

SENATE, No. 3357

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JANUARY 12, 2021

Sponsored by:

Senator BRIAN P. STACK

District 33 (Hudson)

SYNOPSIS

Addresses certain landlord expenses in response to COVID-19 pandemic; appropriates \$300 million.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/11/2021)

1 **AN ACT** addressing certain landlord expenses in response to the
2 COVID-19 pandemic, and making an appropriation.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. The Legislature finds and declares that:

8 a. The COVID-19 pandemic and the measures taken to control
9 it have resulted in widespread unemployment and lost income to
10 large numbers of New Jersey tenants;

11 b. As of June of 2020, New Jersey's unemployment rate
12 exceeds 16 percent;

13 c. Unemployment and loss of income have rendered many
14 tenants unable to pay rent in whole or in part, placing them at
15 potential risk of eviction following the conclusion of the eviction
16 moratorium adopted through Executive Order No. 106 of 2020;

17 d. Although Executive Order No. 106, and other tenant
18 protections established during the COVID-19 pandemic appear to
19 be preventing many evictions that might otherwise occur, the tenant
20 protections, combined with the underlying economic circumstances
21 of the pandemic, could result in a widespread loss of rental income,
22 placing landlords in a financially-vulnerable situation;

23 e. If not addressed, sustained loss of rental income could lead
24 many landlords to defer repairs, reduce maintenance, and
25 potentially abandon their properties, all of which could adversely-
26 effect landlords, families living in rental properties, as well as many
27 neighborhoods throughout the State; and

28 f. It is, therefore, necessary and in the public interest for the
29 Legislature to prevent evictions as well as property deterioration
30 and abandonment, arising from the temporary loss of tenant and
31 landlord income during the time of the coronavirus pandemic, by
32 enacting legislation to subsidize certain landlord expenses incurred
33 during the time of the COVID-19 pandemic.

34
35 2. As used in this act:

36 "Assistance" means compensation for unpaid rent, provided by
37 the program established pursuant to section 3 of this act, that shall
38 compensate a landlord for the housing costs of the units of all of the
39 landlord's residential tenants in the building or development for
40 which the assistance has been requested during the period that is
41 both within the assistance period and prior to submission of the
42 program application.

43 "Assistance period" means the period beginning April 1, 2020
44 and ending two months following the end of the public health
45 emergency declared pursuant to Executive Order No. 103 of 2020.

46 "Commissioner" means the Commissioner of Community
47 Affairs.

1 “Department” means the Department of Community Affairs.

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

5 “Housing costs” means mortgage principal and interest
6 payments, property taxes, homeowner and private mortgage
7 insurance, condominium or common interest community fees, and
8 reasonable maintenance costs, as applicable, paid by a landlord for
9 the landlord’s residential rental units, and anticipated maintenance
10 cost increases, applicable to landlords with tenants who have
11 applied security deposit funds against rent pursuant to Executive
12 Order 128 of 2020.

13 “Program” means the Landlord Emergency Compensation
14 Program established by section 3 of this act.

15 “Program application” means an application for assistance
16 through the program.

17

18 3. a. There is established in the Department of Community
19 Affairs the “Landlord Emergency Compensation Program,” to
20 provide assistance to a landlord to compensate for the portions of
21 unpaid rent, due during the assistance period, that the landlord’s
22 residential tenants have owed the landlord, but have not paid, to the
23 extent that this compensation is necessary to allow the landlord to
24 cover the landlord’s housing costs. The program shall not provide
25 assistance to the landlord for:

26 (1) housing costs that, prior to March 9, 2020, the landlord had
27 anticipated covering through funding sources other than rent
28 payments; or

29 (2) housing costs for which the landlord has obtained
30 compensation, or has an outstanding application for compensation,
31 through a different program that, as determined by the
32 commissioner, preempts the landlord from eligibility for assistance
33 payments, including, but not limited to, funding from the Small
34 Landlord Emergency Grant Program established by the New Jersey
35 Housing and Mortgage Finance Agency.

