

to determine the effectiveness of the program. Their findings and recommendations are to be reported to the Legislature annually.

—*Ann Mader*

LANDLORD/TENANT—EMERGENCY FUEL OIL DELIVERY—N.J. STAT. ANN. §§ 26:3-31.4 to -31.10 (West 1980)

This permissive legislation authorizes the governing body of a municipality to designate a local health officer to act as an agent for a landlord in securing fuel oil for an apartment building when the landlord fails to provide the heat necessary to protect the health and safety of residential tenants.

The governing body of the municipality must decide whether it wishes to have this emergency program, and, additionally, which municipal department or health officer is to implement the program. The emergency relief provided by this Act would be nullified if the governing body failed to give the local health officer the power to secure fuel and instead required a meeting each time the health officer was requested to act. The Act implies that the governing body should not be burdened by the daily decisions of implementation.

The health officer may act only under certain circumstances: if a certain amount of time has elapsed after the tenant has lodged a complaint; if good faith efforts have been made to notify the landlord of the lack of heat; and if the landlord has failed to act after such notification. A landlord whose negligence or failure to act results in action by the health officer pursuant to this Act will be fined not more than \$300 for each affected dwelling in a single building. The fine is payable to the municipality. Additionally, the landlord may be billed directly by the fuel oil dealer who supplies the fuel at the direction of the health officer. If, instead, the municipality is billed for the fuel, a court may order the landlord to reimburse the municipality for actual costs incurred for fuel delivery, for the service charge for refiring the burner, and for reasonable attorney's fees. The goods and chattels of the landlord, including sums due for rent, may be used to reimburse the municipality.

The Act contains an immunity provision which protects the municipality from liability in implementing the provisions of this Act, except where gross negligence or malfeasance is found.

All landlords are required to file a registration statement with the clerk in the municipality where each building is located. The statement must list the name and address of the fuel oil dealer servicing the building as well as the grade of fuel used. This information will enable the municipality to carry out the provisions of this legislation.

The Act does not authorize mechanical repairs which are allowed under the Repair and Lien Statute (N.J. STAT. ANN. § 48:42-2.12f), nor does it apply to owner-occupied residential rental properties of five or fewer units.

The objective of this legislation is to protect the health and safety of tenants who may have no recourse when their landlord has failed to supply a sufficient amount of heat necessary for survival.

—*Maureen Leary*

ENVIRONMENT—POTABLE WATER SUPPLY DAMAGE—AN ACT TO  
AMEND THE SPILL COMPENSATION AND CONTROL ACT—  
N.J. STAT. ANN. § 58:10-23.11f (West Supp. 1981)

N.J. STAT. ANN. § 58:10-23.11f permits property owners whose drinking water supply has been contaminated by a discharge of a hazardous substance to file a claim against the Spill Compensation Fund for restoration or replacement of their water supply source. This amendment supplements existing law under the Spill Compensation and Control Act, which was recently held to be prospective rather than retroactive. (*State of New Jersey v. Exxon*, 151 N.J. Super. 464, 481, 376 A.2d 1339, 1348 (Ch. Div. 1977).) The Act will now allow for recovery based on retroactive discharges of hazardous substances into potable water supplies.

Payments shall be made for the restoration of, replacement of, or connection to an alternative water supply for any private residential well destroyed, contaminated, or impaired as a result of a discharge. All claims are subject to approval by the Department of Environmental Protection and the availability of funds; total payment in any one calendar year shall not exceed \$500,000.

—*Robert Saypol*