

**To: New Jersey Law Revision Commission**  
**From: Jennifer Weitz, Counsel**  
**Date: May 10, 2021**  
**Re: Uniform Residential Landlord and Tenant Act, Revised (2015), Article 11**

## **MEMORANDUM**

### **Project Summary**

The New Jersey Law Revision Commission previously engaged in a substantial project concerning New Jersey's Landlord and Tenant law, and released a Final Report in 2012. Although introduced in bill form in a prior session of the Legislature, that Commission project has not yet been enacted.

The Commission's prior Report in this area incorporated the New Jersey Safe Housing Act, but Staff recently reviewed the 2015 Revised Uniform Residential Landlord and Tenant Act, with an emphasis on Article 11 of that Act, to determine whether New Jersey is employing the "best practices" in this area of law. The review included information from the Uniform Law Commission ("ULC"), New Jersey's statutes and pending legislation in this area, and a preliminary review of relevant New Jersey case law.

As explained in more detail below, it may be appropriate to recommend a limited modification to existing New Jersey law to recognize that a victim of domestic violence may fear psychological, in addition to physical, harm.

### **New Jersey's Safe Housing Act**

The New Jersey Legislature has determined that landlord cooperation is a key component in combating domestic abuse within the State.<sup>1</sup> In 2008, the Legislature amended Title 46 of the New Jersey statutes and enacted the New Jersey Safe Housing Act ("SHA").<sup>2</sup> In its legislative findings, the Legislature noted that the inability to terminate a lease and associated financial obligations may prevent domestic violence victims from leaving abusive relationships and seeking help.<sup>3</sup> The Legislature further determined that such victims must be allowed to end their lease obligations without damaging their credit and/or rental history, to avoid jeopardizing their ability to secure safe housing in the future.<sup>4</sup>

The SHA permits a victim of domestic abuse to terminate a residential lease by providing written notice and evidence of domestic abuse, such as a restraining order or criminal complaint,

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<sup>1</sup> N.J. Assem. Comm. State., A.B. 2871 (Sept. 15, 2008).

<sup>2</sup> *P.L.* 2008, c. 223, amending *P.L.* 1971, c. 223, codified at N.J. STAT. ANN. § 46:8-9.4 *et seq.*

<sup>3</sup> N.J. STAT. ANN. § 46:8-9.5(b) (West 2020).

<sup>4</sup> *Id.*

to a landlord.<sup>5</sup> As well, the Act provides a procedure for a tenant to recover a security deposit without having to return to the leased premises or provide a forwarding address.<sup>6</sup>

### **The Revised Uniform Residential Landlord and Tenant Act**

In 2011, the ULC formed a Drafting Committee to update the Residential Landlord and Tenant Act (“the Act” or “the Uniform Act”) and specifically to address domestic violence and the refund of security deposits.<sup>7</sup> In 2015, the revised Act was approved.<sup>8</sup> Article 11, an amendment to the Act, allows for lease terminations because of acts of domestic violence, dating violence, stalking, or sexual assault.<sup>9</sup> It also addresses the rights of landlords with respect to perpetrators of domestic violence who are also tenants in the same residence or elsewhere on the premises.<sup>10</sup>

Importantly, the Uniform Act acknowledges that a victim of domestic violence may fear either physical or psychological harm.<sup>11</sup>

### **Current New Jersey Law**

Currently, New Jersey’s SHA only recognizes the potential for physical harm.<sup>12</sup> The plain language of the Prevention of Domestic Violence Act, however, recognizes harassment, stalking, and cyber-harassment as within its definition of domestic violence.<sup>13</sup> Additionally, New Jersey courts have recognized psychological harm as grounds for a restraining order, noting that acts of harassment, even absent physical abuse, “can cause great emotional harm and psychological trauma.”<sup>14</sup>

### **Legislative Activity**

In the 2020-2021 legislative session, bills A2514/S1668 would expand the New Jersey SHA by ensuring that a landlord may not terminate a tenancy, fail to renew a tenancy, or refuse to enter into a rental agreement based on the tenant’s or applicant’s or a household member’s status as a victim of domestic violence, sexual assault, or stalking, or based on the tenant or applicant having terminated a lease pursuant to the Safe Housing Act.<sup>15</sup> These bills are identical to bills that

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<sup>5</sup> N.J. STAT. ANN. § 46:8-9.6(a) (West 2020).

<sup>6</sup> N.J. STAT. ANN. § 46:8-9.4 (West 2020).

<sup>7</sup> REVISED UNIF. RESIDENTIAL LANDLORD AND TENANT ACT (2015), Pref. Note. Available at [www.uniformlaws.org](http://www.uniformlaws.org) (last visited May 3, 2021).

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at § 1102.

<sup>12</sup> N.J. STAT. ANN. § 46:8-9.6 (West 2020).

<sup>13</sup> N.J. STAT. ANN. § 2C:25-19 (West 2020).

<sup>14</sup> *M.D. v. P.D.*, 2017 WL 4558415, at \*4 (App. Div. 2017) (quoting *A.M.C. v. P.B.*, 447 N.J. Super. 402, 417 (App. Div. 2016)).

<sup>15</sup> N.J. Senate Sponsor’s State., S. B. 1668 (Feb. 13, 2020).

have been introduced in each legislative session since 2008-2009.<sup>16</sup> While the current bills would bolster the protections available under the SHA, they do not recognize fear of psychological harm as grounds for termination of a lease.

### **Conclusion**

Based on Staff's comparison of the Uniform Act with the SHA, it appears that modifying the SHA to recognize psychological harm would align it with both the Uniform Act and the Prevention of Domestic Violence Act.

Staff requests authorization to conduct additional research and outreach in this area in anticipation of preparing a Report focusing on proposed modifications that would strengthen the protections available under the SHA.

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<sup>16</sup> A.B. 1706 (Jan. 9, 2018); A. B. 916 (Jan. 27, 2016); S.B. 1610 (May 25, 2017); A. B. 3655 (Sept. 15, 2014); S. B. 2736 (Feb. 5, 2015); A. B. 992 (Jan. 10, 2012); A. B. 2891 (June 14, 2010); S. B. 1932 (May 12, 2011); A. B. 4366 (Jan. 4, 2010).