36 b. The commissioner shall limit eligibility for assistance
37 payments to a landlord that:

38 (1) as of the date of submission of a program application, is in
39 substantial compliance with the requirements of: the “State Uniform
40 Construction Code Act,” P.L.1975, c.217 (C.52:27D-119 et seq.);
41 the “Hotel and Multiple Dwelling Law,” P.L.1967, c.76 (C.55:13A-
42 1 et seq.); and the State housing code, adopted by the Department of
43 Community Affairs pursuant to P.L. 1966, c. 168 (C.2A:42-
44 74 et seq.);

45 (2) as of March 9, 2020, is in substantial compliance with
46 property tax and other tax payment responsibilities; and

47 (3) has no pending criminal charges.

1 c. The program shall begin accepting applications as soon as
2 possible following enactment of this act. If a landlord applies for
3 assistance prior to the conclusion of the assistance period, and the
4 landlord's tenants miss one or more rent payments after submission
5 of the program application, then the landlord may apply to the
6 department for one or more additional assistance payments on a
7 quarterly basis through the conclusion of the assistance period. The
8 department may adjust this application schedule as deemed
9 appropriate by the commissioner.

10 d. The department may prioritize program application approval
11 based on the financial need of the landlord, as determined
12 appropriate by the commissioner. A portion of assistance funding
13 shall be reserved for landlords who own and rent out no more than
14 two housing units.

15 e. The department shall prepare all application forms,
16 application guidelines, and informational materials necessary for
17 landlords to complete an application, and shall post materials on its
18 website at least 30 days prior to the date on which applications shall
19 be accepted.
20

21 4. a. A program application shall state the total amount of rent
22 due from the landlord's residential tenants established in the
23 corresponding leases, the amount paid by the tenants or third
24 parties, if any, the amount unpaid, the landlord's housing costs, the
25 amount of security deposit funding that the landlord's tenants have
26 applied against rent pursuant to Executive Order 128 of 2020, and
27 any other information required by the department for determining
28 financial need.

29 b. An application shall be accompanied by a form completed
30 by the tenant of each of the landlord's rental units for which the
31 landlord is seeking assistance endorsing the application, which shall
32 include (1) the number of occupants of the unit, (2) a sworn
33 statement of the tenant household's income, and (3) any additional
34 information required by the department.

35 c. If the tenant of a rental unit is unwilling to complete the
36 form required in subsection b. 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; (3) the number of occupants in
42 the rental unit, and (4) any additional information required by the
43 department.
44

45 5. a. An assistance payment, once accepted by a landlord, shall
46 be a full settlement of rent due for all of the landlord's residential
47 tenants in the building or development for which the assistance has

1 been requested during the period that is both within the assistance
2 period and prior to submission of the program application. By
3 accepting an assistance payment, the landlord shall also waive any
4 late or other fees charged to residential tenants as a result of the
5 nonpayment of rent during the period that is both within the
6 assistance period and prior to submission of the program
7 application. The acceptance of the assistance payment shall
8 constitute a settlement of these costs even though they may not be
9 fully compensated through the assistance payment.

10 b. Upon the provision of an assistance payment, the
11 commissioner shall notify the landlord's tenants of the protections
12 provided to them as a consequence of the landlord's receipt of
13 assistance.

14 c. A landlord shall not accept a delinquent rent payment from a
15 residential tenant if the rent payment has been covered by an
16 assistance payment.

17 d. A landlord receiving assistance or awaiting the department's
18 response to a program application, shall not initiate an eviction
19 proceeding, or complete a previously-initiated eviction proceeding,
20 for any unpaid rent balances, or late or other fees, owed by a
21 residential tenant for rent due during the period that is both within
22 the assistance period and prior to submission of the program
23 application. This subsection shall protect such tenants from an
24 eviction action for nonpayment or habitually late payment of rent
25 during this period.

26 e. A landlord initiating an eviction action shall provide
27 documentation on a form to be prepared and adopted by the
28 Administrative Director of the Courts that the landlord is not
29 prohibited from initiating the action by any provision of this act.

