

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 3357

STATE OF NEW JERSEY
219th LEGISLATURE

DATED: FEBRUARY 19, 2021

SUMMARY

- Synopsis:** Addresses certain landlord expenses in response to COVID-19 pandemic; appropriates \$350 million.
- Type of Impact:** Potential increase in State expenditures and revenues. Potential increase in local revenues.
- Agencies Affected:** Department of Community Affairs, Attorney General, and local housing authorities.

Office of Legislative Services Estimate

Fiscal Impact	
Potential State Cost Increase	Indeterminate
Potential State Revenue Increase	Indeterminate
Potential Local Revenue Increase	Indeterminate

- The Office of Legislative Services (OLS) concludes that the bill may (1) potentially increase State expenditures attributable to increased administrative costs for the Department of Community Affairs (DCA) and the Attorney General and may (2) potentially increase local revenues due to certain local units serving as a local housing authority, and thereby a landlord eligible for assistance from the Landlord Emergency Compensation Program established under the bill.
- The bill requires the DCA to make information available on its Internet website to assist landlords with the application process, “engage in substantial effort to enhance awareness among the State’s landlords of the ability to apply for assistance,” and establish a telephone hotline to help landlords with application completion.
- Additionally, the bill permits the Attorney General to investigate certain complaints outlined in the bill. The bill authorizes a court to impose fines, up to \$2,500 on the third and each subsequent violation on non-compliant landlords, which would lead to an indeterminate increase in State revenues.

- According to information on the federal Department of Housing and Urban Development website, approximately 82 municipalities in the State serve as the local housing authority. Under the bill, local housing authorities collecting rental payments would be eligible to receive assistance from the program.

BILL DESCRIPTION

The bill would establish the Landlord Emergency Compensation Program in the DCA. The bill would allow eligible landlords to apply for assistance, in the form of financial compensation, during an assistance period in the time of the Coronavirus pandemic. The bill defines the assistance period as the period beginning April 1, 2020 and ending two months following the end of the public health emergency declared in Executive Order No. 103 of 2020.

The bill authorizes a landlord to apply for assistance payments to compensate for the unpaid rent, due during the assistance period, that a landlord's residential tenants have owed, but have not paid.

The program would not provide assistance to a landlord for unpaid rent for which the landlord has obtained compensation, or has an outstanding application for compensation, through a different program that the DCA has determined to preempt the landlord from eligibility.

As soon as practicable following enactment, the bill directs the DCA to prepare and make available, on its Internet website, information for landlords on: (1) when assistance applications will be available, (2) the necessary steps for application submission, (3) how to obtain help in application completion, and (4) other matters related to assistance applications that the DCA deems necessary. This information would be made available in English, Spanish, and any other languages determined necessary. Once assistance applications are made available, the DCA would provide for the establishment and maintenance of a toll-free telephone hotline available, at a minimum, weekdays between 8:30 a.m. and 5:30 p.m. through which a landlord may ask questions and obtain help in application completion.

An intentional misrepresentation by a landlord of any information to obtain an assistance payment would constitute a crime of the fourth degree under the bill, in addition to other applicable penalties. A crime of the fourth degree is ordinarily punishable by a term of imprisonment of up to 18 months or a fine of up to \$10,000, or both.

The bill would also prohibit a landlord from furnishing rental payment data to a debt collection or credit reporting agency related to the non-payment of rent for a residential unit during the assistance period, unless the furnished data only reports the rental payments as current. This prohibition, however, would not: apply to a tenant's rent payments that remain due as the result of a payment missed prior to the effective date of Executive Order No. 106 of 2020, including payments held in escrow before that date; or limit the ability of a landlord to share information with the landlord's attorney or property management company, or to notify the tenant in compliance with the State law.

If done as a result of any record or information reflecting a tenant's non-payment of rent during the assistance period, the bill would prohibit a landlord from: refusing to rent to a tenant; or placing, or disseminating a tenant's information for the purpose of placing, a tenant on a list for the use of other landlords.

