

ASSEMBLY, No. 4682

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED SEPTEMBER 21, 2020

Sponsored by:

Assemblyman WILLIAM W. SPEARMAN

District 5 (Camden and Gloucester)

Assemblyman THOMAS P. GIBLIN

District 34 (Essex and Passaic)

Assemblywoman LINDA S. CARTER

District 22 (Middlesex, Somerset and Union)

Co-Sponsored by:

Assemblymen Simonsen and McClellan

SYNOPSIS

“Emergency Tenant and Landlord Assistance Act”; appropriates \$300 million.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/25/2021)

1 **AN ACT** creating a program of emergency assistance for landlords
2 and tenants, supplementing chapter 8 of Title 46 of the Revised
3 Statutes, and making an appropriation.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. This act shall be known and may be cited as the “Emergency
9 Tenant and Landlord Assistance Act.”

10
11 2. The Legislature finds and declares that:

12 a. The coronavirus pandemic and the measures taken to end it
13 have resulted in widespread unemployment and lost income to large
14 numbers of New Jersey tenants, particularly those of low and
15 moderate income;

16 b. Unemployment and loss of income has rendered many
17 tenants throughout New Jersey unable to pay rent in whole or in
18 part, placing them at potential risk of eviction upon the end of the
19 current eviction moratorium;

20 c. Eviction has been shown to have serious deleterious effects
21 on the stability and health conditions of families, the educational
22 performance of children, and the stability of the neighborhoods in
23 which they live;

24 d. Loss of rental income has placed many landlords,
25 particularly small “mom and pop” landlords, at risk of being unable
26 to meet financial obligations;

27 e. If not addressed, sustained loss of rental income could lead
28 many landlords to defer repairs, reduce maintenance, and
29 potentially abandon their properties, all of which will have serious
30 deleterious effects both on families living in their properties and the
31 neighborhoods in which they are situated; and

32 f. The State of New Jersey has a compelling interest in
33 preventing evictions as well as property deterioration and
34 abandonment arising from the temporary loss of tenant and landlord
35 income during the time of the coronavirus pandemic.

36
37 3. As used in P.L. , c (C.) (pending before the
38 Legislature as this bill):

39 “Area median income” means the most recently adopted United
40 States Department of Housing and Urban Development median
41 income figure for the geographic area in which the rental unit is
42 located.

43 “Assistance” means compensation for unpaid rent, provided by
44 the program established pursuant to section 4 of P.L. c. (C.)
45 (pending before the Legislature as this bill).

46 “Assistance period” means the six month period beginning April
47 1, 2020 and ending September 30, 2020, or if the eviction
48 moratorium extends beyond October 1, 2020, the period ending in

1 the last full month prior to the end of the eviction moratorium or
2 December 31, 2020, whichever is later.

3 “Children” means individuals under the age of 18, whether or not
4 related by blood to the head of the household for which the rental
5 unit is the regular and permanent domicile of the head of the
6 household.

7 “Department” means the Department of Community Affairs.

8 “Eligible landlord” means any landlord who meets the criteria set
9 forth in subsections a. or b. of section 5 of P.L. , c. (C.)
10 (pending before the Legislature as this bill).

11 “Eviction moratorium” means Executive Order No. 106 of 2020
12 and includes all of the restrictions on eviction procedures
13 established therein.

14 “Household income” means the gross income of a tenant
15 household for calendar year 2019, or for January 1, 2020 through
16 June 30, 2020 multiplied by two, whichever is lower.

17 “Other landlord” means a landlord who is not a small landlord.

18 “Program” means the Emergency Tenant and Landlord
19 Assistance Program established by section 4 of P.L. , c. (C.)
20 (pending before the Legislature as this bill).

21 “Rental unit” means a dwelling unit owned by a landlord and
22 occupied by a tenant which is the subject of an application for
23 assistance or a tax credit pursuant to P.L. , c. (C.) (pending
24 before the Legislature as this bill).

