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TO: All County Prosecutors
Deborah Gramiccioni, Director, Division of Criminal Justice
Col. Joseph R. Fuentes, Superintendent, New Jersey State Police
Chiefs of Police
Municipal Prosecutors

SUBJECT: **REVISED NOTICE TO LAW ENFORCEMENT CONCERNING
UNLAWFUL EVICTION LAW**

DATE: July 20, 2009

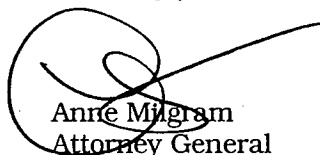
On June 5, 2006, Attorney General Farber issued a notice explaining the provisions of P.L. 2005, c. 319 (eff. Jan. 26, 2006). The law criminalized certain conduct by landlords, placed tenants on notice of their rights, and contained provisions to make law enforcement officers aware of their obligations under the law. The Attorney General distributed the notice pursuant to N.J.S.A. 52:17B-4.6, which required notice to law enforcements of the law's provisions.

Please find attached a superseding notice. It clarifies two provisions of the previously-issued notice. First, it removes any mention of the Sheriff's Departments in the context of the service of warrants for possession, as those warrants are served by Special Civil part Officers. Second, it clarifies that the law did not modify the authorization contained in the warrant of possession for local police officers to provide assistance, if needed, to the court officer executing the warrant in order to prevent a breach of the peace are not served by those agencies.

Please distribute the attached notice to all law enforcement agencies in your jurisdiction and all law enforcement officers in your department. Also, please post the attached notice in a common area set aside for such public announcements. Please remove and discard any copies of the previously-issued notice. Finally, please continue to reinforce the information contained in this notice at roll calls, academy service training, and continuing education programs.

Thank you very much for your cooperation.

Sincerely yours,


Anne Milgram
Attorney General





NOTICE TO LAW ENFORCEMENT OFFICERS

This notice supersedes the notice by Attorney General Zulima Farber, dated June 5, 2006, regarding P.L.2005, c.319, (codified at N.J.S.A. 2C:33-11.1). The law protects tenants from becoming the victims of illegal evictions by those who do not follow the required legal process for eviction.

SIGNIFICANT NEW PROTECTIONS UNDER THE LAW

- N.J.S.A. 2C:33-11.1 makes it a disorderly persons offense when a person, after being warned by a law enforcement officer or other public official of the illegality of his or her action:
 - 1) takes possession of residential real property or effectuates a forcible entry or detainer of residential real property without lawful execution of a warrant for possession or without the consent of the occupant in possession; or
 - 2) refuses to restore immediately to exclusive possession and occupancy any such occupant so displaced.
- The law provides that legal occupants unlawfully displaced shall be entitled without delay to reenter and reoccupy the premises, and shall not be considered trespassers or chargeable with any offense, as long as a law enforcement officer is present at the time of reentry.
- The law further expands the duty of law enforcement officers to prevent the landlord or any other persons from obstructing or hindering the reentry and reoccupancy of the dwelling by the displaced occupant.
- The law specifies that it is criminal mischief for a tenant to damage or destroy rental premises in response to a notice of eviction, and provides a person so convicted may, in addition to any other penalty imposed, be required to pay the property owner monetary restitution for any pecuniary damage caused.
- The law requires the court officer, at the time a warrant for possession is lawfully executed, to prepare and immediately deliver by personal service a statement of "Execution of Warrant for Possession," which identifies the warrant, date of issuance, the court and judge who issued the warrant, the date and time of execution of the warrant, and the name, signature and position of the person executing the warrant.

RESPONSIBILITIES IMPOSED UPON LAW ENFORCEMENT OFFICERS

This law requires law enforcement officers to first **warn** the landlord or other person that his/her attempts to forcibly enter and detain the property is illegal. If the landlord or other person continues his/her efforts in attempting to enter and detain the property, they can be cited for a disorderly persons offense. Further, the law imposes a **duty** on law enforcement officers to **prevent** the landlord or any other person from **obstructing or hindering** the reentry and reoccupancy of the dwelling by the tenant.

THIS LAW DOES NOT:

- Allow tenants to remain in possession of property if a court ordered judgment of possession was given and a warrant for possession was issued and served by a court officer;
- Allow tenants to circumvent a valid court order, such as a domestic violence restraining order;
- Require law enforcement to negotiate a settlement or collect rent;
- Require law enforcement to determine who should have lawful possession when both parties claim they should be allowed entry (in such cases, the parties should be directed to the Superior Court - Special Civil Part, which handles landlord/tenant disputes, or to the police department or clerk's office so that they can file a citizen's complaint for a disorderly persons offense in violation of N.J.S.A. 2C:33-11.1);
- Require law enforcement officers to forcibly evict a tenant when a warrant for possession was issued, although it does not modify the authorization contained in the warrant of possession for local police officers to provide assistance, if needed, to the court officer executing the warrant in order to prevent a breach of the peace; or
- Require law enforcement to contact utility companies, storage facilities, locksmith companies, or any other third party to aid the tenant in gaining re-entry into a property.