected tenants, as described in
9 subsection c. of section 4 of P.L. , c. (C.) (pending before the
10 Legislature as this bill).

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

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

37 b. An owner may visually inspect a dwelling unit for evidence
38 of the presence of bedbugs when a tenant terminates occupancy of
39 the unit. If the owner ascertains the presence of bedbugs, of which
40 the owner has not received notice pursuant to section 4 of
41 P.L. , c. (C.) (pending before the Legislature as this bill), the
42 presence of bedbugs may constitute damages to the unit beyond
43 normal wear and tear, and the owner may itemize and deduct from
44 the tenant's security deposit pursuant to section of 3 of
45 P.L.1971, c.223 (C.46:8-21.1), provided that the landlord has
46 complied with the procedures set forth in section 4 of
47 P.L.1975, c.310 (C.46:8-46).

48 c. The owner may also deduct from the security deposit any
49 costs for eradication services for which the tenant is responsible

1 pursuant to section 7 of P.L. , c. (C.) (pending before the
2 Legislature as this bill) and that are due and owing to the landlord,
3 provided that the landlord has complied with the procedures set
4 forth in section 4 of P.L.1975, c.310 (C.46:8-46).

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

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

23 b. The local board or local health officer may bring an action in
24 a summary manner pursuant to the "Penalty Enforcement Law of
25 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), and the Rules
26 Governing the Courts of the State of New Jersey governing actions
27 for the collection of civil penalties, in the municipal court or the
28 Superior Court to recover a penalty imposed pursuant to subsection
29 a. of this section. The court is empowered to issue any appropriate
30 injunctive orders, and to authorize immediate collection of
31 reimbursable costs due the local board.

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

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38 10. R.S.26:3-46 is amended to read as follows:
39 26:3-46. The local board, within its jurisdiction, shall examine
40 into and prohibit any nuisance, offensive matter, foul or noxious
41 odors, gases or vapors, water in which mosquito larvae breed, and
42 all causes of ill health or disease, including bedbugs, which may be
43 known to the board or brought to its attention, which, in its
44 opinion, are injurious to the health of the inhabitants therein, and
45 shall cause the same to be removed and abated at the expense of
46 the owner.(cf: R.S.26:3-46)

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

2 26:3-49. Whenever any nuisance, noxious gases or vapors, water
3 in which mosquito larvae breed, or cause of ill health or disease is
4 found on private property, the local board shall notify the owner to
5 remove and abate the same, at his own expense, within such time
6 as the board may specify. A duplicate of the notice shall be left
7 with one or more of the tenants or occupants. Whenever any
8 infestation of bedbugs is found in a multiple dwelling, the local
9 board shall notify the owner to eradicate the infestation, at his own
10 expense, immediately.

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

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

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

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

22 26:3-54. The local board may recover, by a civil action, the
23 expenses incurred in such removal and abatement from any person
24 who shall have caused or allowed such nuisance, source of foulness,
25 water in which mosquito larvae breed, or cause of sickness,
26 hazardous to the public health to exist, or from any owner, tenant,
27 or occupant of premises who, after notice as herein provided, shall
28 fail to remove and abate the same within the time specified in the
29 notice. The local board may recover, by a civil action, the expenses
30 incurred in eradication of an infestation of bedbugs, pursuant to
31 section 5 of P.L. , c. (C.), from the owner of a multiple
32 dwelling who, after notice, failed to eradicate the infestation of
33 bedbugs.

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

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

38 7. The commissioner shall issue and promulgate, in the manner
39 specified in section 8 of P.L.1967, c.76 (C.55:13A-8), such
40 regulations as the commissioner may deem necessary to assure that
41 any hotel or multiple dwelling will be maintained in such manner as
42 is consistent with, and will protect, the health, safety and welfare of
43 the occupants or intended occupants thereof, or of the public
44 generally.

45 Any such regulations issued and promulgated by the
46 commissioner pursuant to this section shall provide standards and
47 specifications for such maintenance materials, methods and
48 techniques, fire warning and extinguisher systems, elevator
49 systems, emergency egresses, and such other protective equipment

- 1 as the commissioner shall deem reasonably necessary to the health,
2 safety and welfare of the occupants or intended occupants of any
3 units of dwelling space in any hotel or multiple dwelling, including
4 but not limited to:
- 5 (a) Structural adequacy ratings;
 - 6 (b) Methods of egress, including fire escapes, outside fireproof
7 stairways, independent stairways, and handrails, railings, brackets,
8 braces and landing platforms thereon, additional stairways, and
9 treads, winders, and risers thereof, entrances and ramps;
 - 10 (c) Bulkheads and scuttles, partitions, walls, ceilings and floors;
 - 11 (d) Garbage and refuse collection and disposal, cleaning and
12 janitorial services, repairs, and extermination services;
 - 13 (e) Electrical wiring and outlets, and paints and the composition
14 thereof;
 - 15 (f) Doors, and the manner of opening thereof;
 - 16 (g) Transoms, windows, shafts and beams;
 - 17 (h) Chimneys, flues and central heating units;
 - 18 (i) Roofing and siding materials;
 - 19 (j) Lots, yards, courts and garages, including the size and
20 location thereof;
 - 21 (k) Intakes, open ducts, offsets and recesses;
 - 22 (l) Windows, including the size and height thereof;
 - 23 (m) Rooms, including the area and height thereof, and the
24 permissible number of occupants thereof;
 - 25 (n) Stairwells, skylights and alcoves;
 - 26 (o) Public halls, including the lighting and ventilation thereof;
 - 27 (p) Accessory passages to rooms;
 - 28 (q) Cellars, drainage and air space;
 - 29 (r) Water-closets, bathrooms and sinks;
 - 30 (s) Water connections, including the provision of drinking and
31 hot and cold running water;
 - 32 (t) Sewer connections, privies, cesspools, and private sewers;
 - 33 (u) Rain water and drainage conductors;
 - 34 (v) Entrances and ramps; **[and]**
 - 35 (w) Presence of lead-based paint hazards in multiple dwellings
36 and in single-family and two-family dwellings, exclusive of owner-
37 occupied dwelling units, subject to P.L.2003, c.311 (C.52:27D-
38 437.1 et al.). In a common interest community, any inspection fee
39 for and violation found within a unit which is solely related to this
40 subsection shall be the responsibility of the unit owner and not the
41 homeowners' association, unless the association is the owner of the
42 unit; and
 - 43 (x) Presence of bedbugs, as defined in section 2 of
44 P.L. , c. (C.) (pending before the Legislature as this bill), or
45 the presence of other vermin and pests in multiple dwellings.
46 (cf: P.L.2007, c.251, s.5)

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14. This act shall take effect immediately.

STATEMENT

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

The Department of Health is charged with preparing a bedbug education document in pamphlet form that shall be included as an integral part of the Truth in Renting booklet published by the Department of Community Affairs and required to be furnished by every landlord to each tenant, as well as posted on the rental property.

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

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

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