25 “Small landlord” means a landlord whose principal domicile is in
26 the State of New Jersey and who, together with immediate family
27 members, partners, or other related entities, owns no more than 50
28 rental units in the State.

29 “Tax credit” means the tax credit established pursuant to section
30 8 of P.L. , c. (C.) (pending before the Legislature as this
31 bill).

32

33 4. a. There is established in the Department of Community
34 Affairs the “Emergency Tenant and Landlord Assistance Program,”
35 to provide payments to make up for the portion of unpaid rent that
36 the landlord’s tenant did not pay, and that was due during the
37 assistance period.

38 b. The program shall begin accepting applications no later than
39 the 15th day of the final month in which the eviction moratorium is
40 in effect.

41 c. The department shall prepare all application forms,
42 application guidelines, and informational materials necessary for
43 eligible landlords to complete an application, and shall post
44 materials on its website at least 30 days prior to the date on which
45 applications shall be accepted.

46

47 5. a. A landlord may apply for assistance pursuant to the
48 provisions of this section for any rental unit owned by that landlord

1 for which (1) the tenant household had an household income below
2 80 percent of the area median income; and (2) some or all of the
3 rent normally due for any or all of the assistance period remains
4 unpaid on the date of application.

5 b. Any landlord who is eligible, but does not receive assistance
6 pursuant to subsection a. of this section, due to a lack of funding or
7 for another reason, may claim a tax credit pursuant to section 8 of
8 P.L. , c. (C.) (pending before the Legislature as this bill) for
9 any rental unit owned by that landlord for which (1) the tenant
10 household had an household income below 80 percent of the area
11 median income; and (2) some or all of the rent normally due for any
12 or all of the assistance period remains unpaid on the date of
13 application.

14 c. A landlord shall not submit an application for assistance, or
15 claim a tax credit pursuant to section 8 of P.L. , c. (C.)
16 (pending before the Legislature as this bill), for any rental unit for
17 which the rent is subsidized by any federal or State rental assistance
18 program, except that landlords may submit applications for
19 assistance or a tax credit for rental units in projects financed
20 through the Low Income Housing Tax Credit, where no other
21 project-based or tenant-based assistance is provided to that unit.

22 d. The application shall set forth the total amount of rent due
23 for the rental unit as set forth in the lease or other document, the
24 amount paid by the tenant or third parties, if any, and the amount
25 unpaid.

26 e. The application shall provide documentation of the
27 landlord's status as a small landlord, if applicable.

28 f. An application shall be accompanied by a form completed
29 by the tenant of the rental unit endorsing the application, which
30 shall include (1) the number of occupants of the unit, and whether
31 there are any children, (2) a sworn statement of the tenant
32 household's income; and (3) a sworn statement that the tenant's
33 income, expenses, or livelihood were adversely affected by the
34 coronavirus pandemic and associated emergency measures.

35 g. If the tenant of a rental unit is unwilling to complete the
36 form required in subsection f. of this section notwithstanding
37 diligent effort by the landlord, the landlord may attach to the
38 application a certification in such form as shall be determined by
39 the department setting forth (1) the landlord's efforts to obtain
40 tenant endorsement; (2) the household income of the tenant, to the
41 best of the landlord's knowledge; and (3) the number of occupants
42 in the rental unit and whether the tenant household residing in the
43 rental unit includes children.

44 h. No fee shall be charged for application to the program.

45
46 6. Applications shall be approved and assistance provided
47 according to the following priority ranking, subject to the

1 provisions of section 7 of P.L. , c. (C.) (pending before the
2 Legislature as this bill):

3 a. First priority: small landlords renting to households with
4 incomes below 30 percent of the area median income with children
5 in the home;

6 b. Second priority: small landlords renting to other households
7 with incomes below 30 percent of the area median income;

8 c. Third priority: small landlords renting to households with
9 incomes between 30 percent and 50 percent of the area median
10 income with children in the home;

11 d. Fourth priority: small landlords renting to other households
12 with incomes between 30 percent and 50 percent of the area median
13 income;

14 e. Fifth priority: small landlords renting to households with
15 incomes between 50 percent and 80 percent of the area median
16 income with children in the home;

17 f. Sixth priority: small landlords renting to other households
18 with incomes between 50 percent and 80 percent of the area median
19 income; and

20 g. Seventh priority: other landlords renting to households with
21 incomes below 80 percent of the area median income.

