

[First Reprint]
SENATE, No. 3357

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JANUARY 12, 2021

Sponsored by:

Senator BRIAN P. STACK

District 33 (Hudson)

Senator SHIRLEY K. TURNER

District 15 (Hunterdon and Mercer)

Co-Sponsored by:

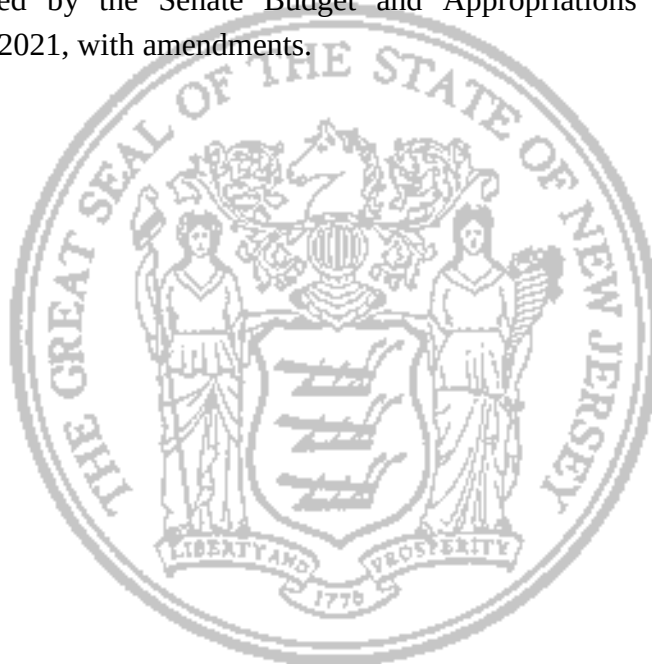
Senators Oroho, Testa and Sacco

SYNOPSIS

Addresses certain landlord expenses in response to COVID-19 pandemic; appropriates \$350 million.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on February 11, 2021, with amendments.



(Sponsorship Updated As Of: 2/19/2021)

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 ¹**['housing costs'] unpaid rent**¹ of the
39 units of all of the landlord's residential tenants in the building or
40 development for which the assistance has been requested during the
41 period that is both within the assistance period and prior to
42 submission of the 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.

EXPLANATION – Matter enclosed in bold-faced brackets **['thus']** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SBA committee amendments adopted February 11, 2021.

1 “Commissioner” means the Commissioner of Community
2 Affairs.

3 “Department” means the Department of Community Affairs.

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

7 “Housing costs” means mortgage principal and interest
8 payments, property taxes, homeowner and private mortgage
9 insurance, condominium or common interest community fees, and
10 reasonable maintenance costs, as applicable, paid by a landlord for
11 the landlord’s residential rental units, and anticipated maintenance
12 cost increases, applicable to landlords with tenants who have
13 applied security deposit funds against rent pursuant to Executive
14 Order 128 of 2020.”¹

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

17 “Program application” means an application for assistance
18 through the program.

19

20 3. a. There is established in the Department of Community
21 Affairs the “Landlord Emergency Compensation Program,” to
22 provide assistance to a landlord to compensate for the ¹“portions
23 of”¹ unpaid rent, due during the assistance period, that the
24 landlord’s residential tenants have owed the landlord, but have not
25 paid ¹“, to the extent that this compensation is necessary to allow
26 the landlord to cover the landlord’s housing costs”¹. The program
27 shall not provide assistance to the landlord for ¹“:

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

31 (2) housing costs” the unpaid rent¹ for which the landlord has
32 obtained compensation, or has an outstanding application for
33 compensation, through a different program that, as determined by
34 the commissioner, preempts the landlord from eligibility for
35 assistance payments, including, but not limited to, funding from the
36 Small Landlord Emergency Grant Program established by the New
37 Jersey Housing and Mortgage Finance Agency.

38 b. The commissioner shall limit eligibility for assistance
39 payments to a landlord that:

40 (1) as of the date of submission of a program application, is in
41 substantial compliance with the requirements of: the “State Uniform
42 Construction Code Act,” P.L.1975, c.217 (C.52:27D-119 et seq.);
43 the “Hotel and Multiple Dwelling Law,” P.L.1967, c.76 (C.55:13A-
44 1 et seq.); and the State housing code, adopted by the Department of
45 Community Affairs pursuant to P.L. 1966, c. 168 (C.2A:42-
46 74 et seq.);