30

31 6. a. The Department of Community Affairs shall, as soon as
32 practicable following the enactment of this act, prepare and make
33 available, on its Internet website, information for landlords on (1)
34 when assistance applications shall be available, (2) the necessary
35 steps for application submission, (3) how to obtain help in
36 application completion, and (4) other matters related to assistance
37 applications deemed necessary by the commissioner. This
38 information shall be made available in English, Spanish, and any
39 other languages determined necessary by the commissioner.

40 b. The department shall engage in a substantial effort to
41 enhance awareness among the State's landlords of the ability to
42 apply for assistance. Once assistance applications are made
43 available, the department shall provide for the establishment and
44 maintenance of a toll-free telephone hotline available, at a
45 minimum, weekdays between 8:30 a.m. and 5:30 p.m. through
46 which a landlord may ask questions and obtain help in application
47 completion. The department shall maintain the telephone hotline

1 for the entire period that the department continues to accept
2 assistance applications.

3
4 7. If a landlord has submitted a program application to the
5 department, but has not yet obtained an assistance payment, or a
6 denial of an assistance payment, the landlord may assert an
7 affirmative defense to a foreclosure action initiated against any
8 residential rental property owned by the landlord. This section shall
9 exclusively apply to a landlord whose principal residence is in the
10 State and who, together with immediate family members, partners,
11 or other related entities, owns no more than 50 rental units in the
12 State.

13
14 8. An intentional misrepresentation by a landlord of any
15 information to obtain an assistance payment shall constitute a crime
16 of the fourth degree in addition to other applicable penalties.

17
18 9. There is appropriated from funds provided to the State by
19 the United States government under the “Coronavirus Aid, Relief,
20 and Economic Security Act,” Pub. Law 116-136, to the Department
21 of Community Affairs the sum of \$300,000,000 for assistance under
22 this program, of which no more than \$1,500,000 may be used by the
23 department to defray the administrative costs of the program. If
24 \$300,000,000 is not available through the “Coronavirus Aid, Relief,
25 and Economic Security Act,” Pub. Law 116-136, then the remainder
26 of this amount shall be appropriated from other federal funding
27 authorized for coronavirus relief as it becomes available. If federal
28 funding is not available to satisfy the full amount of this
29 appropriation, then the Commissioner of Community Affairs may
30 notify the State Treasurer and the Joint Budget Oversight
31 Committee of the Legislature of the deficiency and may request that
32 the Legislature appropriate a portion of the remainder from the
33 General Fund, or other available State funding sources, for the
34 purposes of the program.

35
36 10. This act shall take effect immediately.

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38

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STATEMENT

40

41 This bill would establish the “Landlord Emergency
42 Compensation Program” as a program in the Department of
43 Community Affairs (“DCA”). The bill would allow eligible
44 landlords to apply for assistance, in the form of financial
45 compensation, during an “assistance period” in the time of the
46 Coronavirus pandemic. The bill defines the assistance period as the
47 period beginning April 1, 2020 and ending two months following

1 the end of the public health emergency declared in Executive Order
2 No. 103.

3 The bill authorizes a landlord to apply for assistance payments to
4 compensate for the portions of unpaid rent, due during the
5 assistance period, that a landlord's residential tenants have owed,
6 but have not paid. The program would only provide assistance
7 payments to a landlord to the extent that this compensation is
8 necessary to allow the landlord to cover the housing costs of the
9 landlord's residential rental units, within the same building or
10 development, when combined with the rental payments that the
11 landlord has received. The bill defines "housing costs" as mortgage
12 principal and interest payments, property taxes, homeowner and
13 private mortgage insurance, condominium or common interest
14 community fees, reasonable maintenance costs, and anticipated
15 maintenance cost increases, applicable to landlords with tenants
16 who have applied security deposit funds against rent in accordance
17 with Executive Order No. 128 of 2020.