22

23 7. a. A landlord receiving assistance or a tax credit shall
24 accept up to 100 percent of the amount of rent due for the rental
25 unit during the assistance period as full settlement of all arrears for
26 the assistance period, and shall agree to waive any unpaid balance
27 that is compensated through the assistance or tax credit, as well as
28 any late or other fees charged as a result of nonpayment of rent
29 during that period even though these fees are not compensated
30 through the assistance or tax credit.

31 b. In giving priority to applications received under the program
32 within each priority category established in section 6 of P.L. , c.
33 (C.) (pending before the Legislature as this bill), the department
34 shall rank all applicants by financial need to the extent that this
35 prioritization is administratively feasible.

36

37 8. a. For the purposes of the “Corporation Business Tax Act,”
38 P.L.1945, c.162 (C.54:10A-1 et seq.) and the “New Jersey Gross
39 Income Tax Act,” N.J.S.54A:1-1 et seq., a landlord who meets the
40 criteria of subsection b. of section 5 of P.L. , c. (C.)
41 (pending before the Legislature as this bill), who is a taxpayer under
42 the provisions of either tax and who is unable to obtain assistance
43 pursuant to subsection a. of section 5 of P.L. , c. (C.)
44 (pending before the Legislature as this bill), shall be allowed to
45 claim a credit against their tax liability in the amount of assistance
46 for which they are eligible under section 4 of P.L. , c. (C.)
47 (pending before the Legislature as this bill).

1 b. In the event that the credit to which any eligible landlord is
2 entitled exceeds their tax liability for the year in which they are
3 entitled to claim the credit, the excess balance may be carried over
4 for a maximum of five years.

5 c. The order of priority of the application of the credit allowed
6 pursuant to this section and any other credits allowed shall be as
7 prescribed by the Director of the Division of Taxation.

8 d. A business entity that is classified as a partnership for
9 federal income tax purposes shall not be allowed the credit directly,
10 but the amount of credit of a taxpayer in respect of a distributive
11 share of partnership income shall be determined by allocating to the
12 taxpayer that proportion of the credit acquired by the partnership
13 that is equal to the taxpayer's share, whether or not distributed, of
14 the total distributive income or gain of the partnership for its
15 taxable year ending within or with the taxpayer's taxable year.

16 A taxpayer that is a New Jersey S corporation shall not be
17 allowed the credit directly, but the amount of credit of a taxpayer in
18 respect of a pro rata share of S corporation income shall be
19 determined by allocating to the taxpayer that proportion of the
20 credit acquired by the New Jersey S corporation that is equal to the
21 taxpayer's share, whether or not distributed, of the total pro-rata
22 share of S corporation income of the New Jersey S corporation for
23 its privilege period ending within or with the taxpayer's taxable
24 year.

25 e. The Director of the Division of Taxation in the Department
26 of the Treasury shall prepare and disseminate all forms and
27 instructions necessary to effectuate the provisions of this section.

28 f. The Director of the Division of Taxation in the Department
29 of the Treasury is authorized to issue rules necessary to effectuate
30 the provisions of this section.

31
32 9. A landlord receiving assistance, or a tax credit pursuant to
33 section 8 of P.L. , c. (C.) (pending before the Legislature as
34 this bill), shall not increase the rent on the rental unit for a period of
35 two years following the end of the eviction moratorium.

36
37 10. A landlord receiving assistance, or a tax credit pursuant to
38 section 8 of P.L. , c. (C.) (pending before the Legislature as
39 this bill), shall not initiate an eviction proceeding, or complete a
40 previously-initiated eviction proceeding, for any unpaid rent
41 balances owed by the tenant for rent due prior to October 1, 2020,
42 whenever the unpaid balance was incurred.