- 1 (2) as of March 9, 2020, is in substantial compliance with
2 property tax and other tax payment responsibilities; and
3 (3) has no pending criminal charges.
- 4 c. The program shall begin accepting applications as soon as
5 possible following enactment of this act. If a landlord applies for
6 assistance prior to the conclusion of the assistance period, and the
7 landlord's tenants miss one or more rent payments after submission
8 of the program application, then the landlord may apply to the
9 department for one or more additional assistance payments on a
10 quarterly basis through the conclusion of the assistance period. The
11 department may adjust this application schedule as deemed
12 appropriate by the commissioner.
- 13 d. The department may prioritize program application approval
14 based on the financial need of the landlord, as determined
15 appropriate by the commissioner. A portion of assistance funding
16 shall be reserved for landlords who own and rent out no more than
17 two housing units.
- 18 e. The department shall prepare all application forms,
19 application guidelines, and informational materials necessary for
20 landlords to complete an application, and shall post materials on its
21 'Internet' website at least 30 days prior to the date on which
22 applications shall be accepted.
23
- 24 4. a. A program application shall state the total amount of rent
25 due from the landlord's residential tenants established in the
26 corresponding leases, the amount paid by the tenants or third
27 parties, if any, the amount unpaid, **'[the landlord's housing costs,]'**
28 the amount of security deposit funding that the landlord's tenants
29 have applied against rent pursuant to Executive Order 128 of 2020,
30 and any other information required by the department for
31 determining financial need.
- 32 b. An application shall be accompanied by a form completed
33 by the tenant of each of the landlord's rental units **'[for which the**
34 **landlord is seeking assistance]** who has failed to satisfy a rent
35 payment,¹ endorsing the application, which shall include (1) the
36 number of occupants of the unit, (2) a sworn statement of the tenant
37 household's income, and (3) any additional information required by
38 the department.
- 39 c. If the tenant of a rental unit is unwilling to complete the
40 form required in subsection b. of this section notwithstanding
41 diligent effort by the landlord, the landlord may attach to the
42 application a certification in such form as shall be determined by
43 the department setting forth (1) the landlord's efforts to obtain
44 tenant endorsement; (2) the household income of the tenant, to the
45 best of the landlord's knowledge; (3) the number of occupants in
46 the rental unit, and (4) any additional information required by the
47 department.

1 5. a. An assistance payment, once accepted by a landlord, shall
2 be a full settlement of rent due for all of the landlord's residential
3 tenants in the building or development ¹【for which the assistance
4 has been requested】 who have failed to satisfy a rent payment¹
5 during the period that is both within the assistance period and prior
6 to submission of the program application. By accepting an
7 assistance payment, the landlord shall also waive any late or other
8 fees charged to residential tenants as a result of the nonpayment of
9 rent during the period that is both within the assistance period and
10 prior to submission of the program application. The acceptance of
11 the assistance payment shall constitute a settlement of these costs
12 even though they may not be fully compensated through the
13 assistance payment.

14 b. Upon the provision of an assistance payment, the
15 commissioner shall notify the landlord's tenants of the protections
16 provided to them as a consequence of the landlord's receipt of
17 assistance.

18 c. A landlord shall not accept a delinquent rent payment from a
19 residential tenant if the rent payment has been covered by an
20 assistance payment.

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

30 e. A landlord initiating an eviction action shall provide
31 documentation on a form to be prepared and adopted by the
32 Administrative Director of the Courts that the landlord is not
33 prohibited from initiating the action by any provision of this act.
34

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

44 b. The department shall engage in a substantial effort to
45 enhance awareness among the State's landlords of the ability to
46 apply for assistance. Once assistance applications are made
47 available, the department shall provide for the establishment and

1 maintenance of a toll-free telephone hotline available, at a
2 minimum, weekdays between 8:30 a.m. and 5:30 p.m. through
3 which a landlord may ask questions and obtain help in application
4 completion. The department shall maintain the telephone hotline
5 for the entire period that the department continues to accept
6 assistance applications.

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

17
18 8. An intentional misrepresentation by a landlord of any
19 information to obtain an assistance payment shall constitute a crime
20 of the fourth degree in addition to other applicable penalties.

21
22 9. a. (1) A landlord shall not furnish rental payment data to a
23 debt collection or credit reporting agency related to the non-
24 payment of rent for a residential unit during the assistance period,
25 or shall report the rental payment as current. This paragraph shall
26 not:

27 (a) apply to a tenant's rent payments that remain due as the
28 result of a payment missed prior to the effective date of Executive
29 Order No. 106 of 2020, including payments held in escrow before
30 that date; or

31 (b) limit the ability of a landlord to share information with the
32 landlord's attorney or property management company, or to notice
33 the tenant in compliance with the Anti-Eviction Act, P.L.1974, c.49
34 (C.2A:18-61.1 et seq.).