18 The program would not provide assistance to a landlord for: (1)
19 housing costs that, prior to March 9, 2020, the landlord had
20 anticipated covering through funding sources other than rent
21 payments; or (2) housing costs for which the landlord has obtained
22 compensation, or has an outstanding application for compensation,
23 through a different program that DCA has determined to preempt
24 the landlord from eligibility.

25 The bill requires DCA to limit eligibility for assistance payments
26 to landlords who (1) have no pending criminal charges, (2) are in
27 substantial compliance with building and housing code
28 responsibilities upon application submission, and (3) are in
29 substantial compliance with tax payment responsibilities as of
30 March 9, 2020.

31 The program would begin accepting applications as soon as
32 possible following enactment of this bill. To address circumstances
33 in which a landlord applies for assistance prior to the conclusion of
34 the assistance period, and the landlord's tenants miss one or more
35 rent payments after submission of the program application, the bill
36 would not prohibit DCA from accepting additional program
37 applications from the same landlord. The bill authorizes DCA to
38 prioritize program application approval based on the financial need
39 of the landlord as determined appropriate.

40 The bill directs that program applications would be required to
41 state the total amount of rent due for the rental unit as established in
42 the lease, the amount paid by the tenant or third parties, if any, the
43 amount unpaid, the landlord's housing costs, and any other
44 information required by DCA.

45 The bill would require an application to be accompanied by a
46 form completed by the tenants of the landlord's rental units
47 endorsing the application, and including the number of occupants of

1 the unit, and any additional information required by DCA. If the
2 tenant is unwilling to complete the form despite a diligent effort by
3 the landlord, the landlord may attach to the application a
4 certification setting forth: (1) the landlord's efforts to obtain tenant
5 endorsement; (2) the number of occupants in the rental unit, and (3)
6 any additional information required by DCA.

7 The bill requires that the assistance payment, once accepted by a
8 landlord, would be a full settlement of rent due for all of the
9 landlord's residential tenants in the building or development during
10 the period both within the assistance period and prior to submission
11 of the program application. By accepting an assistance payment,
12 the landlord would also waive any late fees charged to residential
13 tenants as a result of rent nonpayment in that time. A landlord
14 receiving assistance or awaiting DCA's response to a program
15 application would be prohibited from initiating an eviction
16 proceeding, or completing a previously-initiated eviction
17 proceeding, for any unpaid rent balances owed for rent due during
18 that time. Upon the provision of an assistance payment, the bill
19 would require the commissioner to also notify the landlord's tenants
20 of the protections provided to them as a consequence of the
21 landlord's assistance payment. A landlord would be prohibited
22 from accepting a delinquent rent payment from a tenant if it has
23 been covered by an assistance payment. A landlord initiating an
24 eviction action for balances due during the assistance period would
25 be required to provide documentation on a form to be prepared and
26 adopted by the Administrative Director of the Courts that they are
27 not prohibited from initiating the action by any provision of the bill.

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

41 Under the bill, if a landlord has submitted a program application,
42 but has not yet obtained an assistance payment, or a denial of
43 assistance, the landlord would be authorized to assert an affirmative
44 defense to a foreclosure action initiated against any residential
45 rental property owned by the landlord. This protection, however,
46 would exclusively apply to a landlord whose principal residence is
47 in the State and who, together with immediate family members,

1 partners, or other related entities, owns no more than 50 rental units
2 in the State.

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

9 Finally, the bill would appropriate \$300 million from the funds
10 provided to the State by the federal government under the
11 “Coronavirus Aid, Relief, and Economic Security (“CARES”) Act”
12 for assistance under the program established by the bill, of which no
13 more than \$1,500,000 would be used by the DCA to defray the
14 administrative costs of the program. However, in the event that the
15 \$300 million is not available through the CARES Act, then the
16 remainder would be appropriated from other federal funding
17 available for coronavirus relief as it becomes available. If federal
18 funding is not available to satisfy the full amount of this
19 appropriation, then the bill would authorize DCA to request that a
20 portion of the remainder be appropriated from State funding
21 sources.