In response to a complaint to the Attorney General from a tenant, or on the Attorney General's independent initiative, the bill authorizes the Attorney General to bring an action alleging that a landlord has violated the provisions of the bill concerning the furnishing of information to a collection or credit reporting agency. Regarding a first violation, the court would provide the

landlord with an opportunity to correct prior to imposing a penalty. Following the provision of this opportunity to correct any first violation, upon a finding that non-compliance by a landlord has occurred, a court would be authorized to:

- (1) order the non-compliant landlord to retract the report of debt;
- (2) impose a fine on the non-compliant landlord, not to exceed \$500 for a first violation, \$1,000 for a second violation, and \$2,500 for each subsequent violation;
- (3) order the non-compliant landlord to pay a reasonable counsel fee in connection with a tenant whose debt has been reported;
- (4) provide a copy of the order immediately upon the request of the tenant and at no cost to the tenant;
- (5) order the non-compliant landlord to take such steps as are necessary, within 30 days of the order, to rehabilitate the credit record of a tenant, with an exact copy provided to the tenant at no cost; and
- (6) if the tenant is able to show actual damages that have resulted from a violation of this section, order the non-compliant landlord to pay an award of damages to the tenant not to exceed 25 percent of the debt attempted to be collected or reported by the non-compliant landlord to the collection or credit reporting agency, bureau, or data collection facility, the minimum award being \$350.

If a landlord furnishes rental payment data to a collection or credit reporting agency related to the non-payment of rent during the assistance period, but before the enactment of this bill, the landlord would not be subject to these penalty provisions, except for an order to retract the report.

Additionally, the bill would provide the DCA with authority to promulgate regulations to effectuate the requirements of the bill, and with authority to limit application of the program as necessary to comply with the Coronavirus Aid, Relief, and Economic Security (CARES) Act and other federal law.

Finally, the bill would appropriate \$350 million from the funds provided to the State by the federal government under the CARES Act for assistance under the program established by the bill, of which no more than \$1,500,000 would be used by the DCA to defray the administrative costs of the program. However, in the event that the \$350 million is not available through the CARES Act, then the remainder would be appropriated from other federal funding available for coronavirus relief as it becomes available. If federal funding is not available to satisfy the full amount of this appropriation, then the bill would authorize the DCA to request that a portion of the remainder be appropriated from State funding sources. The DCA would be required to report to the Governor and the Legislature on a bi-annual basis on the spending of program funding.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that the bill may (1) potentially increase State expenditures attributable to increased administrative costs for the DCA and the Attorney General and may (2) potentially increase local revenues due to certain local units serving as a local housing authority, and thereby

a landlord eligible for assistance from the Landlord Emergency Compensation Program established under the bill.

The bill requires the DCA to make information available on its Internet website to assist landlords with the application process, “engage in substantial effort to enhance awareness among the State’s landlords of the ability to apply for assistance,” and establish a telephone hotline to help landlords with application completion.

Additionally, the bill permits the Attorney General in response to a complaint from a tenant, or on the Attorney General’s independent initiative, to bring an action alleging a landlord has violated the provisions of the bill concerning the furnishing of information to a collection or credit reporting agency. The bill authorizes a court to impose a fine on the non-compliant landlord, not to exceed \$500 for a first violation, \$1,000 for a second violation, and \$2,500 for each subsequent violation, which would lead to an indeterminate increase in State revenues.

While the bill may potentially increase State expenditures, language in the bill allows for up to \$1.5 million of the \$350 million appropriation to defray the administrative costs of the program. The \$350 million appropriation provided to the State by the United States government under the federal “CARES Act.” If \$350 million is not available through the “CARES Act,” then the remainder of this amount would be appropriated from other federal or State funding sources, or both, authorized for coronavirus relief.

Additionally, according to information on the federal Department of Housing and Urban Development website, approximately 82 municipalities in the State serve as the local housing authority. Under the bill, eligible housing authorities serving as landlords would be eligible to receive assistance from the program. The OLS is unable to estimate how much unpaid rent is owed to local housing authorities and eligible for compensation under the program.

Section: Local Government
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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).