43
44 11. a. A landlord initiating an eviction proceeding subsequent to
45 the end of the eviction moratorium and the enactment of
46 P.L. , c. (C.) (pending before the Legislature as this bill)
47 shall provide documentation on a form to be prepared and adopted
48 by the Administrative Office of the Courts that the landlord is not

1 an eligible landlord, and that the eviction filing is not barred by any
2 other provision of P.L. , c. (C.) (pending before the
3 Legislature as this bill).

4 b. An eligible landlord who has submitted an application for
5 assistance, or a tax credit pursuant to section 8 of
6 P.L. , c. (C.) (pending before the Legislature as this bill),
7 shall not file a motion of eviction during the pendency of that
8 application.

9
10 12. There is appropriated from funds provided to the State by
11 the United States government under the “Coronavirus Aid, Relief,
12 and Economic Security Act,” Pub. Law 116-136, to the Department
13 of Community Affairs the sum of \$300,000,000 for assistance under
14 this program, of which no more than \$1,500,000 may be used by the
15 department to defray the administrative costs of the program. If
16 \$300,000,000 is not available through the “Coronavirus Aid, Relief,
17 and Economic Security Act,” Pub. Law 116-136, then the remainder
18 of this amount shall be appropriated from other federal funding for
19 coronavirus relief as it becomes available.

20
21 13. This act shall take effect immediately.

22
23
24 STATEMENT

25
26 This bill would establish the “Emergency Tenant and Landlord
27 Assistance Program” as a program in the Department of Community
28 Affairs (“DCA”). The bill would allow eligible landlords to apply
29 for assistance, in the form of financial compensation, or for a tax
30 credit, to partially replace rent unpaid during an “assistance period”
31 in the time of the Coronavirus pandemic. The bill defines the
32 assistance period as the six month period beginning April 1, 2020
33 and ending September 30, 2020, or if the eviction moratorium
34 extends beyond October 4, 2020, then the term means the period
35 ending in the last full month prior to the end of the moratorium or
36 December 31, 2020, whichever is earlier.

37 The bill authorizes a landlord to apply for assistance in the form
38 of financial compensation for any rental unit owned by that landlord
39 if (1) the tenant household has a household income below 80
40 percent of the area median income; and (2) some or all of the rent
41 normally due for any or all of the assistance period remains unpaid
42 on the date of application. Any landlord not receiving assistance in
43 the form of financial compensation may receive a tax credit instead
44 for any rental unit owned by that landlord for which (1) the tenant
45 household had an household income below 80 percent of the area
46 median income; and (2) some or all of the rent normally due during
47 the assistance period remains unpaid on the date of application.

1 The bill prohibits a landlord from submitting an application for
2 assistance or a tax credit for any rental unit for which the rent is
3 subsidized by any federal or State rental assistance program.
4 However, landlords may submit applications for assistance or a tax
5 credit for rental units in projects financed through the Low Income
6 Housing Tax Credit, where no other project-based or tenant-based
7 assistance is provided to that unit.

8 The bill directs that applications should set forth the total amount
9 of rent due for the rental unit as set forth in the lease or other
10 document, the amount paid by the tenant or third parties, if any, and
11 the amount unpaid. As applicable, the application would be
12 required to provide documentation of the landlord's status as a
13 "small landlord," meaning that the landlord, together with
14 immediate family members, partners, or other related entities, owns
15 no more than 50 rental units in New Jersey.

16 The bill would require an application to be accompanied by a
17 form completed by the tenant of the rental unit endorsing the
18 application, and including (1) the number of occupants of the unit,
19 and whether there are any children, (2) a sworn statement of the
20 tenant household's income; and (3) a sworn statement that the
21 tenant's income, expenses, or livelihood were adversely affected by
22 the COVID-19 pandemic and associated emergency measures. If
23 the tenant is unwilling to complete the form despite a diligent effort
24 by the landlord, the landlord may attach to the application a
25 certification setting forth (1) the landlord's efforts to obtain tenant
26 endorsement; (2) the household income of the tenant, to the best of
27 the landlord's knowledge; and (3) the number of occupants in the
28 rental unit and whether the tenant household residing in the rental
29 unit includes children. The bill prohibits a fee from being charged
30 for application to the program.