35 (2) As a result of any record or information reflecting a tenant's
36 non-payment of rent during the assistance period, a landlord shall
37 not:

38 (a) refuse to rent to a tenant; or

39 (b) place, or disseminate a tenant's information for the purpose
40 of placing, a tenant on a list for the use of other landlords.

41 b. In response to a complaint to the Attorney General from a
42 tenant, or on the Attorney General's independent initiative, the
43 Attorney General may bring an action alleging a landlord has
44 violated the provisions of subsection a. of this section concerning
45 the furnishing of information to a collection or credit reporting
46 agency. Regarding a first violation, the court shall provide the
47 landlord with an opportunity to correct prior to imposing a penalty.

1 Following the provision of this opportunity to correct any first
2 violation, upon a finding that non-compliance by a landlord with
3 subsection a. of this section has occurred, a court of competent
4 jurisdiction may:

5 (1) order the non-compliant landlord to retract the report of debt
6 provided to the collection or credit reporting agency, bureau, or data
7 collection facility;

8 (2) impose a fine on the non-compliant landlord, not to exceed
9 \$500 for a first violation, \$1,000 for a second violation, and \$2,500
10 for each subsequent violation;

11 (3) order the non-compliant landlord to pay a reasonable counsel
12 fee in connection with a tenant whose debt has been reported to a
13 collection or credit reporting agency, bureau, or data collection
14 facility;

15 (4) provide a copy of the order immediately upon the request of
16 the tenant and at no cost to the tenant;

17 (5) order the non-compliant landlord to take such steps as are
18 necessary, within 30 days of the order, to rehabilitate the credit
19 record of a tenant, with an exact copy provided to the tenant at no
20 cost, of the efforts made in that regard; and

21 (6) if the tenant is able to show actual damages that have
22 resulted from a violation of this section, order the non-compliant
23 landlord to pay an award of damages to the tenant not to exceed 25
24 percent of the debt attempted to be collected or reported by the non-
25 compliant landlord to the collection or credit reporting agency,
26 bureau, or data collection facility, the minimum award being \$350.

27 c. If a landlord furnishes rental payment data to a collection or
28 credit reporting agency related to the non-payment of rent during
29 the assistance period, but before the enactment of this act, the
30 landlord shall not be subject to the penalty provisions of this
31 section, except for an order to retract the report pursuant to
32 paragraph (1) of subsection b. of this section.¹

33

34 ¹**[9.] 10. a.**¹ There is appropriated from funds provided to the
35 State by the United States government under the “Coronavirus Aid,
36 Relief, and Economic Security Act,” ¹**[Pub. Law 116-136]**
37 **Pub.L.116-136**¹, to the Department of Community Affairs the sum of
38 ¹**[\$300,000,000]** **\$350,000,000**¹ for assistance under this program, of
39 which no more than \$1,500,000 may be used by the department to
40 defray the administrative costs of the program. If ¹**[\$300,000,000]**
41 **\$350,000,000**¹ is not available through the “Coronavirus Aid, Relief,
42 and Economic Security Act,” ¹**[Pub. Law 116-136]** **Pub.L.116-136**¹,
43 then the remainder of this amount shall be appropriated from other
44 federal funding authorized for coronavirus relief as it becomes
45 available. If federal funding is not available to satisfy the full amount
46 of this appropriation, then the Commissioner of Community Affairs
47 may notify the State Treasurer and the Joint Budget Oversight

1 Committee of the Legislature of the deficiency and may request that
2 the Legislature appropriate a portion of the remainder from the
3 General Fund, or other available State funding sources, for the
4 purposes of the program.

5 ¹b. On a bi-annual basis, the commissioner shall provide a report
6 to the Legislature, in accordance with section 2 of P.L.1991, c.164
7 (C.52:14-19.1), and to the Governor, which report shall detail the
8 amount of funding spent pursuant to the program, the amount of
9 program funding that is spent to assist residential rental units in each
10 municipality, and other information that the commissioner deems
11 necessary. The commissioner shall provide a final report pursuant to
12 this subsection no later than six months following the complete
13 expenditure of funds appropriated pursuant to subsection a. of this
14 section.¹

15
16 ¹11. Notwithstanding the provisions of the "Administrative
17 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary,
18 the commissioner may adopt, immediately upon filing with the Office
19 of Administrative Law, regulations that the commissioner deems
20 necessary to implement the provisions of this act. The regulations
21 adopted by the commissioner may, among other purposes, be used to
22 limit the availability of the program as the commissioner deems
23 necessary to comply with the "Coronavirus Aid, Relief, and Economic
24 Security Act," Pub.L.116-136, and other federal law.¹

25
26 ¹**[10.] 12.**¹ This act shall take effect immediately.