



STATE OF NEW JERSEY

NJLRC

NEW JERSEY LAW REVISION COMMISSION

FINAL REPORT

Relating to

Powers of Commissioner

July 6, 2010

John M. Cannel, Esq., Executive Director
NEW JERSEY LAW REVISION COMMISSION
153 Halsey Street, 7th Fl., Box 47016
Newark, New Jersey 07101
973-648-4575
(Fax) 973-648-3123
Email: njlrcc@njlrcc.org
Web site: <http://www.njlrcc.org>

Introduction

Title 55 of the statutes pertains to Tenement houses and public housing, and chapter 13A deals with hotels and multiple dwellings. Within that chapter, *N.J.S. 55:13A-6* contains language concerning the enforcement powers assigned to the Commissioner of the Department of Community Affairs.

The Department of Community Affairs brought to Staff's attention the fact that subsection d. of *N.J.S. 55:13A-6* includes an error in the penalty amount assessed. A review of the section's legislative history indicates the current amount was never intended and is most likely a typographical error.

Since more than 20 years have elapsed since the section's most recent modification, the Office of Legislative Services has indicated that the error cannot be fixed as a typographical error. It now requires a corrective bill.

N.J.S. 55:13A-6. Powers of commissioner

Subsection d. reads in full:

To issue subpoenas to any person subject to this act which shall compel attendance at any hearing as a witness and shall compel production of such reports, documents, books or papers, in any part of the State before the commissioner or a member of the department designated by him, as the commissioner may deem necessary to implement the purposes of this act. In any case where a person neglects or refuses to obey the command of such subpoena, the commissioner may apply ex parte to the Superior Court for an order compelling a person to testify or to produce files, books, papers, documents or other objects in accordance with the subpoena issued by the commissioner and, in addition, said person shall be subject to a penalty of ~~\$100,000.00~~ 100 for each instance in which he does not comply with the subpoena issued by the commissioner, said penalty to be recovered pursuant to section 18 of this act[.]

COMMENT

The revision in the penalty amount corrects an error in the current statute. The section was first enacted in 1967 and amended by L.1970, c. 138. In 1970, the penalty amount was \$100. The section was amended further by L. 1987, c. 30 and was enacted with the penalty amount stated as \$100,000.

However, the legislative history for the 1987 amendment does not indicate any changes to the penalty amount in the form of the customary underlines, strikeouts, or brackets. In addition, there is nothing in the Statements of the bill to indicate that raising the penalty amount was intended as part of the amendment. Thus, it does not appear that the Legislature intended the amount of \$100,000 to be the correct penalty amount.

The Office of Legislative Services has advised that the error cannot be corrected by way of an administrative correction because too much time has passed since the law's most recent modification. A

corrective bill is necessary to fix the error. Therefore, Staff recommends a revision of the penalty amount in accordance with the 1970 bill amount of \$100.