31 The bill requires that applications for assistance in the form of
32 financial compensation would be approved according to the
33 following priority ranking:

- 34 • First priority: small landlords renting to households with
35 incomes below 30 percent of the area median income with
36 children in the home;
- 37 • Second priority: small landlords renting to other households
38 with incomes below 30 percent of the area median income;
- 39 • Third priority: small landlords renting to households with
40 incomes between 30 percent and 50 percent of the area
41 median income with children in the home;
- 42 • Fourth priority: small landlords renting to other households
43 with incomes between 30 percent and 50 percent of the area
44 median income;
- 45 • Fifth priority: small landlords renting to households with
46 incomes between 50 percent and 80 percent of the area
47 median income with children in the home;

- 1 • Sixth priority: small landlords renting to other households
- 2 with incomes between 50 percent and 80 percent of the area
- 3 median income; and
- 4 • Seventh priority: other landlords renting to households with
- 5 incomes below 80 percent of the area median income.

6 A landlord applying for assistance or for a tax credit would be
7 required to accept up to 100 percent of the amount of rent due for
8 the rental unit during the assistance period as full settlement of all
9 arrears for the assistance period, and agree to waive any
10 uncompensated balance as well as any late or other fees charged as
11 a result of nonpayment of rent during that period. The applicant
12 landlord would also have to specify the minimum percentage of the
13 total rent they will accept as full settlement of all arrears for the
14 assistance period, which would, in conjunction with any rent paid
15 by the tenant, in no event exceed 100 percent of the total amount of
16 rent due.

17 In giving priority to applications received under the program,
18 within each priority category, as listed above, the DCA would rank
19 all applicants by the percentage of the total rent that they will
20 accept as full settlement of all arrears for the assistance period, and
21 give priority to applicants specifying the lowest percentage of the
22 total rent that they will accept as full settlement of all arrears.

23 If a landlord is unable to obtain assistance in the form of
24 financial compensation despite meeting the applicable prerequisites,
25 this bill would allow the landlord to claim a credit against their tax
26 liability under the “Corporation Business Tax Act,” or the “New
27 Jersey Gross Income Tax Act,” in an amount corresponding to the
28 amount of financial compensation assistance for which they are
29 eligible but unable to obtain. In the event that the credit to which
30 an eligible landlord is entitled exceeds their tax liability, the excess
31 balance may be carried over for a maximum of five years.

32 All eligible landlords under the program, including landlords
33 receiving assistance in the form of financial assistance, landlords
34 receiving tax credits, would be prohibited from initiating an
35 eviction proceeding, or completing a previously-initiated eviction
36 proceeding, for any unpaid rent balances owed by the tenant for rent
37 due prior to October 1, 2020, whenever the unpaid balance was
38 incurred. A landlord initiating an eviction proceeding subsequent to
39 the end of the eviction moratorium and the enactment of the bill
40 would be required to provide documentation that the landlord is not
41 an eligible landlord, and that the eviction filing is not barred by any
42 provision of this bill.

43 Landlords receiving assistance in the form of financial
44 compensation or tax credits under the bill would additionally be
45 prohibited from increasing rent on the associated units for two years
46 following the end of the eviction moratorium.

47 Finally, the bill would appropriate \$300,000,000 from the funds
48 provided to the State by the United States government under the

1 “Coronavirus Aid, Relief, and Economic Security (“CARES”) Act”
2 to the Department of Community Affairs for assistance under the
3 program established by the bill, of which no more than \$1,500,000
4 would be used by the DCA to defray the administrative costs of the
5 program. However, if \$300,000,000 is not available through the
6 CARES Act, then the remainder of this amount shall be
7 appropriated from other federal funding for coronavirus relief as it
8 becomes available.